

arcarta

Online AML Training

Art Market Anti-Money Laundering &
Financial Crime Prevention Training

Section I:

An introduction to AML

- Anti Money Laundering (AML) vs Counter Terrorist Financing (CTF) & Governance
- The International and UK Framework
- Predicate Offences

Anti Money Laundering (AML) vs Counter Terrorist Financing (CTF) & Governance

AML is about good governance.

AML is about understanding who you do business with, assessing risk and taking reasonable steps to prevent your business being used for money laundering or terrorist financing.

Would you be happy to explain publicly why you did business with someone?

Remember, it will always be important to consider the reputational risks as well as the AML risks when evaluating customers.

What is Governance?

The establishment and the continuous monitoring of policies by the members of the governing body of an organization to ensure their proper implementation.

What is Corporate Governance?

The framework of rules and practices by which a board of directors ensures accountability, fairness, and transparency in a company's relationship with its stakeholders.

What is Money Laundering & Terrorist Financing?

Let's review the definitions and differences between the criminal activities the law and regulations are designed to guard against:

- Do you know what ***Money Laundering*** is?
- Do you know what ***Terrorist Financing*** is?
- Do you know the differences between the two?

What is Money Laundering?

Money laundering is the process by which criminals attempt to hide and disguise their criminally derived assets in order to avoid detection, prosecution and confiscation.

You may have known this historically as placement, layering and integration.

Despite its title, money laundering does not only involve money, it occurs whenever criminal assets exist.

A painting purchased using the proceeds of crime is a criminal asset, but so is owning a painting that was purchased using the proceeds of crime or owning a painting that has been stolen.

What is Terrorist Financing?

Terrorist financing is the funding or financing of acts of terrorism and all costs associated with such acts.

Terrorist financing can be related to things such as:

- Travel
- Food
- Clothes
- Living expenses
- Accommodation
- Research & surveillance
- Training
- Materials

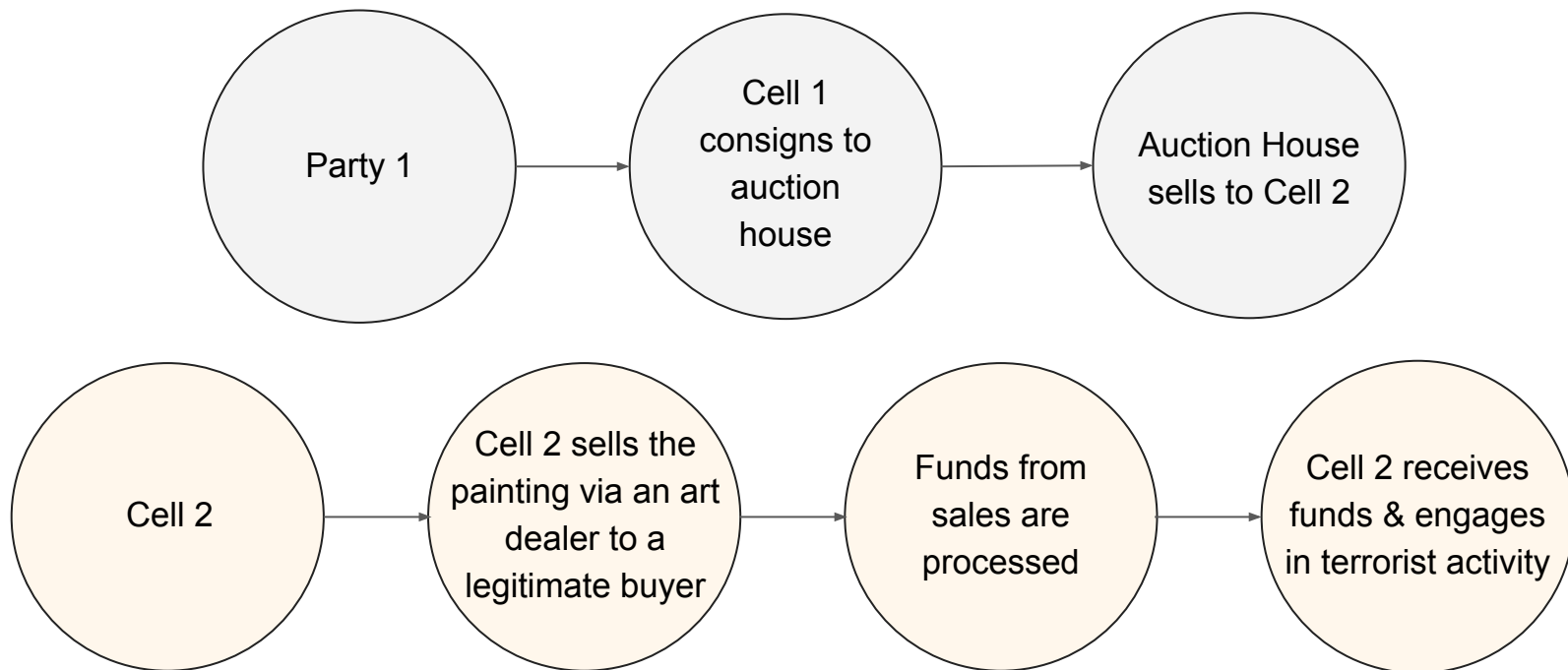
So what's the difference between money laundering and terrorist financing?

