

# Money Laundering in the Norwegian Securities Market. On the Conditions of Money Laundering

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## Introduction

Norwegian authorities often claim that the financial sector, and especially the securities market, is particularly vulnerable to activities of money laundering: “Traditionally the financial sector is held to be especially exposed to misuse for the purposes of money laundering” (Ot.ptp. no. 72 (2002.2003): 19). Money laundering is a recurrent theme in the Norwegian media. Usually the media tend to present the forms and extent of money laundering in simple and rather vague terms. One of the NRK’s (Norwegian Broadcasting System) internet stories represents an illustrative example: “The amount of money laundered in Norway each year is NOK 140.000 million”.<sup>2</sup> This is approximately equal to 20% of the Norwegian state budget and thus sounds very dramatic. The figure of 140.000 million correspond to the amount of untaxed “black” money which Norwegian authorities claim is circulating each year. The terms “black”, “dirty money” and “shadow economy” are themselves rather imprecise. The estimate encompasses everything from gains from crimes to untaxed work and the informal economy (Schneider and Enste 2003).

The numbers circulating in the media are based upon the assumption that all proceeds are laundered, an assumption which makes the black economy virtually equal to money laundering. According to Reuter and Truman (2004), this approach reflects the extreme difficulty in estimating how much money is laun-

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<sup>2</sup> <http://www.nrk.no/nyheter/okonomi>. Read 04.05.2005

dered. Calculations<sup>3</sup> done by Unger (2007) and Walker (2005) tend to overestimate the proceeds of crime, especially drug related vices, and the need to launder money (the portion laundered). The basic idea that ‘criminal money’ must be laundered before they can be used is rarely questioned at all (Van Duyne 2003, Van Duyne, Groenhuijsen and Schudelaro 2005). This may be due to the fact that these authors adopt a narrow definition of laundering in the sense of ‘making dirty money white’. This contrasts with (usually legal) authors who adopt the definition of laundering as presented in international conventions and national legislation. These legal definitions encompass as laundering virtually every act following a successful crime-for-profit.

Our starting point is that every discussion on the forms and extent of money laundering must be based upon concrete empirical analyses of the conditions of money laundering and on a precise definition of this concept. This might sound obvious to researchers and scholars but it is far from obvious when it comes to (gu)estimates made by organizations as FATF, or in threat assessments (Van Duyne et al., 2005). Money-laundering concerns money obtained from crime, but not all criminally obtained money is laundered (in the narrow meaning of ‘making white’) as it may be simply spent in daily life. In addition, there is not a universal need or opportunities for laundering. This depends on the nature of the law enforcement surroundings of the offender.

For this reasons it is relevant to analyse two conditions: who has *the possibility* and *the need* to launder money. Control is of major importance in this connection. Money laundering is a crime without a specific victim. Money laundering per se does not create new victims apart from those connected to the predicate offences. There is no prejudiced party that will have an interest to report the offence of money laundering to the police. Prevention and uncovering of laundering or rather, conveying suspicions thereof, are completely left to the regulating system of banks, financial institutions and all other entities obliged to report unusual or suspicious transactions.

Furthermore, there are many economic sectors which offer opportunities for laundering: restaurants and pubs, real estate, or gambling. There is also concern

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<sup>3</sup> Their calculations are based on information about the criminal economy gathered from experts by a survey. These experts are police, police commissioners, analysts and researchers. The sad truth seems to be that very few experts have but the dimmest idea about the extent of crime money or costs or revenues of crime. Their assumptions are often based on the same common sense knowledge about the level of criminal money as most of us share.

about crime-money being laundered in the higher financial echelons: the securities markets. If that concern is correct we have to ask who really has the opportunity to launder money in the securities market, is this a way of laundering which is available to everybody? Then there is the question of the profitability of different crimes (Reuter & Greenfield 2001) and the costs and reinvestments necessary for conducting crime (Van Duyne, 1996). Finally we investigate the need for money laundering with emphasis on organised crime in Norway.

