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Understanding the laundering of organized crime money

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Abstract

This essay focuses on four conditions that influence the level of complexity of money laundering in relation to organized crime. We start with the types of crime and forms in which proceeds are generated, including the type of payment, the visibility of the crimes to victims and/or to the authorities, and the elapsed time interval before financial investigation occurs (if it ever does). Second, the amount of individual net profits show differences between criminals who have no use for money laundering, those who self-launders, and those who need assistance from third party launderers. Third are the offender's goals and preferences in relation to spending and investing crime proceeds. Investments are often (culturally) close to home or country of origin, some opt to wield (often local) power but a large part is freely spent on a hedonistic lifestyle. Fourth, the expected and actual levels of scrutiny and intervention of the anti-money laundering regime play a role in influencing savings and re-investment decisions and in some arrests and proceeds confiscation, but overall, there is no clear cause-effect relationship. The four conditions can intertwine in numerous ways and have no particular sequence. When conditions necessitate or stimulate more complex money laundering schemes, this is reflected not only in techniques, but also in the social networks that are developed or may be a precondition for those schemes (and a constraint on those organized criminals who cannot find an appropriate launderer). Complex cases often depend on the assistance of professional money launderers, outsiders to the criminal's usual social circle and in some places, their availability might be a constraint on organized criminals' expansion. Professional money launderers are people who can be contracted, as experts in their field, to solve particular financial and/or jurisdictional bottlenecks. Using principal-agency theory, we explain how trust is established or tension is resolved between criminal and third party launderer.

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Introduction

Money laundering is a varied concept. It can be carried out in myriad ways, ranging from simple to complex, with numerous variations in laundering costs, and includes a range of participants, from elite professionals to homeless addicts acting as ‘front people’ for business and property holdings (Levi and Reuter 2006; Reuter and Kleiman 1986; Caulkins and Reuter 2010). To make sense of this diversity, money laundering is commonly explained as a way of hiding the proceeds of crime so that the authorities cannot take it back, and so that offenders can use it to enjoy a more affluent lifestyle and/or to legitimize themselves (and their assets).

Hiding money from the authorities is not something new or recent. From the US Prohibition era to the 1960s, long before the criminalization of money laundering, Al Capone and Meyer Lansky (and doubtless, others) tried to hide their crime proceeds and distanced their public assets and wealth from the ‘predicate crimes’ that gave rise to them, to reduce their tax payments and criminal liabilities. But especially since the 1980s, when ‘following the money’ and restricting criminals’ access to the fruits of their crimes became significant elements of international policy aimed at transnational organized crime, hiding the proceeds of crime evolved into a continuous cat and mouse game with the authorities. It is therefore fair to assume that the more controls over the origins of money that are erected, the greater the need for concealment from licit society. But then again, not every criminal goes to the same lengths to e.g. set up trusts and offshore companies to obscure the background of their wealth. So what drives this difference?

One obvious explanation is the volume of profits from crime and laundering costs. Setting up trusts and using offshore companies is something that needs registration and consultancy fees. A professional advisor is often needed as well. Expenditures can quickly run in the thousands of euros or dollars that eat into the criminal profit. If the criminal profit was small (a relative term) to begin with, such efforts at concealment become pointless and cost-inefficient. However, it would be wrong to imagine that at a certain financial profit point, every criminal of note reaches out to international law firms for offshore financial services e.g. morally and now economically bankrupt Panamanian-based law firms such as Mossack Fonseca & Co.² That simply has not been proven in any literature on money laundering. Likewise, when comparing criminals involved in organized crime, who supposedly make more money than ordinary street criminals, many differences crop up. Most spend large amounts of

² For more background information on the type of dubious services and clients Mossack Fonseca & Co. provided, see <https://www.icij.org/investigations/panama-papers/>.

cash on a hedonistic life-style, use a basic loan-back construction in which crime money is supposedly 'lent' by a close relative, or start a fictitious turnover scheme in which illegal profits are comingled with the turnover of a legitimate business. Only a few take the Panamanian route, so to speak, and set up complex money laundering schemes.

This leaves us with a puzzle. We know that organized crime activities are for a large part carried out with the goal of making a financial profit. These illicit proceeds in turn intertwine with the structures and everyday life of licit society: spending for leisure activities, buying or investing in real estate, setting up businesses, and perhaps corrupting the authorities. But what are the conditions that influence the level of complexity of money laundering, and to a lesser extent its patterns, in relation to organized crime?

The answer to this question is the topic of this essay. The essay is structured as follows. In section I we go deeper into the concept of money laundering. This concept is explained by using two different approaches, an economic and a legal one. Both have their pros and cons. In section II we construct a conceptual framework of factors that impact the need for, and utilization of, money laundering schemes by criminals involved in organized crime. Each factor is illustrated with several organized crime examples. Our analytical framework finds its roots in crime scripting and situational crime prevention, that is to say, we view certain conditions that have a known impact on the incidence and forms of money laundering. In Section III, we extend the level of complexity from technical complexity to social complexity by including the need for outside help provided by professional money launderers. We conclude our essay with a general discussion, which raises some as yet unanswered questions about the impact of measures on both laundering and crimes committed by the loosely denoted and still controversial concept 'organized crime'. One final remark: some readers will likely notice that most of the literature and examples that we use come from the Global North, especially Europe. The reason is that European research on money laundering, compared to other parts of the world, has been able to make systematic use of court files or access police investigations in regard to organized crime. This makes for a detailed reality that is absent from money laundering research that solely focuses on legal aspects, international frameworks, or normative policy recommendations utilizing evidence bases whose analytical or empirical weakness is seldom acknowledged.

I. Background

The literature on money laundering generally can be divided in two different types of approach, i.e. an economic approach and a legal one. Both have their strengths and weaknesses.

In the economic approach, the focus lies on how the criminal money ends up in the legal economy. This is usually explained by the use of a three-stage model that has been promoted by US agencies since the 1980s and subsequently integrated into international agencies' and anti-money laundering (AML) training cultures: placement, layering and integration (e.g. Dean, Fahsin and Gottschalk 2010; Schott 2003).

Placement is the introduction of criminal proceeds into the financial system. This can be done by e.g. depositing cash or transferring money by money remittance bureaux to foreign or domestic bank accounts, thus transforming cash into banked assets. Layering is creating a distance between the unlawful origins of the money in order to give it the appearance of legitimacy, e.g. by using loan backs (i.e. 'borrowing' your own money against the security of funds already deposited in a foreign personal or business account), fictitious turnover schemes (i.e. comingling illegal profits with the turnover of a legitimate business), front companies, shell corporations and other financial constructions. This leads to the final phase, integration, in which the disguised criminal proceeds are spent or invested in the legal economy, at home or abroad. Note that for some international offenders, there can be a split national affiliation between their country(ies) of residence and their country of origin, so whether investment of proceeds is at 'home or abroad' is not always self-evident.

Others have added to this model by e.g. including a preliminary stage that precedes placement. This could happen, for instance, when cash is physically smuggled abroad, or exchanged for other currencies before it is deposited in the financial system.

Although the three phase model is widely used, it can also be criticized for several shortcomings. We point out five types of 'flaws' that sometimes makes the model less of a proper fit to reality.

First, not all three phases need to come into play. When financial fraud, for instance, results in the fraudulent transfer of legitimate money into the criminal's (often nominee or fake identity) accounts, the proceeds of crime are already in the financial system. They therefore do not need to be 'placed' by the offenders. Placement and layering can also be skipped when cash is used to directly purchase assets, though if they are purchased in a third party name, this might be viewed as layering.

Second, the model suggests there is a sequential 'law' in which criminal money always ends up integrated in the legal system. In reality, however, criminal money does not always

need to be laundered and integrated (Soudijn 2016). Though organized crime may be primarily about generating money, it seems to be taken for granted that many organized criminals were not also in business to have a ‘good time’, but rather were all committed to a Protestant ethic aim of saving and of integration into respectability. To put it differently, a chaotic lifestyle of leisure consumption that revolves around casinos, nightclubs and brothels can all be paid for in cash. This is a form of integration, but it is not usually what policy-makers might have in mind, and it does not fit the model of threatening the virtue of the licit world of finance and economy.

Third, the origins of cash (or of crypto currencies) do not matter in the criminal underworld in which illicit transactions abound. Especially in an organized crime (and also paramilitary) context in which many people have regularly to be paid maintenance ‘wages’, the proceeds of crime can directly be used to pay off accomplices or to invest in new criminal ventures, such as the financing of a new shipment of cocaine. Van Duyne (2002) refers to an ‘aquarium economy’, an underground environment in which fishy criminal money keeps circling around and never enters the legal system. Besides, criminal cash sometimes gets taken out of both the illegal and legal economy altogether. House searches of organized criminals occasionally turn up hundreds of thousands or even millions of dollars or euros that are apparently stashed away for a rainy day behind false walls, hidden floorboards or just in the attic and under the bed. We do not know to what extent this hoarding is an artefact of the need to avoid real or feared anti-money laundering controls, or whether such offenders would have kept the money close even absent any such controls. For example, they might be concerned about the need for a quick getaway with their crime proceeds, whether from the authorities or from rival criminals.

A fourth criticism of the three phase model is that it was developed in the early 1980s for the fight against drug smuggling, and thereby over-emphasizes the role of cash. At that time, principally all drug sales were made in cash, not touching the financial system. However, other crimes (like many fraud schemes) or the use of technological financial innovations like crypto currencies completely sidestep the use of cash which, anyway, is in decline as a proportion of transactions, especially in the Global North (Riccardi and Levi 2018) but also in the Global South, with the rise of electronic payments systems and mobile phone banking like the m-Pesa in East Africa.³ So too does trade based money laundering (TBML), the process of disguising

³ See also <https://fas.org/sgp/crs/misc/R45716.pdf>. Crypto currencies can only be spent in outlets that will accept it, which at the time of writing, is a quite limited range. Crypto currencies are therefore often exchanged for fiat currencies or cash in a later stage of the money laundering operation. The proportion of illicit market purchases that are laundered in cryptocurrencies is unknown but, though rising, is unlikely to be dominant for some time.

and moving value through the use of legitimate trade (in physical goods or in services) transactions, often by electronic (formerly paper) manipulation of value (FATF 2006, 2008; APG, 2012).⁴

Fifth, the model also runs the risk of ‘ingenuity fallacy’ i.e., the situation is imagined to be more complex than it really is (Felson and Boba 2010). This is observable when the model is explained with the use of complex money laundering cases. Accompanying illustrations feature the offices of banks or trust agencies, shares, yachts or private jets based in luxurious offshore tax havens. This gives the impression that money laundering is a very complicated matter, routinely carried out by professionals from the financial service industry and therefore best handled by investigators with a degree in accountancy. In reality, however, most money laundering investigations carried out by tax authorities or police investigators are quite straightforward and do not necessarily involve financial specialists. We are not arguing that these complex cases are fictitious: the issue is that they distort the perception of the phenomenon by ignoring the large number of simpler cases.

A final criticism of the three phase model is that it fails to capture the evolution in the workings of AML practices. While the US Presidential Commission on Organized Crime (1986) merely recommended pursuit of criminal money “as a powerful lever” to attack their somewhat narrow vision of organized crime, without going into any more detail, the criminalization of money laundering has since resulted in a global system of similar, functionally equivalent legislation and institutions not envisaged in the original analytical model, which was aimed at the domestic US financial system.⁵ This is not a normative criticism, but the reshaping of the control process is an object of study in its own right, both for criminologists and socio-legal/international relations scholars.