Money laundering relates to the proceeds of a crime **already** committed – to make those proceeds appear legitimate.

Terrorist financing is to raise money for a crime that has **yet** to be committed.

Terrorist financing can be much harder to identify than money laundering, as the money raised quite often originates from legitimate or apparently legitimate sources.

Here is an example of simple terrorist financing:



The example shows that currency does not always have to be money and that any form of currency can move and change it's form.

Anything that has a value can be a currency.

Imagine how complex yet legitimate looking that transaction could have been?

For a start, each of the parties involved in that previous example would have had a bank that would have processed the money used in the selling and buying of that painting.

Suddenly the sale of one painting from an ***auction house*** to a ***buyer*** via a ***gallery*** or ***dealer*** - now involves **6** parties when we include the **3** banks - the bank of the auction house, the dealer and the buyer.

These additional layers can make the funding of the terrorist activity far harder to spot.

Imagine what would happen to the complexity levels if the auction house and buyer had an agent or representative working for them, and their respective banks were also involved in the transaction payment.

Then imagine how much more complicated that transaction could have been if the buyer or seller of the painting operated through a trust.

The same principle applies to laundering money.

If the painting had originally been purchased using the proceeds of crime, it would all have been successfully laundered in the simple transaction of selling the painting.

The International and UK Framework

The National Crime Agency considers money laundering to be a significant threat to the UK economy and believes it underpins much of serious and organised crime.

While the exact scale cannot be quantified, it is widely accepted to amount to many ***billions of pounds each year.***

By its very nature, money laundering is an illegal activity which occurs outside of the normal range of economic and financial statistics.

Therefore, the exact amount of money that is laundered each year isn't known.

The National Crime Agency has previously estimated that money laundering costs the UK many billions of pounds each year.

The United Nations Office on Drugs and Crime (UNODC) estimates that between 2% and 5% of global GDP may be laundered annually.

A global problem requires a global solution.



International Standards

The Financial Action Task Force (FATF) develops the international standards that influence AML and CTF legislation around the world.

UK Legislation

Money Laundering Regulations 2017 (as amended) • Proceeds of Crime Act 2002 •
Terrorism Act 2000 • Sanctions and Anti-Money Laundering Act 2018

These Acts and Regulations set out the legal obligations that businesses must comply with.

UK Guidance & Supervision

These organisations provide guidance, supervise and help businesses understand their legal obligations.

HMRC

AML Supervisor for
Art Market
Participants

BAMF GUIDANCE

AML guidance for
the UK art market

OFSI

Financial sanctions
implementation and
guidance

NCA

SARs & Financial
Crime

**OTHER
REGULATORS**
(e.g. FCA, SRA)

Question:

How is money laundering criminalised in the UK?

Answer:

Via the Proceeds of Crime Act (POCA 2002).