## **Definition of money laundering and the purpose of surveillance**

Criminologists define money laundering in a more restrictive way as the ways of transforming dirty money into seemingly legal money (Levi 1997). The different methods have a common objective: re-integration of dirty money into the legal economy such that no suspicions are raised about its criminal origin.. This objective may be achieved, for example, by trading stocks in the securities market or through investments in real estate. Specific legal institutions and markets may thus be deliberately used with the intention of making dirty money appear as legal. This limits in a fruitful way what can be considered to be money laundering. From a criminological point of view there is little sense in considering the mere use of dirty money for private consumption such as buying food and clothing and paying private bills without any financial construction, as money laundering.

The Norwegian authorities' understanding of money laundering differs from this. Money laundering is regulated through the paragraph of receiving (stolen property) (§317) in the Penal Law. However, money laundering is not a specific legal concept and is consequently not defined in this paragraph. The authorities' understanding and limitation of the notion of money laundering is contained in the Act on money laundering<sup>4</sup>:

*The term "money laundering" is usually used about activity aiming at securing proceeds of criminal acts so that the proceeds may be used by the perpetrator or others. Such activity may consist of using, converting, transferring,*

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<sup>4</sup> "Law on precautions against money laundering of proceeds of criminal acts etc." The law was passed June 20, 2003 and came into force January 1, 2004.

*taking possession of or holding assets or to hide or disguise the assets' true nature, origin, placement, beneficial use, movements, ownerships as well as trying to or contributing to the same, when the acting person should have known that the assets originate from criminal acts or from participation in criminal acts. (Ot.prp. no. 72 (2002-2003): 17)*

The authorities' understanding of money laundering thus comprises far more than the criminological delimitation indicates. All use of dirty money, including for ordinary private consumption, is qualified as money laundering. Based on this definition, currency smuggling in the form of physically moving cash across borders will also imply money laundering despite the fact that smuggling does not contribute to making the money appear legal. Smuggling does not integrate it into legal economy. It may be that the intention of the smugglers is not to disguise the origin of the dirty money at all, *but to hide its very existence*. Moving cash may for example be a part of buying narcotics abroad. The authorities' definition of money laundering thus includes most ways of handling or dealing with dirty money i.e. all methods considered suitable to make the money *unavailable* to the authorities in addition to simply using, receiving or possessing. In this way the money-laundering concept widens to encompass all subsequent actions after the predicate crime, except destroying the loot or handing it immediately in to the police (Van Duyne *et al.*, 2005).

## **Purpose of money-laundering control**

Anti Money Laundering legislation has several aims: first, to enable the authorities to confiscate the proceeds from crime (Naylor 2003). Second, to reduce the motivation for committing the crimes-for-profit. Third, by confiscating illegal gains, the authorities hope to limit the possibilities to commit new crimes since the money will not then be reinvested in new criminal acts. However, this applies only to a limited number of crimes. Many crimes-for-profit do not require much investment, like organised fraud schemes or environmental crime. Finally, the regulation of money laundering should also be an instrument for investigators, on the assumption that money laundering will leave traces one tries to reveal the initial crime via laundering. "Trace the money" is the adage. (Naylor 1999).

The anti money laundering regime primarily aims at intercepting the proceeds of ‘organised crime’ with a historic special emphasis on drug offences. (Levi 1991; Savona and De Feo 1997). It is assumed that ‘organised crime’ generates large illegal profits that in various ways are channelled into the legal economy. More recently, the aim is to address ill-gotten profits from white-collar crime. (Ot.prp. no. 72 (2002-2003)). As of 2001 the effort against terrorism has likewise become significant in order to substantiate the importance of controlling money laundering. Overarching all these specific objectives is the general aim to protect the ‘integrity of the financial system’. An important cornerstone of the financial system is the securities market. However, the security market is not only about money, but also about power which may be exercised by shares of corporations. Crime-money flowing into the securities market may therefore jeopardize the integrity of the management of corporations. For this reason it is relevant to investigate whether there is a threat to this financial sector and how it is protected. We will first elaborate the system and regulation of the Norwegian securities market.