This leads us to the second approach to money laundering, the legal one. International legal standards – whose importance and harmonizing influence have been growing this century,

⁴ Sometimes, these trades are fictitious, which means that in principle, their existence can be falsified after financial and documentary investigation. Given scarce resources, such investigation is unlikely to happen in practice unless they are an accompaniment to major frauds.

⁵ Functional equivalence is an OECD Anti-Bribery Convention concept which focuses attention on the work that rules do rather than on their form: so countries are not required to *criminalize* corporate responsibility if civil or administrative mechanisms exert similar control impacts. Current AML laws are based on the 1988 UN convention against the illicit traffic in narcotic drugs and psychoactive substances (the Vienna Convention); the 2000 UN Convention on Transnational Organized Crime (the Palermo Convention); FATF recommendations (2003; 2018); and five (and rising) EU Directives commencing in 1991 (e.g. 91/308EC; 2001/97/EC).

due to the efforts of the Financial Action Task Force (FATF), created in 1989, and corollary developments in regions such as the EU - construct money laundering generally as:⁶

1. The conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action.
2. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity.
3. The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity.

In other words, depending on the particularities of the jurisdiction's legislation, a person is guilty of money laundering if he or she knowingly receives, possesses, or uses money (or other properties) generated by any criminal activity, or if he or she actually did or even reasonably could have suspected the money's criminal origins.⁷ Furthermore, persons who participate in, associate to commit, attempt to commit and aid, abet, facilitate and counsel on money laundering matters can also be prosecuted. The offence of laundering does not rely on whether or not the actions actually legitimize the funds or were intended to do so.

After adopting this broad legal outline of money laundering, a global system for a risk-based approach to money laundering became institutional practice (Halliday, Levi, and Reuter 2014; Nance 2018). This resulted in ever more standardized scrutiny according to Compliance regulations, extensive Customer Due Diligence and Know Your Customer procedures, alertness and Enhanced Due Diligence for Politically Exposed Persons (public officials and their families, both domestically and elsewhere in the world) and the filing of Suspicious Activity

⁶ Following S.3(1)(a) of the Vienna Convention and European Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering

⁷ Although some countries debate if the proceeds of foreign tax evasion should also fall under this provision, and others such as the UK have legislated to make it so, making due diligence tasks for customers challenging to regulated persons and institutions.

Reports (SARs, in some jurisdictions called Suspicious Transaction Reports –STRs and in Australia, Suspicious Matter Reports).

The enormous reach of the legal definition – stretching from the transnational ‘Ndrangheta to burglars putting proceeds of crime into their bank account in their own name - makes it unhelpful as a coherent category of activity. It is for this reason we opt to approach money laundering from an economic perspective, i.e. how does money derived from organized crime activities interact with the legal economy? However, we also put the three-phase model aside because of its many drawbacks. Instead, influenced by crime scripts and routine activities models (see next paragraph), we keep a careful eye for the conditions that influence the level of complexity and patterns of money laundering, in relation to organized crime.

II. Conceptual framework

We join the framers of the UN Transnational Organised Crime Convention 2000 and national legislators in sidestepping the problem of defining organized crime with any serious clarity. In our analysis, it may not be relevant whether criminal funds are derived from South American cartels smuggling drugs, mafia members extorting business owners, white collar criminals committing planned frauds or tax crimes, or major corporations involved with Grand Corruption or environmental crimes. All of these sources of crime proceeds can sometimes involve committing ‘organized crime’ offences when they are carried out with multiple persons over longer periods of time, though the latter crimes are only sometimes undertaken by ‘organized crime’ groups in the sense of ‘full-time criminal bodies’ conventionally understood in media, police and political parlance. Besides, the very considerable rise of fraud – especially online fraud - as a mode of crime commission in contemporary societies has muddled the classical distinction between organized and white-collar crime. Readers should fit the particulars of what they deem organized crime cases into our framework, bearing in mind that strong images of respectable business or professional firms can disarm ‘suspiciousness’ of transactions and erect conscious or unconscious barriers to police and other investigations. Nevertheless, in practice, our examples are taken from activities and personnel that we suspect most people would regard as ‘organized crime’.⁸

⁸ This is a non-trivial issue. In some countries, the linkages between politics, business and suppliers of criminal services are close and ideas about criminals subverting politics require refinement. Current allegations about EU countries, whether early members such as Italy, or more recent ones such as Bulgaria, Hungary, Malta and Romania illustrate how controversial and empirically contested such constructions of ‘organized crime’ as ‘outsiders’ can be, even in advanced economies with supposedly equivalent systems of governance. For a ‘strong’ perspective on these threats, see Shelley (2014, 2018). In a study for the European Parliament, Levi et

It is a mistake to associate ‘money laundering’ only with the *criminal* law risks to offenders. Though purchasers of illegal commodities are not victims in the same sense that blackmail and fraud victims are, victims of ‘organized crime’ and third parties with legal standing (including governments and bodies such as the Stolen Asset Recovery Initiative (StAR)⁹) may pursue civil litigation against suspected offenders without needing to overcome mutual legal assistance difficulties (including prosecutorial resistance in the home countries of kleptocrats), and adjudicated on criteria slightly lower than the criminal burden of proof before a criminal court. Taking into account such civil litigation and regulatory risks as well as prosecution, laundering needs only to be as sophisticated and complex as the control process forces it to be. To allow for this diversity in money laundering needs, we take as our point of departure a general crime script and routine activities perspective.

Crime scripting is a research tool that is used for a detailed, sequential analysis of specific and precisely defined crime events or criminal activities. To develop a crime script, the crime itself is thoroughly deconstructed and reduced to its individual components or scenes (Cornish 1994). Each individual component has its own characteristics, which in turn can provide insights into how the crime comes together. Thus, an illegal drugs manufacturer and trafficker has to be able to accomplish the stages of obtaining precursor chemicals, make the drugs, find markets, transport the goods there, et cetera. These insights are important because crime scripting is intended for a hands-on approach to crime. An accurate script makes it possible to develop interventions that reduce (or prevent) criminal opportunities or incentives (Felson 2004).

A preventative approach in which crime scripts are used has its history in theories about routine activities ‘theory’, problem oriented policing, and situational crime prevention. The latter has established a systematic body of work, which shows that crime prevention is achieved by keeping motivated offenders away from suitable targets at specific points in time and space or by increasing the presence of ‘capable guardians’. For a mental road map, various types of crime interventions are arranged across a five-pronged approach: increasing the effort,

al. (2013) calculate very different costs of organized crime in Europe, depending on whether the construct is one of Mafia-type groups only, or of this plus the much looser networks that comply with the low threshold of EU and UN criteria for organized crime. This essay does not require the resolution of this issue, but denotation issues are difficult to escape.

⁹ This is a partnership between the World Bank Group and the United Nations Office on Drugs and Crime that supports international efforts to end safe havens for corrupt funds. The UK has much-heralded civil Unexplained Wealth Orders which enable alleged proceeds of corruption abroad to be frozen and forfeited, but there have been only four cases (involving many accounts) from 2018 to end 2019. See <https://fcablog.com/2019/11/20/uks-new-freeze-and-seize-powers-upheld-in-moldovan-money-laundering-case/> Accessed 12 December 2019,

increasing the risks, reducing the rewards, reducing provocation and removing excuses (Felson and Clarke 1998; Bullock, Clarke, and Tilley 2010; Tilley, and Sidebottom 2017).

A straightforward application to organized crime and money laundering, however, turns out to be more complicated, especially in relation to guardianship (Von Lampe 2011; Kleemans and Soudijn 2017). While the presence of others who might stop the crime and/or report offenders has strong discouraging effects on ordinary crimes, in a money laundering context, a guardian (e.g. bankers, lawyers and auditors) may be simply a hurdle that must be overcome by side-stepping the particular individuals or disarming potential suspicions. Some who we would term ‘money guardians’ may be knowingly and willingly corrupt; some may be coerced into helping; and others may be innocent. However, even innocent potential guardians in financial settings are not *primarily* on the lookout for signs of misconduct, since their *raison d’être* and profit lies in serving their clients. Except for customers coming in with large cash-filled bags marked ‘swag’, or people known (during the account take-on process required by AML regulations) to have modest jobs and backgrounds suddenly transacting in large (for them) sums or volumes, it is not often obvious whether requests for service are legitimate or are criminal. In those countries that include lawyers and accountants in money laundering reporting requirements, even if the professionals are suspicious, some may be concerned primarily about whether *they* will be punished for breaching their duties rather than whether there is reasonable suspicion that a crime has been committed by their client or potential client.

This is not to say that it is impossible to use crime scripts and situational prevention techniques in relation to organized crimes. Even organized crimes can be (and need to be) reduced into smaller sub-sections. For instance, human trafficking can contain subsections on recruitment, travel, housing and accommodation of the victims. Likewise, a crime script of synthetic drug trafficking could start early in the chain with the procurement of essential precursors needed much later in the production phase (Chiu, Leclerc, and Townsley 2011; Vijlbrief 2012).

This slight detour about crime scripts brings us back to our main point. All crimes for economic gain that generate more profit than can be spent or readily stored physically require a separate crime script on how the financing of and proceeds of crime are handled. After all, the leading (though not the only) motive for carrying out organized crime activities is to make a profit that can be used. How such laundering is carried out depends on local circumstances and changes from crime to crime, from criminal group to criminal group, and from country to country. Writing *the* generic money laundering crime script therefore is not empirically or theoretically defensible (though see Gilmour, 2014 for an attempt). Even so, there are several

conditions that affect the level of complexity of money laundering in relation to organized crime in the broadest sense. These include:

1. *Type of crime*, particularly whether primarily cash-generating or generating electronic funds;
2. *Revenue*, shows differences between criminals who have no use for money laundering, those who self-laundry, and those who need help with laundering;
3. *Offender's goals*, such as individual needs and preferences in regard to financial or other returns from criminal investments;
4. *Anti-money laundering regime*, such as expected and actual levels of scrutiny and intervention.

1. Type of crime

The first factor in our framework is what type of crimes the organized crime group is involved in. As explained below, different types of crime have different financial aspects, including the type of payment, the need to pay people extra-territorially, the visibility of the crimes to victims and/or to the authorities, and the elapsed time interval before financial investigation occurs (if it ever does).

Whether criminal proceeds come in cash, in some electronic form (including crypto currencies), or perhaps barter changes the approach route to the possible money laundering process. When the proceeds are in cash, for example, the average anti-money laundering regime will impose some constraints on spending and investment habits. In high-income OECD economies, especially in expensive areas, a house, for instance, nowadays is rarely bought with cash.¹⁰ Criminal cash therefore needs to be converted to electronic form, after which it can be transferred.¹¹ Some types of crime generate benefits only in the form of crypto currencies. For instance, the trade on the dark web in restricted medicines, drugs, stolen credit cards, or ransomware schemes are all paid for with crypto currencies. This has its own advantages in

¹⁰ Although exceptions exist. For instance, in the US, in 2015, 53 percent of all Miami-Dade home (and 90 percent of new home) sales were made with cash- double the national average (McPherson, 2017). In Canada large sections of real estate (and luxury cars) in British Columbia and Ontario were purchased for cash. See <https://www.macleans.ca/economy/realestateeconomy/b-c-s-money-laundering-crisis-goes-national/> (accessed 28 November 2019).

