



Objectives

Layering is the second stage of the money laundering process, in which illegal funds or assets are moved, dispersed and disguised to conceal their origin. Funds can be hidden in the financial system through a web of complicated transactions. We will look at the different techniques of layering in this module including:

- electronic funds transfers
- offshore banks
- shell corporations
- trusts
- walking accounts
- intermediaries.

Electronic funds transfers

The use of electronic funds transfers is a common layering technique.

Typically, layers are created by moving money through electronic funds transfers into and out of domestic and offshore bank accounts of fictitious individuals and shell companies.

Given the large number of electronic funds transfers daily and the sometimes limited information disclosed about each transfer, it is often difficult for authorities to distinguish between clean and dirty money.

Offshore banks

Using offshore banks is a common layering technique.

1. Banana Bank in the United Apple allows for the establishment of accounts from non-residents. Larry Launder, a non-resident of the United Apple, has numerous accounts with Banana Bank in the names of different companies and individuals. Larry is a resident of the Republic of Watermelon.

2. Funds from illegal activities in the Republic of Watermelon are placed into Larry's accounts with Banana Bank using different placement techniques.
3. Once the funds are placed, Larry Launder instructs Banana Bank to make various transfers and payments, thereby distancing the funds from their origins.

Offshore banks are banks that allow for the establishment of accounts from non-resident individuals and corporations. A number of countries have well-developed offshore banking sectors. In some cases, these banking sectors follow loose anti-money laundering regulations.

Offshore banks are popular with money launderers (for layering funds), tax evaders and corrupt officials. Money launderers also like to keep funds in offshore banks because their fixed term deposit accounts provide interest income.

In contrast, a shell bank is incorporated in and authorised to carry out on banking business in a foreign country, but does not have a physical place of business or any employees in that country.

Some offshore centres combine loose anti-money laundering procedures with strict bank secrecy rules. Criminals can easily maintain and transfer funds from banks in these centres because details of client activities are generally denied to third parties, including most law enforcement agencies.

The financial centres that host offshore banks can be very large and help facilitate many illegitimate cross-border financings. For example, the Cayman Islands are estimated to be the fifth largest financial centre in the world.

Shell corporations

Using shell corporations is a common layering technique.

1. Larry Launder sets up Apricot Trading Co. under the laws of the United Apple.
2. Apricot Trading Co. opens bank accounts with various banks.
3. Smurfs working for Larry Launder transfer illegal funds to the Apricot Trading Co. accounts.
4. Apricot Trading Co. transfers these funds to other accounts or invests them in securities.

A shell corporation is a company that is formally established under applicable corporate laws but does not actually conduct a business. Instead, it is used to engage in fictitious transactions or hold accounts and assets to disguise the actual ownership of these accounts and assets.

Sophisticated money launderers use a complex maze of shell corporations in different countries. Most money transfers take place through these shell

corporations. At times, money is transferred through numbered accounts rather than through named accounts.

To further avoid unwanted attention, money launderers build the transaction history of the shell corporation so that it looks as if it has been in business for a long time.

In many countries (particularly offshore banking centres), the reporting and record-keeping requirements for corporations are quite minimal, which makes it easy to disguise ownership of the corporation.

In a number of countries, ownership in corporations can be represented by 'bearer shares'. In these corporations, the holder of the bearer share certificate is regarded as the owner of the shares. This makes it easy to disguise and transfer ownership.

Trusts

Using trusts is a common layering technique.

1. Larry Launder establishes a business trust by appointing a corporate trustee and drawing a deed of trust, which names Apricot Trading Co. as a beneficiary.
2. Larry transfers funds to the corporate trustee and under the deed of trust, Apricot Trading Co. is empowered to directly use and invest the funds.

Trusts are legal arrangements for holding funds or assets for a specified purpose. These funds or assets are managed by a trustee for the benefit of a specified beneficiary or beneficiaries.

Trusts can act as layering tools because they enable the creation of false paper trails and transactions. Trusts are principally governed by a deed of trust drawn up by the person who establishes the trust. Trusts are more complex to use than corporations, but they are less regulated.

The private nature of trusts makes them attractive to money launderers. Secrecy and anonymity rules help conceal the identity of the true owner or beneficiary of trust assets. Also, the presence of a corporate trustee provides an appearance of legitimacy.

In addition, offshore trusts may contain a 'flee clause'. This clause allows the trustee to shift the controlling jurisdiction of the trust if it is in danger because of war, civil unrest or, more likely, the activities of law enforcement officers or litigious investors and consumers.

Typically, trusts are used in combination with corporations in money laundering schemes. Trusts are used less frequently than corporations because of their complexity and their disuse in business transactions.

Walking accounts

Using walking accounts is a common layering technique.

1. Using shell corporations, Larry Launder sets up three accounts with three different banks. He provides instructions to transfer all funds immediately on receipt to one or more of the other accounts.
2. Smurfs deposit cash into the first account. Without the need for further action, the funds are 'layered' by being transferred to the third account.

