

INTERVIEW: Ex-undercover agent Robert Mazur reviews changing AML scene: Part 1

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Robert Mazur has earned international acclaim as one of the world's leading experts on the escapades of the financial underworld.

For years, in the eyes of organised crime leaders, Mazur was a highly successful, mob-connected money launderer who helped manage their illicit fortunes. He spent five years as a deep undercover agent, authorised by the U.S., UK, French and other government law enforcements' agencies, to gather evidence that led to some of the largest money laundering prosecutions in history.

Mazur's book "The Infiltrator" is a true-life account of his undercover operations, which led to more than 100 prosecutions. The book has also been turned into a major motion picture scheduled for international release in 2016.

He has written widely on money laundering issues and his articles have been published in journals including The New York Times. He is certified in both U.S. and Canadian courts as an expert in money laundering.

In part one of a two-part interview, Mazur, who was in Singapore last week, talks about how money laundering has changed since his days as a deep undercover agent, and why some of the "look back" programmes in the deferred prosecution process involving banks which had breached AML rules are just smoke and mirrors. He also suggested that every jurisdiction should create an agency with the sole responsibility of identifying money launderers and prosecuting them.

How has the business of money laundering changed since your days as a deep undercover agent? Is money laundering getting worse as a crime?

We can start by looking at credible numbers. The United Nations Office on Drugs and Crime (UNODC), which attempts to measure the amount of money hidden from the governments each year, puts the figure at somewhere just under \$2 trillion. They estimated \$400 billion a year in revenue from the sale of illegal drugs, while the balance of the nearly \$2 trillion is generated by income tax evasion, white collar fraud, pilfering treasuries, dealing with prohibited nations, illegal arms dealing, and other illicit transactions.

If the UNODC numbers are to be believed, and there is no reason to doubt them, then compared with the illicit money identified and seized by governments around the world each year, it pales in comparison to the \$2 trillion. Clearly the great majority of criminal fortunes go undetected.

Money laundering is certainly one of the major problems we face in the world because it not only enables those who earn illegal proceeds or carry out illegal transactions to continue their crimes, but it also empowers and emboldens the underworld. It legitimises trillions of dollars in the hands of people intent on carrying out all sorts of crime, and to do that, one of the most dangerous things they create beyond their own illegal act is corruption. That is probably the most dangerous byproduct of these organisations; when you undermine governments and their integrity, it creates an uneven playing field for the rest of the world, and for the honest businessmen.

The fundamentals of money laundering haven't changed, but there has been a change in how the cartels operate. When I was within the Medellin cartel, its business plan was to sell and distribute illegal drugs through their networks all over the world. They had operatives in the United States and they were also stationed in Europe with distribution groups. They were handling the manufacture, the transportation, and the actual sale to wholesalers.

But in the early 1990s, when the extradition treaty was re-enacted between Colombian and the United States, the Colombian cartels made a business decision; they realised that if extradition was now going to resume, they needed to reduce their exposure. They decided to sell bulk shipments of cocaine wholesale to the Mexican cartels and let them do the dirty work.

The Mexican cartels, with their inter-relationship with gangs, handled the distribution into the United States which makes them much more exposed to prosecution in the U.S. Some people think that the Colombian cartels have a much lesser role, the fact is they simply have a different role. They just sell bulk shipments of cocaine to the Mexican cartels that are now working closely with terrorist organisations.

Cocaine is manufactured in Colombia, Bolivia and Peru and much of that production is controlled by the Colombian cartels. They still control the greatest portion of the manufacturing process. The Ayman Joumma case is an important case that offers current insight into the economics of the drug smuggling and money laundering worlds. That case exemplifies the alliance between the Colombian cartels, the Mexican cartels and the terrorist organization Hezbollah, all working very closely together. Joumma is still a fugitive.

The fundamentals [of money laundering] have stayed the same. Some of the techniques have become more refined. First of all, let's address bulk cash movement. Most of the drug proceeds generated in the United States are smuggled out of the country because the cartels know that domestic banks are fairly vigilant about anti-money laundering. It is more risky for them to try to integrate the cash within the U.S. borders, but much easier for them to smuggle the cash out of the country and then begin their money laundering processes in other jurisdictions.

Clearly, there are still instances of major organisations attempting to launder within the United States and they used a lot of the techniques that have been in existence for years. That is not going to change. But there is an awareness that there is a lesser chance of getting caught if you first move the cash out of the United States.

It is much easier to physically transport the cash as was seen in the Wachovia Bank and HSBC cases where considerable amounts of money were moved out of the United States. It was integrated within casas de cambio within Mexico which maintained [correspondence banking](#) relationships with both banks. Despite Mexico's claim to have stepped up vigilance on anti-money laundering compliance at that time at its banks, casas de cambio and financial institutions, literary billions of dollars were deposited and laundered through transactions that took place through HSBC and Wachovia Bank.

HSBC would not have paid a \$1.92bn in fines and forfeitures if this wasn't the case and Wachovia Bank would not have paid \$160 million in forfeitures and fines. The two banks admitted in the deferred prosecution agreements that they had committed a criminal offence in connection with their movements of those funds. They claimed that they had intentionally failed to maintain an anti-money laundering compliance programme.