## **The Securities Market**

The trading of stock and bonds takes place in the highly regulated securities market.<sup>5</sup> The brokerage firms are responsible for the trading of stock. This is a kind of individual service where they trade stock on behalf of different customers. Asset management firms trade various funds such as equity funds. A number of individuals own shares in one and the same fund. When the asset management firms are trading securities it is done collectively on behalf of all investors who own shares in a given fund. We shall concentrate on the brokerage firms. Nevertheless, the analysis in this article is also relevant to the asset management firms because the funds administered by them constitute an essential part of the securities enterprises’ clientele.

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<sup>5</sup> The market offers other services as well, for example in the form of “market making”, i.e. trading with government bonds. Another kind of service is “investment banking”. In that context it is arranged for issuing offers; a process where limited companies offer new shares for sale. Our choice to focus on the trade of shares and bonds is caused by the fact that this part of the market is the one to attract the greatest number of customers. Consequently it is the trade with shares and bonds which is primarily available for most people as a potential arena for money laundering.

Brokerage firms may roughly be divided into two categories. The first consists of larger companies with a great number of employees and extensive trading. Their customers are primarily major institutional investors. The other category consists of smaller firms with fewer employees and often less trading activity. Frequently these are ‘net brokers’ who keep in touch with their customers via Internet. These securities enterprises focus to a larger extent on private customers. Their clientele consists mainly of minor savers.

The state is by far the largest individual investor in the Norwegian securities market, namely through the state pension fund. Other large customers are the finance and insurance companies.

The brokerage firms are intermediaries in the trading of listed shares. They also trade stock in non-listed companies. This takes place outside the official marketplace that is the Oslo Stock Exchange and is usually called the grey market. However, during recent years the trade on this market has been very low. At the Oslo Stock Exchange stock trading amounting to NOK 2.000 – 4.000 millions on a daily basis has been registered in 2008.

To be a customer in the securities market and trade stocks and shares it is obligatory to open an account with the Norwegian Central Securities Depository (VPS) where the ownership of securities is recorded. In addition, the transactions have to be linked to an ordinary bank account. This implies that if crime-money is being invested, it must already have entered the financial system as ‘non-suspect’, which is tantamount to having been already laundered.

### **A market thoroughly controlled**

The securities market is a thoroughly regulated market. An interviewed informant<sup>6</sup> in the Securities and Investment Board describes the market as “more controlled than other capital intensive markets such as the buying and selling of boats and cars.” The most essential feature when it comes to controlling potential money laundering transactions is that the securities enterprises are instructed through the Act on money laundering to monitor their customers and their trans-

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<sup>6</sup> This person is in charge of the very department in the Securities and Investment Board that supervises the securities market as well as controlling the securities markets’ handling of statutory provisions imposed on them. The person in question was interviewed by Ingvaldsen (2006) in connection with his research project on money laundering in the securities market.

actions. It is mandatory to appoint an officer/department responsible to ensure that the securities enterprises are arranging for and carry out the following surveillance of the customers and their transactions:

- Identity control of the customers. When establishing a customer relationship, the customers are obliged to prove their identity through authorised identification primarily by appearing in person.
- Tape-recordings of all phone calls between the customers and the enterprise's brokers.
- To register electronically and save for 5 years all orders from and information about the customers.
- Dubious transactions are to be examined more closely. If the suspicion is sustained, the enterprises are obliged to notify Økokrim (The National Authority for Investigation and Prosecution of Economic and Environmental Crime) about the transaction in question.
- Transactions appearing dubious and consequently subject to investigations can not be implemented until Økokrim is notified or gives approval.

The Banking, Insurance and Securities Commission of Norway keeps the brokerage firms under supervision by, among other things, controlling whether the enterprises comply with the regulations of the Act on money laundering. This is performed partly through random checks and partly based upon the examining of submitted documents from the enterprises. The persons responsible within brokerage firms may be sentenced to prison for up to one year if they fail to comply with stipulations of the Act on money laundering.

In addition, the banks indirectly control customers on the securities market. This follows from the demands to make use of a bank account when trading stocks. In this respect all money to be laundered in the securities market has to pass the banks' initial control. Hence, if any money slips through this control gate, it is already laundered.