¹¹ Although buying a house without any mortgage at all can by itself raise questions. The average home owner borrows money from a bank to finance the purchase of real estate, unless they can show or plausibly claim that they are buying from the proceeds of a previous sale or an inheritance. European lawyers and notaries would normally ask for the source of funds, and be expected to check on what they are told, though they may not all investigate with equal diligence or forensic skill.

regard to concealment, but also has its own detours to convert into the ownership of our hypothetical house (Kruisbergen et al. 2019). Fraud offenses, on the other hand, normally generate proceeds of crime that are already in the financial system and are thus more easily moved around to finance a purchase, e.g. via a mortgage backed by offshore assets that are proceeds of crime, to make the purchase look less suspicious. Long term non-fungible investments like houses may have to withstand serious investigation at some stage *over lengthy periods* if they are not to risk confiscation. Rigged bids for public works are even better, in that the contracts are paid by the government and thus generate a paper trail that seems above suspicion: the non-performance or inferior performance of the contract is not routinely visible, especially if quality inspectors are paid off.

Different types of crime have differences in their visibility to others as crime. Some crimes are completely and clearly illegal from beginning to end (like the trade in child online sexual exploitation), though the consumption and production of the images are concealed, whereas others take place in grey areas. VAT fraud, for example, usually becomes a crime only after the fraudulent filing of incorrect tax returns (unless there is forensic evidence of planning before the attempt is completed). Forcing women into prostitution is human trafficking, but when the sex work openly takes place in legal brothels or red light districts, customers and municipal auditors are not always aware (and may not want to be aware or care) that the labor is involuntary. Furthermore, when legal work is partly supplemented by illegal labor, for example in high cash flow businesses such as bars and restaurants, it becomes easier to commingle legal and illegal money. As a result, it becomes less clear what part of generated profits is legal and which is criminal.

Another problem is that different jurisdictions can hold different interpretations about certain types of ‘crime’.¹² Tax crimes (not tax avoidance) constitute a good example. Declaring a false tax return results in a financial profit for the fraudster, namely the amount due not paid. Because tax evasion is a criminal offense in many jurisdictions, an increasing number of

¹² According to the FATF (<https://www.fatf-gafi.org/glossary/d-i/>) *Designated categories of offences* means: participation in an organised criminal group and racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; (including in relation to customs and excise duties and taxes); tax crimes (related to direct taxes and indirect taxes); extortion; forgery; piracy; and insider trading and market manipulation. When deciding on the range of offences to be covered as predicate offences under each of the categories listed above, each country may decide, in accordance with its domestic law, how it will define those offences and the nature of any particular elements of those offences that make them serious offences.

countries argue that any willfully unpaid taxes are the proceeds of crime and thereby are equated to money laundering. Indeed, the FATF formally includes separately fraud and tax ‘crimes’ on direct or indirect taxes in its list of predicate crimes. When unpaid taxes are moved abroad, this can become a problem for the prosecution when the receiving country does not consider tax evasion a crime and therefore is unwilling to exchange information that is needed to prosecute these offenders.¹³ (Though parallel routine tax information exchange has become more common due to political pressure on ‘secrecy havens’.) It can also be difficult for bankers and lawyers to form a suspicion as to whether or not the funds that are deposited are the proceeds of foreign tax evasion: a predicate crime in the UK, for example, but not everywhere.

Different types of crime also result in differences in the frequency in which criminal proceeds are generated. Some crimes generate a continuous flow of daily or monthly illicit proceeds, whereas others are one-time events that follow no discernable pattern. Take for example the difference between forced prostitution and wholesale cocaine trafficking. A Dutch investigation into human trafficking found that prostitutes were forced to earn a daily minimum of at least 1,000 euros, six days of the week. Other organized crimes that continuously bring in money are loan sharking and protection money. Conversely, a cocaine smuggler who organized the shipment of hundreds of kilos of cocaine needed weeks of preparation to arrange fake cargo, shipping manifestos, and other paperwork. When all was arranged, he had to wait another couple of weeks for the transatlantic freighter to dock in the harbor, offload his cargo, and unpack it in a warehouse in order to sell the cocaine for a profit of 3-5,000 euros a kilo. The difference between receiving numerous small sums regularly and tens or even hundreds of thousands of euros intermittently and irregularly, leads to different money laundering dynamics. Small amounts of cash can be co-mingled with say, the daily turnover of a bar. But to launder a single large sum of money would need better planning in order not to raise suspicion. Of course, the money can also be co-mingled with the turnover of a bar or tattoo/beauty parlor, but it would need discipline and much more planning, and one bar or restaurant might not be enough to be plausible for the turnover level if investigated by law enforcement.

In some countries, drugs trafficking generates vast volumes of cash that need to be laundered. According to FinCEN (2005), over \$120 million dollars from illicit drug sales in the US were smuggled in bulk into Mexico over three years for the Arellano-Felix ‘gang’, which

¹³ Switzerland considered the fraudulent filing of accounts in Switzerland as a crime, but not the ‘evasion’ of taxes without active falsification: since 2016, “serious tax crimes” in both direct and indirect taxation have become predicate offences for money laundering. Switzerland defines tax fraud leading to tax evasion of more than CHF300,000 in a year as a serious tax crime. Assisting foreign tax evasion remains legal unless it involves forging documents, et cetera.

were then brought back into the US by declaring the currency in the name of the currency exchange houses in Mexico, therefore concealing the illicit origin of the funds. The currency was deposited into US bank accounts held in the name of the currency exchange companies. Maybe to make the money trail harder to follow, money from these accounts was wire transferred to bank accounts around the world, after which the trail went cold or was not publicly pursued.

2. *Revenue*

The second factor in our general framework is the amount of revenue organized crime generates, and more importantly, the net profit of individual crime members. Both lack dependable estimations.

Revenues are important as a component in a claim to official attention, but they tend to receive little attention in claims of effectiveness of controls. While official documents concerning money laundering or organized crime often confidently mention the scale of global or national money laundering (e.g. according to the UNODC, 2.7% of global GDP) – what van Duyne and Levi (2005) term ‘facts by repetition’ - academic experts are more reserved. This cautious attitude is not because of mere academic pedantry, but because all methods used to estimate the size and scale of the criminal economy and money laundering have serious flaws (Reuter 2013; Van Duyne, Harvey, and Gelemerova 2019). Furthermore, just as in the licit economy, there is economic inequality and wealth concentration among organized criminals (Van Duyne and De Miranda 1999; UNODC 2011). Many have subsistence or immediate lifestyle incomes, and others get sums so large that even if they are highly hedonistic, they would find it difficult to spend and are forced to save and launder. The extent to which they need or want to do so is highly dependent on the position of the individual in the organized crime network. In general, the crime boss or leading organizer will make more than key personnel (“lieutenants”) or outside experts (professional money launderers), who in turn will make more than interchangeable accomplices (couriers and transporters, local ‘enforcers’, strawmen). It is therefore likely that organized crime typically shows a highly unequal distribution of wealth, but valid numbers are not available. In transnational activities, questions are seldom asked about who in which countries takes the predominant share of profits from crime.¹⁴

¹⁴ There is no criminological equivalent of the Gini country inequality measure in economics.

Generally, a distinction can be made between persons who have little use for money laundering, those who self-laundry, and those who need help in doing so (Malm and Bichler 2013). The first two groups are generally considered very large compared with the third. Levitt and Venkatesh (2000) found that most drug dealers who worked at street-level earned just above minimum wage and would have been better off *economically* serving hamburgers at a fast-food restaurant. Furthermore, a tell-tale sign was that most foot-soldiers also held (part-time) jobs in the legitimate economy. Likewise, as shown by Reuter et al. (1990), approximately two-thirds of Washington DC drug dealers reported being legitimately employed at the time of their arrest. This suggests that their illegal profits were supplements to licit earnings. Only a few gang leaders were able to earn high economic returns (Venkatesh 2008).¹⁵ For this reason, global or national estimates about (particular) crime revenues are – apart from their methodological errors – unsuitable for our framework. Without a sense for the number of participants who share the criminal profits, and the apportionment of these profits, it is not clear what meaning or value estimates of total sums laundered have, beyond showing that this is a ‘very big problem’.

Because of lack of dependable statistics on criminal revenue, let alone - net of costs including corruption – their aggregate profits, we have to make do with other sources like official proceeds of crime confiscation, case studies, and interviews, although none are really satisfactory.

In an ideal administrative world, confiscation of legal assets in criminal cases signal what an individual can be proven to have gained in illicit proceeds.¹⁶ A database of confiscation cases paired to type of offenses could thus inform us of the total illicit amount and the type of asset. However, as a Transcrime (Savona, and Riccardi 2015) research project on the portfolio of organized crime in Europe showed, this is easier said than done. First, there is a wide range of confiscation regimes across different states. Some assets are eligible for confiscation in one country, whereas it is impossible to recover the same assets (or data about them) in another. Second, most countries do not adequately register confiscation. This makes it impossible to produce solid statistical analysis.

¹⁵ Levitt and Venkatesh (2000) explained the involvement of street-level dealers as playing the long game, i.e. hoping to be able to rise someday to the top and finally earn a large illegal income. But perhaps it sometimes reflects simply the fact that criminals are around in their environment, and involvement in crime offers some degree of social conformity and a feeling that they are more important than they would otherwise be in the licit precariat economy. The *Homo Economicus* model neglects the pleasure that people derive from crime (Katz, 1988; Levi, 2008) and also from exercising power and taking risks in *licit* business.

¹⁶ Though some regimes allow for this to be done on civil burdens of proof, others by reversing the burden of proof post-conviction in relation to the sources of income, and others still require in practice the linking of confiscated assets to proven crimes.

There is also substantial attrition between court orders and confiscation. When Kruisbergen, Kleemans, and Kouwenberg (2016) examined 102 Dutch cases in detail, the initial public prosecutor's claims totalled €1,928,210 but this was reduced to €7,463,899 (44 per cent) at the end of the court procedure, of which only €1,325,036 (41 per cent, or 18 per cent of the original claims) was eventually collected. There are similar findings in Australia and in the UK (Chaikin 2018; Goldsmith, Gray, and Smith 2016; Levi 2018; see also Sittlington and Harvey 2018).

Another way of establishing the amount of revenue and individual net profits, is studying individual offenders and their money laundering habits, e.g. by analysing their court or police files. However, gaining access to this kind of material can be quite hard, and in some countries even impossible. Furthermore, many police investigations lack financial details. The reason is that most investigations on crimes that are organized are focused on the predicate crimes. Generally, as soon as a shipment of cocaine is intercepted, a protection racket is dismantled or human trafficking is stopped and the perpetrators arrested, the investigation is considered to be a success. In turn, evidence of the predicate crimes is enough to obtain a conviction. Because financial information on money laundering will seldom (depending on the country and other evidence available) add substantially to the length of the prison sentence, it is simply not needed. Or worse, including charges of money laundering could delay the entire prosecution when assets need to be traced abroad via slow international mutual legal assistance requests. Conversely, when an investigation starts from a money laundering angle, the predicate crimes may not be needed (depending on both law and judicial interpretation). It is rare for the two (predicate crime + financial data) to come together.

Insights can also be gained by approaching organized crime participants themselves. However, the target group (organized criminals who launder money) is difficult to reach. They are unlikely to fill in questionnaires or respond *en masse* to field workers: talking about money is much more dangerous than talking about past misdeeds that have been punished already, are past their statute of limitation period or are impossible to prove because of lack of evidence. Criminal money, and the way it was laundered, however, is almost indefinitely subject to confiscation. Talking about riches might also attract unwanted attention from criminal predators. That is not to say that it is impossible to carry out interviews about criminal money, but generally this will be because of good rapport between subject and researcher and reveal little about the overall picture unless the interviewee is a central or nodal figure.