A walking account is an account for which the account holder has provided standing instructions that all funds be transferred immediately on receipt to one or more other accounts. By setting up a series of walking accounts, criminals can automatically create several layers as soon as any funds transfer occurs.

Money launderers use this layering technique because it is extremely difficult to detect and money moves very fast through accounts across the world. Due to these reasons, walking accounts create substantial investigation hurdles for regulators.

The term 'walking account' was coined because the money in these accounts appears to 'walk away'.

Intermediaries

The use of intermediaries is a common layering technique.

1. Larry Launder transfers funds to a special account for client funds maintained by the law firm Shady & Hustler.
2. Shady & Hustler establishes a shell corporation, Apricot Trading Co., which opens various bank accounts. Shady & Hustler now transfers Larry's funds into these accounts.

Lawyers, accountants and other professionals may be used as intermediaries between the illegal funds and the criminal. Professionals engage in transactions on behalf of a criminal client who remains anonymous. These transactions may include the use of shell corporations, fictitious records and complex paper trails.

Money launderers like to use intermediaries because they lend credibility and decrease suspicion. In addition, these professionals generally have confidentiality obligations to their clients so the risk of money launderers getting caught is low.

Many countries have realised that criminals are increasingly using non-financial professionals as intermediaries. To counter these activities, many countries have included non-financial professionals in new anti-money laundering legislation.

Summary

This is the second stage of money laundering. To conceal the illegal origin of the placed funds and thereby make them more useful, the funds must be moved, dispersed and disguised. The process of distancing the placed funds from their illegal origins is known as 'layering'. At this stage, money launderers use many different techniques to layer the funds. These include using multiple banks and accounts, having professionals act as intermediaries and transacting through corporations and trusts. Funds may be shuttled through a web of many accounts, companies and countries in order to disguise their origins.

Layering techniques quiz

This quiz will test your understanding of layering techniques.

Question 1 – layering

Select the single correct response.

Hayley deposits her illegal funds into her lawyer's trust account. The lawyer then acts as an intermediary transferring the funds into several accounts opened for a shell corporation to assist Hayley in hiding the funds.

This is:

- a) known as layering
- b) known as placement

Question 2 – recognising layering

Identify the layering technique used in the following money laundering scenario.

A Victorian drug ring sets up three companies in a Caribbean country. Funds are transferred between these companies and then on to other beneficiaries.

This layering technique is known as using:

- a) offshore banks
- b) trusts
- c) shell corporations
- d) walking accounts

Question 3 – recognising layering

Identify the layering technique used in the following money laundering scenario.

Smurfs working for an illegal French gambling network deposit cash into numerous accounts. The banks have standing instructions to transfer funds to other 'numbered' accounts.

This layering technique is known as using:

- a) offshore banks
- b) intermediaries
- c) shell corporation
- d) walking accounts

Question 4 – recognising layering

Identify the scenario that uses the 'offshore banks' layering technique.

- a) A Middle Eastern accounting firm instructs its correspondent in the Isle of Man to set up a company for a client and arranges for payment of all expenses.
- b) A corporate and trust management company in the Channel Islands sets up a trust on behalf of a corporate client who uses the trust to purchase an office building in London.
- c) A Hong Kong smuggling operation transfers funds regularly to a bank based in Bermuda and uses these funds to pay for the purchase of goods and services around the world.
- d) Larry Launder's Apricot Trading Co. establishes a subsidiary in the Republic of Watermelon and transfers funds to this subsidiary.

Question 5 – recognising layering

Identify the layering technique used in the following money laundering scenario.

A law firm purchases shares in a company based on instructions from a client and transfers funds from the client's escrow accounts to the seller as payment.

This layering technique is known as using:

- a) intermediaries
- b) shell corporation
- c) walking accounts
- d) trusts

Question 6 – recognising layering

Identify a layering technique used in this case.

A drug trafficker uses his illicit money to buy a small shop building. He pays for the building partly in cash and partly through mortgage financing arranged by a shell corporation that he controls.

He then sells the building to another shell corporation controlled by him. No money transfer occurs.

The second corporation then sells the building to an innocent third party retail business for the original purchase price. The third party pays the purchase price into the second corporation's offshore account with a foreign bank.

This layering technique is known as using:

- a) cash payment
- b) asset conversion
- c) intermediaries
- d) trusts
- e) shell corporations

Question 7 – Layering

Trusts are legal arrangements for holding funds or assets for a specified purpose. These funds or assets are managed by a trustee for the benefit of a specified beneficiary or beneficiaries.

Indicate whether the following statement is True or False.

Trusts can act as a layering tool because they enable creation of false paper trails and transactions?

Answers - Layering techniques quiz

1. a) Correct
2. c) Correct
3. d) Correct
4. c) Correct
5. a) Correct
6. e) Correct. The third party buyer deposits the funds for the final purchase of the building into a bank account in an offshore bank.
7. True – Correct.

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