## **Nothing seen and nothing heard**

How many and what kinds of manifestations of money laundering has the Norwegian anti money laundering regime detected? So far there have been no convictions of money laundering committed through the securities market. Nor can

the two interviewed employees in the police force tasked with financial investigation refer to any money laundering case in the securities market (Ingvaldsen 2006). There are no cases in connection to companies listed on the Stock Exchange. According to the manager of the money laundering team at The National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) their experience is the same. They have not come across the securities market during their work with any criminal cases on money laundering. The informant in the Banking, Insurance and Securities Commission of Norway states that they have not discovered any single incident of money laundering. The reply was “no” when questioned whether on one or several occasions they had a specific suspicion of money laundering. Nor, according to the director of surveillance at Oslo Stock Exchange, has the Stock Exchange discovered money laundering.<sup>7</sup> The surveillance department at the Stock Exchange usually does not look specifically for money laundering. However, subsequent to the terror attack in the USA September 11, 2001, the Stock Exchange undertook a major retrospective investigation searching for dubious transactions. The aim was partly to reveal money laundering. The inspection did not uncover anything that Oslo Stock Exchange considered to be suspicious. The actors closest to the securities market and its buyers and sellers, the securities enterprises themselves, are furthermore reinforcing the impression that money laundering is non-existent. The number of suspicious transactions reports to The National Authority for Investigation and Prosecution of Economic and Environmental Crime from the securities enterprises reflects this. As from the years 2001 – 2005 inclusive, The National Authority for Investigation and Prosecution of Economic and Environmental Crime received 1, 1, 3, 2 and 2 such reports respectively, which could have involved money laundering (Økokrim 2005). By comparison banks reported between 900 – 1000 suspicious transactions per year in the same period. (Økokrim 2005).<sup>8</sup> This is in line with international findings. Gold and Levi

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<sup>7</sup> All these persons were interviewed by Ingvaldsen (2006) in connection with his research project on money laundering in the Norwegian securities market.

<sup>8</sup> In the public debate in Norway it has to a considerable extent been argued that the securities enterprises are not sufficiently disposed to examine more closely their customers. This has been used as an explanation of the great difference in the amounts of reports between securities enterprises and banks. This however, is primarily caused by significant differences in the clientele of the two financial institutions. Compared to the securities market the banks have to a larger extent customers whose transactions are much easier to discover. It then follows that the alleged unwillingness of the securities enterprises to control their customers is not a valid explanation



(1994) have examined the British finance sector's notification of dubious transactions. Compared to the banks the British securities enterprises reported very few suspicious transactions. Out of the total amount of suspicious transaction the reports from the securities enterprises constitute approximately 1 per cent. Van Duyn (2003) detected that in the assets confiscation database (1993-2000) the value of seized shares amounted to € 34.173, which is 0,1% of the total of seized assets. These findings do not support the fear that affluent criminals pose a serious threat to the securities markets.

Apparently, each and all sources tend to go in the same unambiguous direction. None has any money laundering to report. Does this signify that there exists no money laundering in the securities market? It is highly unlikely that no money laundering what so ever takes place within this sector of the Norwegian financial system. We have to ask additional questions. One explanation, the one that has dominated the Norwegian public debate, is that the apparently non-existing money laundering is a result of the brokerage firms' lack of willingness to perform their control duties in accordance with the Money Laundering Act. Is this the case?

The findings make an affirmative answer hardly plausible, but do not exclude it. If not excluded, the next question is whether the existing approaches are capable of recognising on-going money laundering schemes.

If we accept the FATF approach of 3 phases of laundering, i.e. placement, layering and integration, we could comment that in the securities market only layering and integration can really take place, whilst the AML regime is really focused on placement (and no wonder, considering that the other two phases are so much more difficult to uncover, unless you can trace up from uncovered placement).