A notable exception is the Matrix Knowledge Report (2007). Researchers were able to talk to 222 drug offenders in UK prison about drug markets and financial profits. It turned out that

their money laundering methods were generally not sophisticated. However, the researchers note that this may reflect self-selection. “Dealers with more sophisticated money laundering approaches may have been reluctant to volunteer” (Matrix Knowledge Group 2007, p. 40). (Alternatively, such dealers might more rarely have been caught!) A replication in the Netherlands encountered the same problems (Unger et al. 2018). Although the study was much smaller (N=25 with a response rate of 56%), the information gleaned was not illuminating. Most had hardly any experience with complicated money laundering methods. Tellingly, an advocacy group of ex-prisoners did not want to cooperate with the interviewers because talking about money was “not done” and fear of confiscation would preclude any meaningful talks. Trying to get a university project on board that worked with former tax frauds also led to nothing (Unger et al. 2018). Several attempts were made to interview the ex-offenders, but were not successful. This led to the conclusion that fear of asset confiscation prevented talks about money and spending habits. Interviewing lawyers also led to nothing. They were not ‘inclined’ to talk (one would guess in the abstract) about the financial position of their clients. Interviews with bank employees also elicited no information. Banks had no legal mandate or permission (for fear of criminal liability for ‘tipping off’) to divulge how suspected criminals spent their money and their focus - which may have shifted due to changes in public-private cooperation in the UK - was largely on cash that criminals tried to put in their accounts. Finally, a focus group study by Sittlington (2014) of ex-offenders from Northern Ireland largely confirmed other studies’ findings about high spending by offenders and prosecutors going after low-hanging fruit and being reluctant to prosecute standalone laundering cases. The special circumstances of strong paramilitary influences in Ireland differ from those in many other countries, though the Irish peace process may have led not so much to less organized crime but to the replacement of the collective paramilitary fund with largely personal benefits.

3. Goals

The third factor in our general framework is what organized criminals seek to accomplish with their criminal proceeds. Because interviewing organized criminals about their illegal income proved not very fruitful (see section above), we should look at how they spend their money and try to infer goals from behavior (see also Fernández Steinko 2012).

Several studies show that, like average personal budgets, criminal expenses can be sorted in the usual categories, albeit with some over the top spending habits (Van Duyne 2003; Matrix Group 2007). There are small daily household expenses for food like groceries, variable

payments for utility bills, clothing, hobbies, next to fixed costs like insurance, car leases, rents or mortgages, and larger outlays such as buying a new car or a house or setting up a company (or for that matter, financing new criminal activities). Some studies (Savona, and Riccardi 2015; Van Duyne 2013) have looked at official confiscation records, and describe a plethora of cars, motorcycles, boats, houses, jewelry, electronic appliances, fur coats and the incidental antique work.¹⁷ However it may have been these very items of conspicuous consumption that drew the attention of the authorities and financial investigators to the criminals in the first place.

What criminals seek to accomplish with these expenditures has been less often investigated. The goal of some expenses is not hard to deduce. Re-investing in criminal endeavors or financing large sums of money in a conflict with other organized groups (Krawkowski and Zubiria 2019) is carried out with the objective of generating future profits, or even survival. Daily household expenditures are motivated by wanting more comfortable living conditions. But lifestyle expenditures, for example, can have complex motives. The criminal who dines out every evening, runs up large casino losses and spends large sums on gaudy jewelry, might do it to satisfy his personal needs, perhaps fill an emotional void, but could also want to project the image of a successful ‘made man’ (BRÅ 2014). Many ordinary bourgeois citizens might avoid such a brash person, but in the criminal environment, it can deliver the message that here is somebody willing to do extra-legal business and who is successful at it. Flashy cars and booking expensive front row tables at public boxing matches or private boxes at soccer matches can send the same message.¹⁸

Another way of examining goals of criminal money is to look at their larger expenditures. Such expenditures can indicate longer-term strategies. Take for example a Dutch study into 1,196 individual investments of convicted organized crime offenders (Kruisbergen, Kleemans, and Kouwenberg 2014). The study distinguished between investments that could fall under a standard economic approach and a criminal infiltration approach.

¹⁷ The literature about money laundering can sometimes overemphasize the role of antiquities and art. Occasionally, a crime boss turns out to be a fond collector of expensive paintings and such like. However, art that merely hangs on a wall is not money laundering in an operational sense, though it may count as hiding the proceeds of crime in a legal sense. Only when it is bought with the intention to sell it on in the licit economy does it serve a money laundering function. Furthermore, it should also be considered that certain types of white collar crime offenders (corporate fraudsters, oligarchs or corrupt public officials) move in different social circles compared to most drug dealers and pimps. A house decorated with expensive art is part of the former’s image (and sometimes even a reflection of their taste), whereas the latter is more likely to be fond of stills from *The Godfather* movie (Van Duyne, Louwe, and Soudijn 2014). Nevertheless, small, high value products are appreciated in the event of a need for a quick getaway or forced sale.

¹⁸ We know less about how female organized criminals or launderers behave in equivalent circumstances.

The standard economic approach, summarized as ‘profitability’, stresses the similarity between organized crime offenders and legal entrepreneurs; both are assumed to make investments based on the aspiration for good economic returns. A difference might be that criminal investments involve additional costs because they need to circumvent the anti-money laundering regime). This might make it more attractive to invest in opportunities with smaller returns, but lower risks of detection. This in turn is affected by perceptions of invulnerability to official action, which vary over time and place.¹⁹

Investments that fall under the criminal infiltration approach are summarized as ‘power’ in that organized criminals seek to gain power or influence in the legal economy. This is also one of the risks the FATF warns about. Criminals might use their profits to acquire control over segments of the local or even (especially in smaller jurisdictions) national economy through strategic investments or bribes. A deep *angst* about money laundering corrupting the integrity of banking and financial services drives much of the anti-money laundering regime, at least rhetorically.

The Dutch study (Kruisbergen, Kleemans, and Kouwenberg 2014) showed that investments were often made in real estate, for several reasons. First, criminals need a place to live. Second, real estate is generally a safe investment over the long term. Third, prices are not always transparent and can thus be used to launder money, supplementing the official price with money under the counter. Finally, ownership can often be concealed through the use of legal entities. As far as is known, criminals invested on a smaller scale in commercial properties, likely in order to facilitate their criminal enterprises. Investments in legal businesses were largely in the retail and commercial sectors. About half of these companies were used to support ‘transit crime’ activities like drug smuggling. This could be in the form of logistical support (storage or transport), and legitimizing or concealing criminal activity. For instance, a cleaning company could order chemicals used for the production of synthetic drugs, or a fruit or flowers company could order a container from South America in which cocaine was smuggled. Fernández Steinko (2012) found similar types of investments in Spain. To the extent that such businesses are used for criminal purposes, they are not successful laundering vehicles: though

¹⁹ Farfán-Méndez (2019) hypothesizes that drug trafficking organizations with hierarchical structures — understood as structures that process information and acquire knowledge—prefer risk-averse methods, whereas wheel networks tend to use risk-tolerant procedures for laundering money. However, as the author notes, “additional data are needed in order to continue to evaluate the hypothesis” (Farfán-Méndez 2019, p.308), and we are somewhat skeptical of the evidence base for this to date. Furthermore, we would like to raise the question if money laundering strategies are decided at the level of the whole drug trafficking organization, or of the individual leader (and as such reflect his psychological preferences), who co-incidentally may or may not have proper access to money laundering advisers.

they may provide decent cover for offending unless investigated intensively. Companies could also function as money laundering vehicles, absorbing cash money, hiding ownership or providing bogus salaries. A pilot study in Italy, the Netherlands, Slovenia, Sweden, and the UK on the infiltration of organized crime in legitimate business developed a model to help understand the *type* of business at risk. Risk (or attractiveness) factors include low level of technology, small company size, low barriers to entry and weak or developing regulation (Savona and Berlusconi 2015).²⁰ Establishing or taking over a legitimate company is also part of many fraud related schemes (Berlusconi 2016).

However, the investments in real estate and commercial properties did not properly fit the profitability or power approach. Although real estate generally appreciates in value over the long term, hardly any known criminals were building up portfolios in real estate. Properties were mostly used in their immediate day-to-day lives and not leased or rented out. The investments were also not geared to touch the legal financial world in any significant way or to control specific segments of society. This prompted the researchers to come up with another theory, the social opportunity structure, a symbiosis of social network theory and opportunities theory. Social ties and trust direct a criminal's opportunities for carrying out criminal business, and also apply to their choices for investing the proceeds of crime (also see Van Duyne and Levi 2005; BRÅ 2014). Organized criminals whom we know about want to stay close to their investments from a physical and social point of view. They invested in their original home country or their country of residence, and seldom held financial assets in areas in which they were not personally involved. These are styled 'proximity' investments (Kruisbergen, Kleemans, and Kouwenberg 2014). Savona and Riccardi (2018) mention investments that are *culturally* close to the organized crime group, e.g., bikers investing in tattoo shops.

That is not to say that profitability or power never come into play, or that proximity precludes any use of power. Offenders who are not involved solely in transit crime but focus on racketeering could spend more on 'power'. Organized crime groups in several European countries invest in the construction business and allied areas that entail "more capillary infiltration of the local political, business and social community" (Savona and Riccardi 2015, p. 157). Sometimes, real investments in property and in the services sector (like 'security') offer a route to exploiting and extending local power and deter police intervention.²¹ Ponce

²⁰ A follow-up study developed a more advanced risk model based solely on firms confiscated from Italian organized crime from 1983 to 2016 (Savona, and Riccardi 2018).

²¹ Sometimes other pressures and social objectives – for example preparing and running a successful Olympic Games or World Cup – may deflect police interventions or give corrupt leaders an excuse for doing so. This has

(2019) recounts how drug trafficking organizations in Mexico (illegally) finance campaigns of politicians. Organized crime in Albania is also reported to invest part of their criminal proceeds in the cultivation of politicians (Global Initiative 2018). Many other countries have analogous scandals, not all of them as dramatic as Mexico.

Although the criminal investments in the Dutch studies were relatively small on a national level, and were not aimed to take over or monopolize segments of business, the local level should also be taken into consideration. Here it was found that some criminals wielded (knowingly *and* unknowingly) some influence. For example, a local municipality was not eager to target a certain cannabis grower because the legal side of his commercial business employed dozens of people who would otherwise end up on social security (Soudijn and Akse 2012). Some criminals sponsored local football clubs, which in turn enabled these clubs to attract better players (with extra cash paid under the counter). Better players translated to winning more matches and generating more interest in the club. This in turn led to cozy relationships between the football club's managers and sponsors, with representatives from the local government. These things can create an aura of power and 'untouchability' around the offender and their entourage. More generally, a sports club of any kind also offers a relatively 'safe space' where criminal and licit business can be mixed without looking 'out of place' or inherently suspicious.