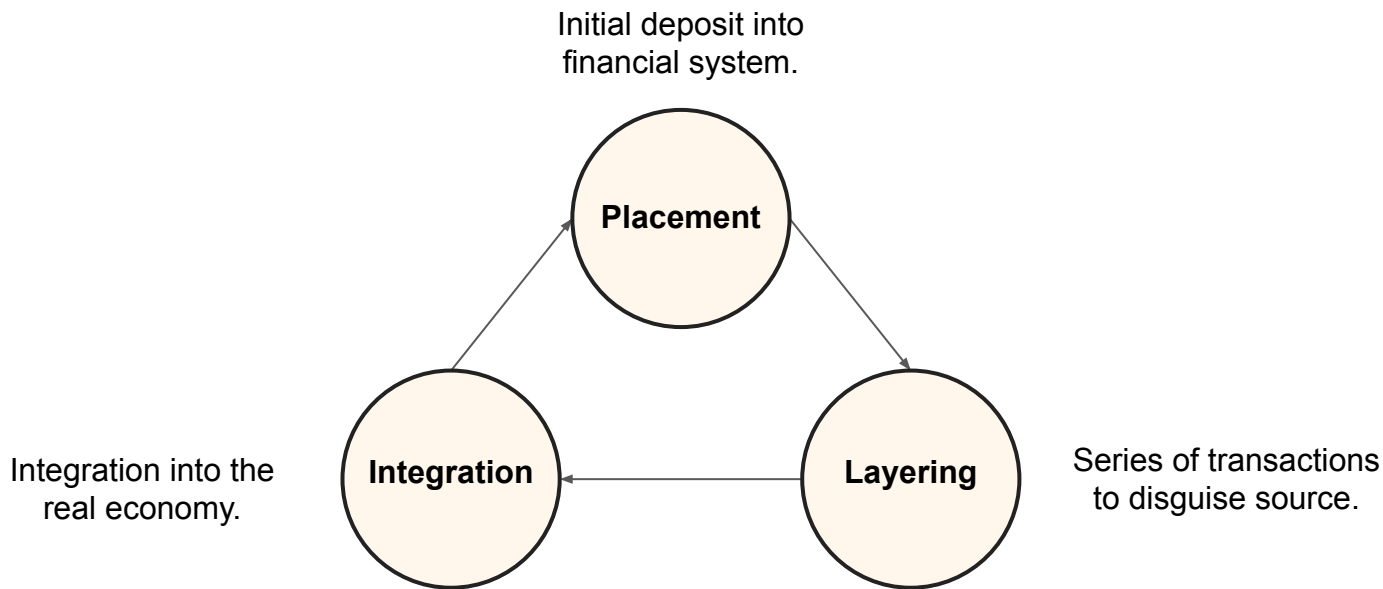


It was the Proceeds of Crime Act that introduced the '***all crimes approach***' – which meant that money laundering no longer related only to money, but any gain obtained via criminal activity, hence the name, the ***Proceeds of Crime Act***.

Before the Proceeds of Crime Act existed, firms would be prosecuted under 1 of 3 of the traditional concepts of money laundering.

Whilst this model does still exist, prosecutions are now based on the broader definitions of Part 7, S327, 328 and 329 of the Proceeds of Crime Act.

This placement, layering and integration diagram, outlines how an initial deposit into the financial system can be layered under a series of transactions to disguise its source before integration into the real economy.



POCA Part 7

Three main *money laundering* offences:

- Concealing, disguising, converting or transferring criminal property (s.327)
- Involvement in arrangements relating to criminal property (s.328)
- Acquisition, use or possession of criminal property (s.329)

To summarise:

Possessing or being involved in any way in the transfer, use or retention of the proceeds of crime is a money laundering offence.

Consequently, since the Proceeds of Crime Act came into force in 2002, even being involved in an arrangement which is connected to criminal property is money laundering!

UK organisations involved in combating money laundering and terrorist financing:



NECC – The National Economic Crime Centre is a multi-agency centre that:

- Plans, tasks and coordinates responses
- Sits within the National Crime Agency

It has representatives from:

- City of London Police
- Serious Fraud Office
- Financial Conduct Authority
- Home Office
- Crown Prosecution Service
- HMRC
- National Crime Agency (NCA)

OPBAS – Office for Professional Body AML Supervision

The OPBAS Regulations 2018 came into effect on 18 January 2018 and has powers and responsibilities to ensure the professional body AML supervisors meet the standards required by the Money Laundering Regulations.

OPBAS is housed within the FCA.

OPBAS facilitates collaboration and information sharing between the professional body AML supervisors, statutory supervisors, and law enforcement agencies.

It aims to improve the consistency of professional body AML supervision in the accountancy and legal sectors, but will not directly supervise legal and accountancy firms.

Predicate Offences

Something that does need to be remembered is that money laundering cannot happen by itself. The very purpose of money laundering is to legitimise the proceeds of a criminal act.

A predicate offence is a crime that is a component of a more serious crime. For example, for money laundering to occur, a crime must have **already** occurred in order to produce the unlawful funds.

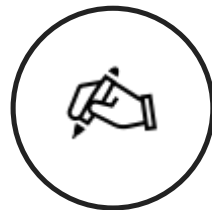
Consider that a predicate offence and money laundering have a symbiotic relationship:

One cannot exist without the other.

Activity:

Take a couple of minutes to think to yourself, or write down any criminal offences that come to your mind that generate proceeds of crime, and would therefore need those proceeds to be laundered.

Take a look at the tips on the next page for some guidance.

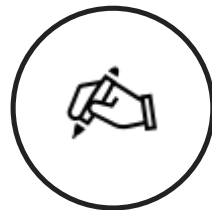


Activity tips:

To start you off, ***theft*** and ***drug trafficking*** both generate criminal proceeds, so they would be predicate offences to money laundering.

Remember, money laundering applies to all criminal assets, not just money.

So if criminal property can be described as ***any benefit arising from any criminal conduct***, then the crime committed to obtain that benefit is the predicate offence.



You were just asked to think of some offences that were predicate offences to money laundering – how many of these did you think of?

- Tax Evasion
- Fraud
- Bribery
- Embezzlement
- Extortion
- People Smuggling
- Counterfeit Goods
- Animal Parts Trading
- Drug Trafficking
- Kidnap
- Blackmail
- Copyright
- Timber Trafficking
- Murder
- Illegal Arms Dealing
- Sex trafficking

Section I – Summary

Summary:

In this section we have looked into the definitions and explored the meaning behind terms ***Anti Money Laundering***, ***Terrorist Financing*** and ***Governance***.

We covered the ***International*** and ***UK Framework*** and studied and completed an activity on the topic of ***predicate offences***.

If you are still feeling unsure about any of the subjects we've covered in this section, feel free to return to, and review those areas again.