## **Conscientious brokerage firms**

During his study on money laundering in the Norwegian securities markets Ingvaldsen (2006) interviewed the head of the department in the Banking, Insurance and Securities Commission of Norway which is responsible for supervising the brokerage firms. He stated that their supervision shows that the brokerage firms'

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of why no sources can refer to money laundering in the securities market. For further discussion of these two aspects of the surveillance situation see Ingvaldsen (2006).

practice is in compliance with the Act of Money Laundering. The brokerage firms are doing what they are supposed to do. Many companies, in different sectors of business life, often have a very pragmatic rather than normative way of approaching issues regarding regulation and control (Schlegel, 1990). This is also the case when it comes to the Norwegian brokerage firms. The head of the department says that these companies are complying with their control duties. This is due to two main reasons. As long as the control duties that follow from the regulation on money laundering are mainly the same within the EU, the regulation does not create any kind of distortion of competition. Secondly, the brokerage firms have a self interest in at least some of the control measures. When trading stock on behalf of their clients the brokerage firms regularly find themselves in dispute with one or more of their customers. These customers often claim that the brokerage firms have not been selling or buying stock to their best interest and therefore seek economic compensation. From such a perspective tape recordings of all phone calls between brokers and their customers come in handy<sup>9</sup>. That way the brokerage firms are able to document what they have said and what they haven't said. In several cases this kind of documentation has contributed to the brokerages firms winning disputes based on formal complaint by their customers.

At the same time the Banking, Insurance and Securities Commission of Norway are unable to supervise the brokerage firms' practice when it comes to one crucial element of the Act on money laundering. The head of the department states that since they are not familiar with the brokerage firms customers' normal patterns of transactions, they are not able to determine whether or to what extent the brokerage firms investigate and report dubious transactions the way the law obliges them to. Of course this is the part of the brokerage firms' control duties that basically runs contrary to one of the prime traits of the financial sector. To disclose information regarding customers' transactions are definitely not wanted. And in many cases there are legitimate business reasons for customers to appreciate secrecy. For instance, this applies when the buying of stock is a part of an acquisition of a company as a whole (Savona and De Feo, 1997). Furthermore, the brokerage firms do not want to risk putting their customer in a situation where they face suspicion of money laundering in public. That could

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<sup>9</sup> Actually, the taping of conversation is one of the ways for confirming orders and it was introduced for that purpose: The broker officially informs the customer that the order is about to be recorded.

cost both the customers and finally the brokerage firms a lot when it comes to both reputation and money. As such one may assume that at least in a few cases some brokerage firms choose to look the other way regarding transactions that initially come off as suspicious. This is probably especially the case when it comes to costumers that have been part of a brokerage firms' clientele for a long time and also constitute the brokerage firms' major costumers. In his study on the banking system in The UK Levi (1997) found that in a few cases the banks did not report transactions they them selves found to be suspicious. Even though, his main finding was that the banks' practice regarding investigation and reporting of dubious transactions was very conscientious:

“My interviews with major UK financial institutions make it very clear that a desire to have a good reputation, combined with fear of imprisonment, have generated a strong willingness to comply with the spirit as well as the words of the legislation” (Levi, 1997: 274).

There are strong reasons to believe that this is also the case regarding the Norwegian brokerage firms. This is particularly due to the fact that during the last years, this segment of the financial system has become increasingly more occupied with their public reputation. During the 1980s and the first half of the 1990s, the Norwegian brokerage firms' reputation were somewhat dodgy, among other things based on cases in which some brokerage firms had taken on cash from some customers. According to the aforementioned head of department within The Banking, Insurance and Securities Commission of Norway the brokerage firms are now in a process in which they are very sensitive to the need of a good reputation:

“The consciousness regarding reputation within the business are far greater now than just five years ago. Then only one in ten would have been interested in their reputation in the same way”.

Combined with the fact that the brokerage firms have been beaten up in Norwegian media for several years due to their alleged lack of willingness to investigate and report their customers, it is highly unlikely that these companies would risk being displayed in the media as a channel for money laundering.

The above considerations lead to the conclusion that it is unlikely that the apparently non-existing money laundering within the Norwegian securities market is a function of lack of effort within the brokerage firms to investigate or report their customers' transactions. Therefore the next question is whether the

existing approaches are capable of recognizing on-going money laundering schemes.