Bruinsma, Ceulen, and Spapens (2018) reported that a third of Dutch municipalities have encountered 'philanthropical' criminals. Case samples showed sponsorship of sports clubs, events, and fund-raising activities, and setting up of charities. Some criminals even acted as 'informal mayors' in their neighborhoods (see also Campana and Varese 2018). Outlaw Motorcycle Gangs explicitly used philanthropic activities like visiting children's hospitals and distributing stuffed animals to improve their images (Kuldova 2018). Philanthropic activities occur in many other parts of the world, albeit on a larger scale. Pablo Escobar is still locally revered because for giving money to the poor and stepping in where the authorities had withdrawn (both money and reputation laundering). Italian mafia groups and the Yakuza (and some officially designated terrorist groups, for example in Pakistan) have been reported to help with relief efforts. These efforts cost little money and need no laundering, but generate immense local goodwill, while shaming the national government (Kuldova 2018), thus enhancing the

even been alleged of the 'failure' to pursue some London organized criminals prior to the London Olympics 2012 (Gillard, 2019).

comparative legitimacy and ‘collective efficacy’ of the crime group. For white collar criminals there are other benefits, such as large tax deductions for charitable contributions.²²

Another mixture of power and proximity sometimes occurs when criminals from ethnic minorities establish business or religious societies within their own communities (Soudijn and Akse 2012). Sometimes they were able to portray themselves as successful and generous businesspeople which led to higher standing within the community or even to dealing with the government as a community representative.²³ It is unclear to what extent ethnic societies were aware of the criminal origins of their affluent members.

In short, although organized criminals’ motivations may be more varied than a simple *homo economicus* model would predict (notably obtaining social standing), achievement of their goals often involves activities that violate money laundering legislation.

4. *The anti-money laundering regime*

The final component in our framework is the way in which the anti-money laundering (AML) regime is locally carried out. Since 1986, when the US Presidential Commission on Organized Crime recommended the pursuit of the criminal money trail, there have been developed a plethora of general regulatory and criminal justice measures that try to prevent and deter an ever-broadening range of ‘criminals’ from using the financial system to hide the proceeds of crimes or (which lie outside the remit of this essay) to finance terrorism or weapons of mass destruction. An important driver of the AML regime is the inter-governmental Financial Action Task Force (FATF). This task force, which describes itself on its website as a ‘policy-making body’, has developed a set of ‘Recommendations’ (originally in 1990, revised in 1996, 2001, 2003 and 2012) that have become the international standard for combatting money laundering.²⁴

The anti-money laundering regime is in essence one gigantic global and local exercise in attempted situational crime prevention, whose attractions to governments include the fact that most staffing and expenditure on it falls upon the private sector.²⁵ To use situational crime

²² The struggles over the acceptance or rejection of ‘philanthropic’ offers and past donations by shamed or questionable-background wealthy donors to the prestigious arts/culture bodies or almost always elite universities is too broad an issue for this essay.

²³ In a different era, mobster Joseph Colombo (1923-1978) established the Italian-American Civil Rights League to protest stereotypical depictions of Italians as being members of the mafia. At its height, it had a following of over 40,000 people.

²⁴ <https://www.fatf-gafi.org/about/>

²⁵ The validity of data on compliance costs are difficult to test, and vary over time and place as a function of regulatory risks, but an estimate for AML costs for financial institutions in North America is \$31.5 billion in

prevention parlance, the obligation of banks and other sectors to report unusual or suspicious transactions aim to ‘increase the effort’ by enhancing the level of surveillance that is applied to commercial transactions. The compulsory measures to report all cash deposits, money transfers, or payments above a certain financial amount²⁶ fall under ‘increase the effort’. Specifically accredited individuals or teams within banks who are allowed to vet certain financial transactions and reject or ‘de-risk’ individual or business customers can be called ‘access control’ operators. All these measures set rules and require training, and thus by themselves ‘raise the awareness’ or (up to a point) ‘remove excuses’ of those involved.

This is what Garland (1996) termed ‘responsibilisation’, the shifting of the burden of crime control onto the private sector, though Garland was writing about this in the context of mundane crimes. In this instance, reporting entities and those who work for them (e.g. bankers and lawyers) are required to identify their customers and to record and report suspicious (or as we prefer to think of them, *suspected*) transactions and all transactions with high-value dealers in cash above a legally fixed minimum, on pain of prosecution and/or regulatory sanction.²⁷

Failing to conduct checks and/or make reports to the national Financial Intelligence Unit (FIU) if suspicions have been aroused results sometimes in large fines, especially if rule breaking can be shown to be intentional and/or systemic (which aim may not be desired because of the collateral damage to the bank or to the banking system collectively).²⁸ To give a few examples, Wachovia Bank settled in 2010 for US\$160 million to resolve allegations that its weak internal controls allowed Mexican cartels to launder millions of dollars’ worth of drug proceeds. HSBC Holdings PLC agreed in 2012 to pay US\$ 1.9 billion after admitting laundering drug money for Mexican and Colombian drug cartels. Citigroup in 2017 agreed to pay US\$ 97.4 million in a settlement deal after admitting to criminal violations by willfully failing to

2018 (<https://risk.lexisnexis.com/insights-resources/research/2019-true-cost-of-aml-compliance-study-for-united-states-and-canada>). An earlier study found it to be \$28 billion in six countries in Asia (<https://www.lexisnexis.com/risk/intl/en/resources/research/true-cost-of-aml-compliance-apac-survey-report.pdf>), and another found that in a range of continental European countries, average AML compliance costs per financial institution range from US\$17.2 million in Switzerland to US\$23.9 million in Germany, totaling an estimated \$83.5 billion in Europe (Lexis-Nexis, 2017). The businesses regulated by the UK Financial Conduct Authority (FCA, 2018) employ at least 11,000 full-time equivalent staff specifically for money laundering and financial crime issues, with a salary bill alone of £650m per year. These costs do not have to be paid out of taxation directly, but they do have to be paid for out of the profits of regulated firms.

²⁶ This minimum varies between countries. In Australia, for example, it is zero at the time of writing this essay.

²⁷ One of the earliest examples are Italian authorities who noticed in the late 1970s that proceeds of bank robberies funded the activities of the Brigade Rosse and subsequently required Italian banks to report large cash deposits. There have been periodic attempts to reduce the variable limits on cash payments in the EU: see Riccardi and Levi (2018)

maintain an effective anti-money-laundering system. Dutch ING Bank accepted and paid a settlement for 775 million euros agreed by the Netherlands Public Prosecution Service in 2019 for not acting properly as a gatekeeper to the financial system. According to the settlement agreement, ING had set up their internal compliance system for monitoring transactions in such a way that only a limited number of money laundering signals were generated. Australia's Commonwealth Bank of Australia (CBA) paid the Australian authorities US\$ 430 when large numbers of organized criminals exploited the failure to link large frequent (53,750 in total) cash deposits into the bank's 'Intelligent Deposit Machines' to its AML system. At the end of 2019, heavy penalties were threatened for Westpac in Australia for 23 million reporting violations, which included some unreported wire transfers in relation to, for example, child sex trafficking in the Philippines. Fines should be seen in the context of overall profits and of profits from the sorts of activities that were 'neglected'. However, these heavy nominal fines not only pressurize the respective bank to be more compliant, but also aim to send a powerful signal to other banks to spend more money on their AML departments. After initial resistance, formal regulatory measures have been globally accepted by most sections of the private sector (with the exception of the legal profession in some countries, such as Australia, Canada and the USA, which have successfully resisted the legal obligation to report suspicions to Financial Intelligence Units) and have become part of a 'transnational legal order' (Halliday, Levi, and Reuter 2019) which aims to universalize controls and create a 'level playing field' against organized criminals.

In addition to manual reports from suspicions developed by staff, an important development in flagging 'suspicious' (or as Gold and Levi (1994) and Levi & Reuter (2006) pointed out, *suspected*)²⁹ transactions is the use of big data. Banks, for example, automatically check each financial transaction with a multitude of algorithms for divergent behaviour. These algorithms are often bought from third-party companies. The use of big data seems very well suited to counter money laundering. First, an enormous amount of financial data is generated by the clients, customers and citizens of private, semi-private and public parties. Just think about the number of transactions that banks, money transfer companies, insurers, land/property registration Agencies, Chambers of Commerce, and tax authorities, to name a few, process on a daily basis. Second, financial data are relatively straightforward and easy to code and have long been digitized. A specific monetary value in a specific time period is transferred or belongs (or appears to belong) to a certain person or organization. Third, because financial transactions

²⁹ Because 'suspicious' implies that there is something in the transaction that reveals something inherently suspicious/criminal, whereas 'suspected' simply signals that a cognitive judgment has been made by the observer.

are essential for the functioning of society, great pains have been taken to avoid errors. Transactions, therefore, match between different partners or systems, and unique identifiers are in place. This makes it relatively easy to combine financial data from different parties, which is one of the preconditions of big data.

Some of the monitoring measures clearly deflect and even perhaps prevent crimes altogether, both organized frauds against the banking system and other forms of organized crime. Data about this are very seldom available. In the UK, the Nationwide Building Society – the largest, with 15 million customers - closes down 12,000 accounts a year, half of them for suspected ‘money muling’ activities in which genuine accounts are used to push through domestic or foreign proceeds of crime transactions; the mid-sized Santander Bank – with 14 million accounts - alone closes down some 10,800 UK accounts annually because of suspected money muling activity.³⁰ In 2017, in the UK, 1.15 million account-opening attempts were rejected for financial crime-related reasons.³¹ *Prima facie*, this might suggest that the system is quite good at prevention, though one cannot deduce from these data how many (ill-defined) financial crimes are *not* prevented from account-opening in the UK (and this proportion may be wildly different elsewhere in the world, where such data are not collected or are unavailable).

Garland was identifying a trend in relation to ‘ordinary’ crimes. However, this trend has turned out to have been an extraordinarily ambitious attempt to impose these responsibilities on a uniform global scale. For instance. In the US, the reporting entities filed more than 3 million SARs in 2017, against only 150,000 in 1996. In Europe, 1.5 million SARs were filed in 2017 across the then 28 EU Member States, almost double the number received in 2006. The UK, The Netherlands, Italy, Latvia and Poland are the top 5 SAR issuers in Europe. Does this mean that the UK is more effective than the Netherlands, or twice as effective as Italy but nowhere close to the US? No, clearly not. In all of these countries there have been massive money laundering scandals, both connected to organized crime and to other sorts of offender like Russian, African, Middle Eastern, or East European oligarchs. Furthermore, it is often not possible to deduce what proportion of these SARs related to organized crime, however defined, or indeed correctly reported transactions that related to any type of crime. How would we expect bankers, lawyers, and high value dealers to know for certain that their clients were (‘organized’)

³⁰ Economic Crime - Anti-money laundering supervision and sanctions implementation, Treasury Select Committee HC 2010. Q.692.

³¹ Ibid.

<http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Treasury/Economic%20Crime/Oral/96630.html>, Q.695.

criminals or that the transactions were proceeds of crime in general or of particular crimes? The system circumvents this by requiring them to have systems in place, not to know for certain! Nor do we know the number or proportion of transactions that ‘actually’ related to crimes but that were *not* suspected or that, if suspected, were not reported to the national Financial Intelligence Units, or were actually investigated only after being reported to them.³²

There are many gaps in reporting, both legislatively (e.g. lawyers in many jurisdictions are not obliged to file their suspicions) and in practice. For instance, two reports on casino gambling, real estate, luxury vehicle sales, and horse racing in British Columbia (German 2018, 2019) show widespread evasion of controls in Canada, which only shortly before had been highly praised by FATF for the effectiveness of its controls.³³

In theory, a very stringent AML regime makes it more necessary than a lax one to take serious steps to hide the criminal origins of assets. In reality, it depends how the AML regime is actually put into practice. Some – arguably most - regimes simply don’t have the manpower or resources to go after every indication of money laundering. Hülse (2008) drew attention to ‘paper compliance’ that hid the fact that certain types of laundering are not actually targeted. For instance, the lack of due diligence requirements by Companies House in the UK, the official register of companies and corporations, has been a significant weakness,³⁴ albeit one shared by other business registers in the EU and elsewhere. An experimental study in which potential intentionally dubious customers approached financial intermediaries around the world by email has shown that AML rules are applied less stringently in the UK and, especially, the US, compared with more stigmatized ‘secrecy havens’ such as the British Virgin Islands and Belize, at least to approaches from strangers (Findley, Nielson, and Sharman 2014). To the extent that this is true in practice, it may reflect the differential external pressure that such jurisdictions are under to comply with procedures, including the role of FATF as a political instrument of the Great Powers. A case in point is the race to the bottom spearheaded by financial secrecy and

³² Europol (2017) states that just 10 percent of suspicious activity reports are further investigated after collection, a figure that is unchanged since 2006. However even if one accepts that figure is accurate, it understates somewhat the potential value of the data contained in these reports, irrespective of whether or not further investigations are triggered. It also raises questions about the value of FIUs demanding an ever-increasing number of SARs from professionals, whose lack of follow up is sometimes deflected by FIU complaints about their low quality: see NCA (2019).