How effective are banks' AML controls, due diligence and KYC processes in dealing with today's money laundering?

I go back to the \$2 trillion a year. How much are we finding? Not very much at all. Even in the United States, the Department of Justice's Asset Forfeiture website sets out how much the U.S. government has seized in illegal proceeds each year.

That includes not only drug proceeds but also proceeds from other illegal activities. If you drill into those numbers, the U.S. government would be challenged to show more than an annual average of \$1 billion a year being identified and seized; that is less than 1 percent of the UNODC figure of \$400 billion.

International banks paid big money to consultants to help them review and enhance their AML policies, processes and procedures. Why are we still seeing AML breaches by banks? What seem to be the problems? Is it because providing services to money seeking secrecy is a lucrative business for banks?

There are many moving parts to this. Here's one moving part which I believe deserves a long, hard look. When a bank enters into a deferred prosecution agreement and admits that it has intentionally failed to maintain an AML compliance programme, it has to carry out a "look back process". In addition to paying a fine, the bank is required to engage a "monitor", an independent entity that examines its records and looks back at prior transactions to establish

which were not recorded properly and then tries to report them retrospectively.

The monitor is usually one of the major accounting firms, which then contracts another entity to carry out the look back. Usually these are former U.S. federal agents; I personally know many people who have been hired on this basis.

The way in which these "look back" programmes operate, at least according to what my former colleagues have told me, is very disingenuous. The former federal agents hired to do the analysis were mandated to analyse very complex transactions but were given maybe a few hours on each alert.

They had to investigate on a transaction-by-transaction basis but were not given enough time to link these transactions or to make any real sense of the situation. The whole process is something of a façade and accomplishes nothing of any real value. If the former federal agents tried to apply more time to an alert than allocated, their performance ratings dropped and their engagement was often not renewed.

Imposing artificial time limits undermines the credibility of the process and is hugely frustrating for those who have taken on the responsibility of performing professional look back. That's one example of the moving parts.

Some of these look backs, are in my view, smoke and mirrors. They are not accomplishing what they are intended to accomplish.

Do regulators know about this? Are they addressing the problem?

The problem is not with the regulators, but rather the banks themselves which allegedly adhered to the terms of the deferred prosecution agreements which required look backs to be completed within a time set out in the agreements. Certainly, regulators should be looking closely at the situation, and I must say that they have been far more successful in identifying these types of problems in the last six years or so.

I don't think the problem is going to be solved solely through aggressive regulation. Keep in mind that regulators look at past transactions to see whether they were properly carried out and reported. Often the transactions they were looking into were many years old. To prosecute someone for money laundering, you have to be able to prove that the person who engaged in the transaction knew that the funds came from an illegal activity and that they intentionally carried out the transaction to conceal or disguise the nature of the transactions or to further the criminal activity.

If you put all of your resources into making regulations, how do you determine what was on a person's mind three years ago when the transaction was carried out? Regulators are interested in these: what did the person know about the source of the funds at the time of the transaction, and were they intentionally attempting to conceal or disguise the true source of the funds?

If a transaction happened three years ago, it is very difficult for the regulator to determine the extent of the knowledge of the bankers involved. Although the prevalence of email communications has made the task much easier, it is still a major challenge.

To be more effective in attacking money laundering, we need a much more focused and concerted effort from the law enforcement community. In many of the cases handled by the U.S. law enforcement agencies — the Drug Enforcement Administration (DEA), the Internal Revenue Service (IRS), the Federal Bureau of Investigation (FBI) — money laundering cases tend to be byproducts of investigations of other crimes; they might be investigating drug trafficking or securities fraud but money laundering charges are tagged on to these crimes.

We must be aware that, unfortunately, there will always be a segment of the financial community where people are trying to make a living out of money laundering. Each jurisdiction needs to have an agency whose primary responsibility is the identification and prosecution of the biggest money launderers in the world. There is no such agency in most jurisdictions.

The DEA in the United States, for instance, has primary responsibility for investigating drug trafficking but there is no parallel agency with a specific anti-money laundering remit. We don't assume that we have to wait until drugs are trafficked before we realised that it is a threat. Why do we have to wait until money is laundered before we recognised that money laundering is a threat? Because I guarantee you, we can fine banks forever and it is never going to change the corporate culture.

What happens here is that a few bad eggs are making the entire world of financial markets look terrible. We need to focus our attention on that small segment of the financial and business community that is carrying out this type of

illicit conduct and prosecute them individually.

What we are doing now in the world of compliance is creating more and more regulation which the industry must now deal with. Financial institutions incur massive costs as they attempt to manage this risk and ensure compliance.

Instead we should try to figure out which types of account holders carry the greatest risk and focus our resources on analysing closely transactions carried out by the high-risk segment. Having been a money launderer, [I know] there are certain types of businesses, transactions, products and geographic areas that carry greater risk than others. It is important for us to try to focus the limited resources that people reasonably have on the account relationships that have high-risk profiles.

• **Patricia Lee** is South-East Asia editor at Thomson Reuters Regulatory Intelligence in Singapore. She also has responsibility for covering wider G20 regulatory policy initiatives as they affect Asia.

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