Money Laundering
The Basics

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The **Money Laundering Control Act of 1986** (Public Law 99-570) is a United States Act of Congress that made money laundering a federal crime. It was passed in 1986. It consists of two sections, 18 U.S.C. § 1956 and 18 U.S.C. § 1957. It for the first time in the United States criminalized money laundering. Section 1956 prohibits individuals from engaging in a financial transaction with proceeds that were generated from certain specific crimes, known as "specified unlawful activities" (SUAs). Additionally, the law requires that an individual specifically intend in making the transaction to conceal the source, ownership or control of the funds. There is no minimum threshold of money, nor is there the requirement that the transaction succeed in actually disguising the money. Moreover, a "financial transaction" has been broadly defined, and need not involve a financial institution, or even a business. Merely passing money from one person to another, so long as it is done with the intent to disguise the source, ownership, location or control of the money, has been deemed a financial transaction under the law. Section 1957 prohibits spending in excess of $10,000 derived from an SUA, regardless of whether the individual wishes to disguise it. This carries a lesser penalty than money laundering, and unlike the money laundering statute, requires that the money pass through a financial institution. [1][2]

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An overview of federal money laundering statutes

by Sami Azhari on February 6, 2011

The United States government keeps close watch on financial activity both for tax collection purposes and law enforcement. Tracking the flow of cash through small businesses has proven to be a useful tool for federal agents investigating large scale criminal organizations.

Money laundering, generally, is the practice of using a business to conceal cash or other assets that are the products of criminal activity. For example, a business would be established so that it appears legitimate. However, the cash deposits from this business would not come from business sales, but rather money generated through distribution of controlled substances.

The term, "money laundering," is generally understood to mean washing dirty money to make it seem clean.

It is a federal offense to engage in money laundering, and the penalties can include a substantial prison sentence. The laws that make money laundering a criminal offense are found at Title 18, United States Code, Sections 1956 and 1957. These statutes were passed as part of the Anti-Drug Abuse Act of 1986.

18 USC 1956 is concerned with financial transactions involving proceeds of illegal activity. It prohibits anyone from conducting or attempting to conduct a financial transaction that involves the proceeds of specified unlawful activity either:

1. with the intent to promote the carrying on of specified unlawful activity; or
2. with intent to engage in conduct constituting avoidance of taxes (eg, violation of 26 USC 7201 or 26 USC 7206)…

…when that person knows that the transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or to avoid a transaction reporting requirement under State or Federal law.

See 18 USC 1956.

The penalty for federal money laundering can up either a fine up to $500,000, or double the amount of money that was laundered, whichever is greater. The court is also authorized to sentence the defendant to a term of 20 years in federal prison.

During the course of a prosecution for money laundering, the court may issue an injunction to freeze the assets of the defendant. See 18 USC 1956(3). The restraining order may also appoint a receiver to disburse the funds in the account(s).

The money laundering statute prohibits financial transactions where the source of the funds is from specified criminal activity. The term, "specified criminal activity" is broad and includes any state law crime that is a felony. *See* 18 USC 1956(c)(3).

Section 1957 has a lower penalty than Section 1956. The sentence for a violation of 18 USC 1957 can be no more than 10 years in prison.

The reason for the lesser penalty is that this offense has a lesser mental state. In order to prove the defendant guilty of money laundering under 18 USC 1957, the US Attorney does not have to show the defendant knew the money was coming from criminal activity.

By comparison, under 18 USC 1956, which has a possible 20-year sentence, federal prosecutors have to prove beyond a reasonable doubt that the defendant knew where the money was coming from. Basically, 18 USC 1957 enables the Department of Justice to prosecute individuals who are willfully ignorant of the source of money.

The Supreme Court recently narrowed the application of the money laundering statutes. 18 USC 1956 and 18 USC 1957 by the language of the law apply to "proceeds" from specified unlawful activity. The Supreme Court ruled that the term, "proceeds," means profits, not gross revenue. The reasoning for the court's ruling was that the statute did not define "proceeds," and that in the absence of a specific definition, due process required interpreting "proceeds" in a way that would protect the defendant. This is known in criminal law as the rule of lenity. *See US v. Santos*, 128 S.Ct. 2020 (2008).

Tagged as: 18 USC 1956, 18 USC 1956(3), 18 USC 1956(c)(3), 18 USC 1957, 26 USC 7201, 26 USC 7206, financial transactions, forfeiture, frozen assets, gross revenue, lesser mental state, mental state, money laundering, proceeds of illegal activity, profits from illegal activity, rule of lenity