³³ See also Amicelle and Iafora, 2018 for some insights into financial services sector perspectives there and elsewhere.

³⁴ See TI UK (2017) and NCA (2018: 38). BEIS (2019) has made some reform proposals in a public consultation aimed at improving levels of vigilance at Companies House and the companies’ register. Time will tell whether any post-consultation changes have significant impact.

trust laws in South-Dakota and Delaware.³⁵ Money in a South-Dakotan trust fund is almost impossible to reach by the authorities because of its protected secrecy status. Furthermore, while well over a hundred countries in the world signed up to the global agreement “Common Reporting Standard” - an agreement put in place in order to exchange information on the assets of each other’s citizens abroad - the US ‘failed’ to do so.

How an AML regime is put into practice is also dependent on the level of corruption. Effective monitoring is thereby dependent on the weakest link. Corrupting a ‘guardian’ of the financial system (e.g. a bank employee) helps the criminal to circumvent the very measures that the guardian is meant to enforce. Perceptions of corruption can also be important for example in deterring people from making SARs if they think that clients will get to hear about them from the authorities by leaks, whether in developed or less developed economies. This applies both to wealthy elites, who are (or should be, if identified correctly) categorized by regulations as Politically Exposed Persons (PEPs), and to other organized criminals, who may be suspected of having strong connections to the authorities. In kleptocratic regimes, including some post-Soviet ones but also Mafia-influenced countries such as Italy, the concentration of influence and power shapes both law enforcement and business opportunities such as the award of government contracts.

Too much corruption, however, can be unsafe for criminal investments in the long run (Unger, Rawlings et al. 2006; Unger, Ferwerda et al., 2018). Corrupt regimes are unstable and unreliable, and are therefore not safe to trust. The more money an organized criminal (or corrupt bureaucrat) has to lose, the more important it is to get at least a significant amount of it out of the country into financial safe havens.

Initiatives that rank AML effectiveness per country quickly fall short when the data are scrutinized. For instance, the FATF uses a complex system of called ‘Mutual Evaluation Reports’ (MERs). The MERs are a kind of lengthy peer reviews of member states on the level of compliance with its numerous Recommendations which, since 2013, have included both technical compliance and an attempt at effectiveness judgments. However, as Van Duyne, Harvey, and Gelemerova (2019) noticed, some MERs report the number of investigations, others cases solved, or only the number of prosecutions; terms have no fixed meaning; statistical management was seriously lacking in many countries; and there is little or no disclosure (and possibly little actual knowledge) of the public and private sector cost of carrying out the

³⁵ <https://www.theguardian.com/world/2019/nov/14/the-great-american-tax-haven-why-the-super-rich-love-south-dakota-trust-laws>

domestic AML regime. This makes cross-country comparison not feasible, and even assessment for many single countries hard. Nevertheless, countries are ranked according to four scores, ranging from Compliant, Largely Compliant, Partially Compliant, or Non-Compliant. Although these scores are more subjective than based on statistical processing of data, countries that score especially badly can suffer economic sanctions (also see Halliday, Levi, and Reuter 2014; Platt 2015; Sharman 2011). After criticism in 2013 of putting too much emphasis on measuring formal legislative and institutional arrangements, the FATF sought to update the MER process but is still struggling in working out what data and measures are both relevant and possible (Levi, Reuter, and Halliday 2018). Indeed in late 2019, just prior to its planned visit to Australia, the FATF suspended its follow-up process pending a review of the MER process as a whole.

Another attempt to measure the risk of money laundering around the world is the AML Index that is published by the Basel Institute of Governance. The ranking is based on 14 indicators that include amongst others the aforementioned MERs, the Transparency International Corruption Perception Index and press freedom (Basel 2018). Notwithstanding glaring weaknesses like Companies House checks on registrations, the Index gives the UK a good score, and places it above for example the United States, Germany or Japan. But then again, according to this index Dominica, Latvia, and Bulgaria score even better. Here we can see the impact of giving equal weight to a country's MER. Some countries were arguably very strictly evaluated by teams from the International Monetary Fund, while others are evaluated less critically (though perhaps with more procedural legitimacy) by their neighboring countries (Halliday, Levi, and Reuter 2014). There is ongoing debate about the appropriate role in National Risk Assessments or MERs of local 'knowledge' (or beliefs) in assessing risks, e.g. in informal communities in Africa.

III. Professional money launderers and the supply of money laundering services

Whereas there are reams of articles about the legal and technical components of the AML compliance process, and an increasing amount of material on the international relations components thereof (since FATF has been a successful policy entrepreneur), sociological analysis of the cultures in which compliance operates has been weaker, and (like regulatory and criminal justice action) has focused largely on the banking and money remittance systems. Investigative journalism and NGO activism have yielded considerable insights into 'high end' relations between Global North bankers, oligarchs and corrupt politicians (Bullough, 2018; Enrich, 2017; Obermayer and Obermaier, 2017; Posner, 2015; Shaxson, 2012) and -however

hard to test their veracity³⁶ - financial sector memoirs add some insights to this (Birkenfeld, 2016; Kimelman, 2017). But ‘organized crime’ in the conventional sense cannot be read off so simply from these accounts because it is not clear whether the ‘labeling process’ makes banker and lawyer treatment of ‘organized crime’ funds different and plausibly more rigorous, whether from morality or pragmatism in defending themselves personally and the institution against large fines, prosecution and/or reputational damage. Others have studied the role of ‘creative compliance’ in the interaction between tax evasion and tax planning (‘whiter than white-collar crime’) (McBarnet and Whelan, 1991). But how professionals nowadays respond to drugs and human traffickers bearing cash is less well understood, other than via iconic cases such as HSBC and other exposed banking violations that lie outside conventional criminological discourses.

In other words, we now know more about major corporate misconduct cases and their links to culture from sociological and media studies of the financial crisis (e.g. Luyendijk, 2015; Tett, 2010) than we do about the *demi-monde* or the Underworld aspects of laundering. This is important because routine activities models require their setting in ordinary interactions and, except via the aggregating efforts of nodal laundering entrepreneurs who may forge unusual links to permit a step change in criminal capabilities, elite City commercial law firms and bankers are as remote from these routines as they are from High Street law firms, local retail banks and Money Service Businesses.

But although we know little about the supply side of money laundering services (besides the criminal and regulatory cases, media *expose* cases, and the mystery shopping research), generally speaking, there is variability amongst offenders in the need for laundering services, as well as the different resources that different sorts of offenders bring to the table to enable them to dispose of that proportion of illicit income that they wish to conserve (Horgby, Särnqvist, and Korsell 2015). Some criminals have the necessary expertise to launder their own illegal profits, whether they be ‘small’ or ‘large’. This is called self-laundering. It is difficult to delineate where the particular financial thresholds lie at which a person decides to self-launder or not (also see the section on revenue and individual profits). It depends on the factors we determined in our conceptual framework (the type of crime, the amount involved, offender’s goals and the AML-regime). Criminals who are able to come up with complicated fraud

³⁶ Some cultural criminologists might not accept the relevance or importance of testing veracity, but though a perspective does not have to be shared by others or be ‘accurate’ to be genuinely held, even those who believe that ‘offender accounts’ are important ought to worry about verification problems for ‘facts’ about offending. This a much broader philosophical dispute, for which this is not the right place.

schemes are likely to be able to self-laundry their criminal profits, even if these are quite substantial. Criminals who derive their income from directing drug sales in the street will probably find themselves at a loss when it comes to setting up a complicated international company structure. But as we have seen in the previous section, the need for money laundering also depends on the goals to which the criminal money is intended and the rigor of the anti-money laundering regime. If a criminal only wants to buy a new gold chain at the local jeweler, a simple story of the money being his birthday present might be enough. On the other hand, if he wanted to buy a new yacht, a better story (and a justificatory if false paper trail) is probably needed. But then again, had the offender lived in a region without an adequate anti-money laundering regime (or corrupted/intimidated a private or public sector guardian), a story wouldn't be needed at all.

If self-laundrying is not an option, the laundrying can be outsourced to so-called facilitators, also known as financial enablers or professional money launderers (PMLs). These are people who, as experts in their field, are contracted by the criminal to solve particular financial bottlenecks (Kleemans, Brienens, and Van de Bunt 2002; Kruisbergen, Van de Bunt, and Kleemans 2012). A PML is thus not just anyone who assists in the commission of the crime of ML, but somebody who delivers a service that is essential if the offenders want to be able to develop crimes at scale. This is an important distinction from so-called 'front men' or 'straw men'. Such people are useful in many a money laundering scheme, but they are merely signatories to property deeds, vehicle registrations, or company documents. They have no say in the planning or execution of the money laundering scheme itself. In contrast to PMLs, they are easily replaceable. Some front people are random addicts recruited on the street, in prison or seedy bars who earn a couple of hundred euros at the utmost. Others are found closer to home, i.e. friends, 'significant others' and family members (sometimes allegedly placed as nominal business or property owners without their knowledge).³⁷ Sometimes - knowingly, unknowingly or willfully blind - students or even fraud victims are recruited personally or via social media as 'money mules' to run financial transfers through their legitimately opened bank accounts.³⁸ They are sometimes told lies about acting for marketing firms or trouble opening new accounts.

³⁷ A study of confiscated firms that belonged to Italian mafia-type organized crime groups showed that female ownership was about 50% higher than the national average (Savona and Riccardi 2018). Using spouses and girl friends as straw women has the advantage of providing them with a seemingly legitimate income (Soudijn 2010).

³⁸ <https://www.cifas.org.uk/newsroom/new-data-reveals-stark-increase-young-people-acting-money-mules>; <https://www.europol.europa.eu/newsroom/news/over-1500-money-mules-identified-in-worldwide-money-laundering-sting>; <https://www.bbc.co.uk/news/uk-england-45797603> (all accessed 30 June 2019).

How often PMLs come into play is not clear and depends on local circumstances. Some studies estimate quite low numbers. Analyzing 52 Dutch money laundering convictions involving over 450,000 euro, Van Duyne (2003) only found 2 cases (3.8%) in which PMLs were involved. Based on an analysis of 129 Canadian organized crime networks during 2004-2006, Malm and Bichler (2013) estimated that only 8% of the drug-market launderers could be classified as PMLs. Reuter and Truman (2004) found that 16% of people in prison for laundering drug money had no other drug involvement. Other estimates are unsupported. Though there is no reason why the proportion of PMLs should be all similar over time and place, such differences may be attributable in part to the way police investigations are carried out (Soudijn 2016). That in itself is influenced by the extent to which money laundering is prioritized (or not) by the judicial authorities, and their experiences (or not) in prosecuting ambitious and sometimes costly cases when budgets are constrained, either encouraging or discouraging them from similar cases. Van Duyne's low figure can be partly explained by his inclusion of a time period in which anti-money laundering legislation was not yet even in place in the Netherlands. Another factor influencing money laundering investigations are the existence (or not) of self-laundering offences. In some jurisdictions self-laundering is not a prosecutable offence, which means that criminals themselves are usually targeted through 'traditional' criminal association offences (and related investigation tools).

Even when money laundering legislation is in place, PMLs can still be overlooked during police, customs or other law enforcement investigations. This often happens when the focus solely lies on predicate crimes such as large-scale drug smuggling. Considerable efforts are dedicated to intercept or confiscate the smuggled drugs, and when this goal is reached, the case is often deemed a success and closed. In about half of the cases in a Dutch study of 31 case files on large-scale cocaine smugglers (smuggling hundreds of kilos of cocaine on average), one or more PMLs were involved (Soudijn 2014). This high score not coincidentally could be traced back to about half of the cases in which the investigators had also been actively looking for PMLs and had dedicated resources to this goal from the earliest planning stages of the investigation. Levi and Osofsky (1995) noted that in the UK, financial investigators were often brought in at the tail end of investigations for asset recovery rather than being mainstreamed, and that is often still the case (Levi 2018). It is therefore likely that the percentage of PMLs in non-fraud organized crime activities that generate large-scale profits (over 350,000 euro) could be closer to 100%. Forensically, if PMLs are harder to convict, their relative absence in conviction-based datasets is understandable.

Classifying PMLs

PMLs can be classified in different ways. Malm and Bichler (2013) point out that there is a difference between PMLs who serve multiple criminal clients, and (in their terms) opportunistic launderers who only launder for one person exclusively. This last category often has a relationship based on friendship or kinship, e.g. a close friend, a spouse or a cousin. From a disruption perspective, little is known about how difficult it is to replace a PML if one is taken out, either by enforcement, retirement, or assassination.

Another way to classify PMLs is to look at their profession. Several studies mention lawyers, accountants, notaries, real estate agents, and even stockbrokers as PMLs (Malm and Bichler 2013). In other words, PMLs are mostly active in professions that require some qualifications, or at least have their own professional status. Middleton and Levi (2005, 2015) discuss mainly lawyers who launder the proceeds of their own crimes such as fraud, but also those who launder the proceeds of other people's crimes, after mutual attraction through vice and/or blackmail pressure. They also note the way in which changes in ethical legal culture, financial pressures from commercial deterioration, and the ownership of law firms may increase money laundering opportunities and 'needs'. Benson (2018, 2020) analyzed 20 cases between 2002-2013 in which lawyers or accountants were convicted of money laundering. The cases demonstrated considerable variation in the actions and behaviours of lawyers that can be considered to facilitate money laundering, and for which professionals can be convicted under the money laundering legislation. These variations related to the purpose of the transactions involved, the level of financial benefit gained by the professional, and the nature of their relationship with the predicate offender. For example, while acting in the purchase or sale of residential property and moving money through their firm's client account were the most common means by which lawyers in the cases were involved with criminal funds, the cases also included lawyers who had: written to a bank to try to get them to unfreeze an account; paid bail for a client using what was considered to be the proceeds of crime; transferred ownership of hotels belonging to a client; written a series of profit and loss figures on the back of a letter; and witnessed an email, allowed the use of headed stationery and provided legal advice for a mortgage fraudster. Four lawyers were knowingly and intentionally involved, but in the majority of cases, there was no evidence of a deliberate decision to offend or dishonesty on the part of the lawyer. Money laundering 'enablers', therefore, are not a homogenous phenomenon and we should distinguish between

professional money laundering and laundering by people with professional status. The culpability of the latter set is heavily disputed by their professional bodies, who regard the term ‘professional enablers’ as a derogatory term to discredit the legitimacy of both their profession and of their arguments against regulation (first author interviews in the UK, 2016-2019).³⁹

Not all PMLs are regulated or qualified professionals. There are several reasons for this. First, several PMLs use loose terms like tax adviser, or financial consultant that need no formal financial training or regulatory permit to practice. Secondly, some PMLs originally had a background as a lawyer or notary, but have been expelled because of fraudulent activities or suchlike. Therefore, they can no longer act as *licensed* lawyers or notaries, but continue to advise criminals how to launder their financial gains, even though some of their activities might require signing off by licensed professionals, who may or may not be knowing parties to the crimes. Third, a group of PMLs have carved a financial niche by wiring or physically smuggling large amounts of cash through banking networks (‘underground’, as they held no permit whatsoever), although greater attention to transaction volumes of customers and the ‘de-risking’ (i.e. account closing) of many of them may have inhibited such efforts over time.

A differentiation can also be made between PMLs whose activities are cash based and circumvent the legal economy, those who create a (false) paper trail in the legal economy, and those who solely focus on crypto currencies (Soudijn 2019). This latter category provides outlets for exchanging fiat currencies into new, virtual coins or vice versa. Exchanging crypto currencies by itself is not a criminal offense; however, by deliberately targeting conspicuous clients (and charging a premium compared to normal exchangers), they become part of a money laundering scheme. Or rather, they become the money launderer. The premium price charged, if proven to the satisfaction of the court, can be evidence that they knew that the proceeds were illicit.

Because financial investigations in the Netherlands of large-scale cocaine smuggling groups often involved underground bankers, more and more knowledge has been gained about this subgroup. It became apparent that this type of PML were largely structured along ethnic lines (Soudijn 2016). Criminal cash that *virtually* traveled across corresponding accounts often were found in specific Indian, Pakistani, and Afghani networks. Collectively they are known as *hawala* networks (Maimbo 2003; Jost and Sandhu 2003).⁴⁰ Bulk *cash* smuggling was organized

³⁹ Google and other web platforms who take money for advertising fraudulent companies are also ‘enablers’ according to the same logic.

⁴⁰ The term *hawala* has Arabic roots and means exchange. For more linguistic detail, see e.g. Martin (2009).

around Colombian, Mexican, Venezuelan, Chinese, Lebanese and Israeli networks.⁴¹ In other parts of the world, underground banking is mentioned e.g. in relation to Somalian, Vietnamese or Tamil communities, although it is less clear in what way they transport money from organized crime (El Qorchi, Maimbo, and Wilson 2003; Hernandez-Coss 2005; Cheran and Aiken 2005).

Although the structure of each underground banking group had a clear ethnic background, it was observed that they worked together when it was to their advantage, and they did not discriminate against clients from other nationalities. The underground bankers in the Dutch study not only transferred money, but also functioned as escrow accounts, exchanged smaller for larger dominations (or vice versa), changed currencies and even held criminal savings.⁴²

General classification of PMLs can also take place according to the activities or services they actually carry out. The FATF (2018) mentions a number of such specialized services: consulting and advising; registering and maintaining companies or other legal entities; serving as nominees for companies and accounts; providing false documentation; comingling legal and illegal proceeds; placing and moving illicit cash; purchasing assets; obtaining financing; identifying investment opportunities; indirectly purchasing and holding assets; orchestrating lawsuits; and recruiting and managing money mules. This ‘script analysis’ does not tell us about which actors play multiple or single roles.

Another way to look at the services provided by PMLs is to focus on their specific roles. The FATF (2018) distinguishes 8 specific roles, although this list should not be considered exhaustive: Leading and controlling; Introducing and promoting; Maintaining infrastructure (e.g. a money mule herder, a person who oversees the deployment of the people who are hired only to transfer or smuggle illicit money); Managing documents; Managing transportation; Investing or purchasing assets; Collecting illicit funds; and Transmitting funds. The FATF (2018) remarks that PMLs can perform more than one role. The feasibility of using these roles for research or analysis has not been tested, however.

Criminal careers of PMLs

⁴¹ Although these networks can also use virtual smuggling networks. For example, the NCA (2019) reports about a form of Chinese underground banking called 'daigou', that partly makes use of Chinese student accounts.

⁴² Passas (1999; 2003) coined the term “Informal Value Transfer Systems” (IVTS) as an alternative to underground banking to emphasize that they did not provide other services than the transfer of money. In hindsight, the term IVTS itself is too narrow, as some underground bankers did and do carry out more activities than informally transferring money.

It is a common law enforcement trope that some close-knit organized groups, e.g. those structured on religion or race, send younger relatives to study law or accountancy who subsequently become employed by the criminal family as money launderers. But this requires a longevity of vision and commitment to long-term criminality that may be uncommon. It may take many years before a lawyer or accountant is in a position to help an organized crime group significantly, and their supervision arrangements within a firm may inhibit the scale of their assistance.

Although little research has been devoted specifically to PMLs, life course research shows that criminal facilitators in general frequently seem to move into organized crime late in their career, by way of ‘lateral entry’ (Kleemans and De Poot 2008). That is to say, they come into contact with crime at a later stage in their lives. As such, their ‘adult onset’ does not conform to the stereotypical age-crime curve observed elsewhere in criminological research (see also Kleemans and Van Koppen in this volume). This curve describes first a rise in offending during adolescence, followed by a strong and steady decline over the rest of their life course. PMLs are also different from life-course persistent offenders, in that they did *not* start out with antisocial behavior from an early age and remained criminally active later in life. On the contrary, criminal facilitators are generally found to have become criminally active only in their thirties, forties, or later. At that stage of life, they skip the petty crime convictions that make up the typical age-crime career, but right away build up a criminal record in relation to organized crime offenses.

One difference between early and late onset is that the usual offender has a somewhat limited low self-control due to his young age, and the types of crime that are typically registered in their criminal records are open to anyone. Petty crime, rowdy behavior and other sorts of public nuisance don’t need specific skills and planning to commit. Organized crime offenses, on the other hand, are *not* open to anyone but require the necessary contacts (both licit and illicit), trust, and skills (Kleemans and De Poot 2008). That is not to say that the typical organized crime offender is a late starter. Some are born in the ‘right’ kind of family and therefore learn by doing at an early age. But for criminal facilitators, including PMLs, this is generally not the case. Through social ties they generally became involved in organized crime activities at later stages in life, albeit by different paths. The connection often happened by chance. Living in the same neighborhood, having mutual friends, encounters in the work place, or enjoying the same hobbies and vices led to meetings across different walks of life that wouldn’t have happened otherwise. Life events were another type of chance that stood out in particular. These events are life-changing occurrences, often related to financial setbacks like

becoming bankrupt or losing a job. For instance, a financial setback prompted one person to seek out a money lender, and thus became entangled with the criminal underworld. Another person with gambling debts heard through his social circle about a grey market for currency trading, and asked to become involved as well. A normally crime-inhibiting life event like marriage can lead to crime when somebody happened to marry in a criminal family and subsequently became involved in his father-in-law's illegal business.

One caveat about the late onset of PMLs is that such a conclusion is based on research in relation to (Dutch) transit oriented organized crime. It is not automatically applicable to countries with other types of organized crime (and subsequently other amounts of revenue, other goals of crime money, and other anti-money laundering regimes).

The principal-agency problem

As we have seen in previous sections, the financial proceeds of organized crime can be entrusted to a PML to launder when needed. Criminal and launderer come into contact with each other because of a criminal's deliberate search or a chance encounter (for example at sporting or vice venues). This launches the PML's criminal career later in life. But what remains puzzling is the question of trust. How do criminals trust a literal outsider (and perhaps one with financial problems that tempt them into offering criminal services) to do a proper job and not to defraud or betray them? How are potential conflicts and tensions resolved?

This type of problem can be approached from the perspective of 'principal-agency theory' as developed in the business and management literature (Jensen and Meckling 1976; Eisenhardt 1989; Kiser 1999; Ross 1976). The 'principal' is the party that wants somebody to do a job on their behalf and the 'agent' is the party that is contracted. In the case of money laundering, the criminal who needs his money laundered would be called the principal, and the PML the agent.⁴³

Principal-agency theory tries to find solutions to real and potential conflicts that arise from transactional arrangements, the so-called agency problems. There are two types of agency problems. The first type of conflict occurs when the agent and principal goals and interests diverge.

⁴³ Money laundering agency problems are usually placed in the licit economy. For example, the FIU or a regulator is the principal and banks who should file SARs become the agents (Araujo 2010; Takáts 2011).

The second type of agency problem occurs when the principal finds it difficult or expensive to verify if the agent is behaving appropriately (Eisenhardt 1989). In the specific case of money laundering, this has a circular logic to it. The PML gets hired *because* of the criminal's lack of money laundering expertise. But how then can the principal be sure that the PML is doing an adequate job? Agents might also misrepresent their abilities. Having imperfect knowledge of the action of an agent is called information asymmetry.

Furthermore, in the case of money laundering (or any criminal business), there are other challenges that are not found in legitimate businesses. For example, the absence of a legal contract enforcement mechanism, the risk of interference from law enforcement, and actual as well as potential violence from competitors or the principal against the agent. All of these transactional uncertainties and risk factors increase the potential for disputes and conflicts. To counter agency problems, various mechanisms can be devised to align the interests of the agent with those of the principal. These also fall into two general categories: monitoring and the use of (dis)incentives.

With monitoring, the principal tries to close the gap of any information asymmetry. A complete closure would mean following the agent every step of the way, but that would cost enormous time and energy. Moreover, when two or more agents are involved, such close monitoring becomes logistically impossible. In the legal business world, the principal must rely on such techniques as the filing of reports, the standardization of tasks, and the use of supervisors. In the illegal business world, such solutions are hardly feasible because they leave paper trails. Therefore, a more commonly observed way in the illegal business world to solve the agency problem are the use of financial incentives and physical disincentives. Financial incentives can be quite substantial. For instance, a study on the physical smuggling of money made from high volume cocaine trafficking, using business records of the smugglers themselves, showed that it cost between 10% and 17% to transport the money from Europe to South-America (Soudijn and Reuter 2016), considerably more expensive than the 2-4% identified in earlier US work for crossing the Mexican border (see also Farfán-Méndez, 2019). For instance, a Colombian underground banker who received one million euros in the Netherlands could charge 12% and thus 'only' needed to deliver 880,000 euro somewhere else. But it was also noted that the high prices of the smuggling agents were also partly 'insurance'. If the money was somehow intercepted or lost, the principal was guaranteed delivery at the expense of the agent. Another example of financial incentives can be found in the exchange rates of bitcoins stemming from criminal activities. Less scrupulous exchangers who exchanged bitcoins for cash (or vice versa), offered their services for 7-15% to criminals, way above going

market rates of 0.25-0.30% (Visser 2017). Given the risks of fraud by those running bitcoin exchanges, this could have been insurance as well as a technological skills premium.

Agents are further kept in line by disincentives like cuts, fines or the threat (and use) of violence. Although money laundering is not usually connected to violence, there are more than enough examples of violent outcomes. Whereas Meyer Lansky lived to the age of 81, others were not so lucky. In 1982 the corrupt banker Roberto Calvi, also called God's Banker because of his close ties to the Vatican and role in its *Banco Ambrosiano*, was found hanging under a bridge in London, with bricks in his pockets, attributed initially by the City of London police to suicide. No doubt coincidentally, his secretary Grazielle Corrachier, fell out of a window to her death on the same day. According to public prosecutors in Rome, Calvi was punished by the mafia for substantial losses when his bank went under. Based on a Dutch report about money laundering, it estimated that one PML a year is killed, and more are wounded (Soudijn, 2017). This is a high number for a country with a very low homicide rate. Although violence surrounding money laundering is rare compared to the violence surrounding narcotics trafficking, the stakes are just as high. Or even higher still. When money is lost or badly managed, the predicate crimes have been all for nothing. Patience and understanding can also run short, and may generate further violence or criminal inefficiencies linked to loss of trust and friendship (if any). When criminal money is successfully laundered and invested in real estate, it is no longer immediately available. This is not always appreciated (with sometimes fatal results) by criminals who become cash-strapped or simply mistrustful. When PMLs are killed (or die from natural causes or accidents), there may be genuine problems for survivors and principals in gaining access to the funds and knowing what belongs to whom in mixed assets. Furthermore, 'latterly' entering the world of money laundering also brings its own dangers. People lacking the kind of street smarts most organized criminals possess sometimes become victims of their new environment. They can fall prey to intimidation and when word gets out that they are handling large amounts of cash, they can become the target of extortion/robberies by rival criminal groups.

IV. Discussion

We set out in this essay to determine the conditions that influence the level of complexity of money laundering in relation to organized crime. This immediately posed the difficulty of defining money laundering. It was resolved pragmatically by focusing not on a (country-variable) legal definition of money laundering but on an economic one, i.e. how does money

derived from organized crime activities interact with the legal economy. That is not to say that legal definitions are an unimportant object of study. A legal angle can reflect the changes in the politics of law making and monitoring, or the constraints they pose (or do not pose) to criminal, civil and administrative justice. Evolving legislation has significant effects on mutual legal assistance (MLA) and extradition because of this (in EU terminology) ‘approximation’ of laws and regulation, and though the number of incoming and outgoing MLA requests are usually set out in the Mutual Evaluation Reports (as they are a performance indicator for cooperation), their importance in bringing offenders to justice or in reducing organized crime remains under-analyzed, despite the rhetorical use of the term ‘effectiveness’.

Another difficulty for this paper was how to differentiate the laundering of organized crime funds from other sources of criminal income, which include tax evasion, grand corruption and the financing of terrorism – all of which can often involve committing ‘organized crime’ offences or at least offenses that are highly ‘organized’. In the end we decided to follow the traditional framework of organized crime; criminal activities carried out with multiple persons over longer periods of time, rather than focusing on corporations who commit crimes to raise their sales or profits in the context of otherwise lawful activities, or kleptocrats who may receive/extort bribes from overseas corporations as well as from domestic sources. This reflects no judgment about the relative harms of those criminal activities (about which the first author has written elsewhere), but simply retains consistency with the ‘organized crime’ theme.

In our framework we distinguished four important factors (type of crime, revenue, goals, and AML-regime) that influence the level of complexity of money laundering in relation to organized crime. The sequence is of no great importance, because the four conditions can intertwine in numerous ways. For instance, large illicit proceeds are easier to launder, and hence less complex, when the AML-regime has limited coverage or is corruptible. These proceeds of crime might even come about because of corruption, which makes it easier to defraud the state or international bodies such as the EU or overseas aid agencies, or can be re-invested in the political process where the whole or part of the goal is development of ‘power’.

Depending on the circumstances of the four factors put forward in our framework, money laundering can be carried out in more or less complex methods. Recognizing that this needs further specification, we would suggest 4 categories: no need for laundering, and laundering methods of low, medium and high complexity. Each level carries several implications for official response.

In the first category, money laundering methods are not needed. For instance, criminal money can be spent in cash in the legal economy without ultimately drawing attention and

repercussions of the authorities. There are differences in such circumstances across countries. Country A might e.g. have lower thresholds in place for buying goods for cash compared to country B. Consequently, investigating such cases should not be too difficult, and could be handled by any local police unit, provided that there are adequate anti-money laundering laws in place.

In the second category, only low levels of complexity are needed. Again, the circumstances can vary per country. For instance, drug traffickers in South America and human trafficking gangs in Europe might both have a very low levels of laundering complexity. But whereas the former can circumvent anti-money laundering regimes because of corruption of banking and criminal justice, the latter may not make enough money to necessitate the evasion of AML rules beyond cross-border smuggling, and can go about just purchasing property in their countries of origin that do not scrutinize rigorously the origins of funds for such purposes. Investigating low levels of complexity again should not tax investigative powers too highly (although corruption is a bit of a risk).

In the third category, money laundering becomes harder to detect. The laundering scheme will not be obvious at first glance, but will still collapse quickly if more critically examined. For instance, a drug trafficker can co-mingle illegal proceeds in the daily turnover of an auto repair shop or a restaurant or beauty parlor, but if almost no customers ever show up, it is not a very robust scheme *if investigated competently and reasonably promptly*.

Finally, there are laundering operations in place that are highly complex and therefore need dedicated investigative teams and accountants that e.g. can detect the ultimate beneficial ownership of holdings and trusts. Such cases are often related with fraud offenses, but could also be the legacy of having overlooked financial assets of organized crime figures in previous years or even generations. Another aspect of these complex cases is that professional money launderers can play a role.

Studies reveal no obvious pattern to what criminals do with the proceeds of crime, even once they have indulged their varied hedonistic appetites. We continue to think that each individual offender or network/crime group begins with its own capabilities to launder, and some of them actively or adventitiously search for co-offenders who can help them launder, whether voluntarily or as part of an extortive relationship. Some of these succeed; others fail. We do not know how hard it is to find another professional launderer, but we find it plausible that it is not extremely hard in most countries. In jurisdictions where offenders have cynical views about the morality of bankers, and lawyers, they will be more inclined to ask them to help, especially if the professionals are from 'their' communities, are known to have vices or

financial weaknesses, and may be more amenable to pressure and temptation which may take place after ‘grooming’ over time. In jurisdictions where such professionals are ethically schooled *and* have reporting requirements that are significantly policed, and where there are relatively few economic pressures, one would expect most such requests to be turned down, if made. Such ‘differential association’ models are difficult to test, and the data are too weak and anecdotal to enable general inferences to be made. There is no reason why the involvement of professionals in money laundering should be constant over place and time: to that extent, universal statements are likely to be over-generalizations.

It is possible that law enforcement professionals’ efforts (and their resources) have not been strong enough, including the reluctance of enforcement agencies to shift their patterns of intelligence development and interventions in the direction recommended by FATF and ‘follow the money’ advocates. This will be an ongoing debate. General trends in the anonymization of money – the decline of cash (for example in jurisdictions like Sweden) and the rise of cryptocurrencies – will affect the attractiveness of some crimes and the ease of laundering. But scepticism should be exercised about the ‘hype’ that surrounds some of these trends, which need to be related in detail to the forms of crime. Even though cryptocurrencies have undoubtedly become more popular as a sales medium and laundering mechanism, their proportion of proceeds or profits from crimes not perpetrated on the Internet is likely to be modest for some years to come.

Perhaps it is too ambitious to aim to impact on *all* organized crime rather than on particular communities, crime organizations or on particular forms of criminal activity. This weight of satisficing public expectations can easily descend into populist policing – one of the concerns of libertarians and scholars who object to ‘Policing for Profit’ (Baumer 2008; Carpenter et al. 2015; Holcomb et al. 2018; Worrall and Kovandzic 2008) – and brush aside both the economic and social costs of AML, which are less visible to the public and to politicians. The visible face of anti-money laundering is egregious failures of bank reporting of transactions connected to drugs, human or endangered wildlife trafficking; the successes are very seldom trumpeted, to protect the reporting bodies and people. But AML and proceeds of crime freezing and confiscation are ways of showing that something is being done to stop at least some offenders from enjoying the fruits of their crimes, and that is a non-trivial social function whose impact on offending and on society itself merits evaluation.

V. References

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