### **Know your customer: The selective controlling eye.**

The control that brokerage firms are required to perform is based upon the principle of 'know-your-customer' (Ot. prp. No. 72 (2002-2003)). As a consequence of the identification duty they are obliged to know the identity of the person, his/her National Insurance number, where she/he lives etc. However, the principle of knowing-your-customer is to a large extent also a question of knowing the customer as a financial actor, i.e. knowing the customer's normal transactions patterns. What kind of trading in the securities market does the customer usually perform, which amounts and which type of selling and buying will be natural for the customer within the scope of his business activity (if he is a businessman). The same goes for the banks. Their obligation is to know their customers so that they can be able to decide what will be the natural amount and the movements of the money coming from the customer's account. Obligated by the Act on money laundering the banks are using IT solutions to perform this part of the money laundering work. The data processing system is made to search for and report deviations from the norm given to the customer in the system.

Levi (1997) points out that the principle of know-your-customer upon which the surveillance of money laundering is based, represents the traditional policeman's eye, i.e. the controlling eye searching for and becoming suspicious when it notices something that *stands out*. However, for two reasons cases of money laundering operations may not stand out from the ordinary operations. Primarily, as stated by Levi (1997) because not much distinguishes money laundering from ordinary and legal financial transactions other than the purpose of the transaction, which is defined as illegal. If money laundering is embedded in on-going business routine, it takes place on the same financial arena as most other financial transactions. Secondly, white-collar crimes frequently are hardly distinguishable from ordinary legal transactions and by their very nature fit into the framework of an otherwise legal enterprise (Clarke 1990). We will not be able to recognise them if we are looking for something exceptional and unusual. In other words, they must not be spotted as aberrations from the legal routines of enterprise.

In our context this implies that some money laundering actions related to business activities which otherwise are legal, quite simply are not distinguishable. Consequently the application of “know-your-customer” controls will not detect money laundering since these controls are sensitive only to the “exceptional and the different”. The following hypothetical cases will exemplify this: An actor usually operating within the securities market under the auspices of an investment company has committed insider trading. To hide the money’s illegal origin it is circulated onwards and interwoven with comparable business transactions in the same market.

How should an employee in a security enterprise or in a bank be able to suspect that the money on normal accounts originate from insider trading? (Unless he is aware of such trading) The transaction ordered by the actor to disguise the illegal origin of the money is a transaction he normally carries out by virtue of his role as a completely legal trader in the securities market. There is no reason to be alarmed. This also applies to some other kind of economic crime such as manipulation of exchange rates. The dirty money will not be standing out when handled by regular business actors whose money laundering activities differ in nought from their usual legal activities. This will be reinforced by good existing commercial reasons for transactions which would seem peculiar to the uninitiated. This includes share trading at a cut rate as well as overcharged shares, a usable method to give dirty money an apparently legal starting point. But sometimes there are valid business reasons for trading shares at a cut price or to overcharge for example to avoid taxation<sup>10</sup> (Savona and De Feo 1997).

International studies showing reviews of suspicious transaction reports support the impression that surveillance does not catch transactions based on and within the framework of legal business. Gold and Levi (1994) have examined reports from the economic sector in Great Britain that clearly indicate what control based upon the principle of know-your-customer brings to knowledge and fail to bring to knowledge One reason for failing to recognize suspicious transactions is that customers are already inside the legitimate system after initial clearance. The reports contained an evident majority of private persons who had acted precisely like private persons through their use of personal accounts. More than 50 per cent of the suspicious transaction reports were linked to cash bank deposits and to a great degree only one bank account was used. The reports rep-

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<sup>10</sup> As opposed to tax evasion that is illegal.

resented very few transactions made in connection with legal business. Very few bank accounts belonging to companies were referred to and in these cases a personal account was most often involved. This contrasts with the general international statistical findings that revenues from economic crimes outnumber those from crimes in the cash based crime-economy (Van Duyne, 2007).

Despite this finding, most attention is still being paid to the most unsophisticated money laundering committed by private persons with great cash bank deposits. What caused the transactions to be considered dubious was the fact that they did not correspond to the bank's knowledge of the person's private economy or the bank clerk's expectations of the economic status of the customers based upon their appearances as to clothing and ethnicity.

The same pattern comes to light in a review of suspicious transaction reports in the Netherlands during the period of 1994-1996 (Van Duyne and De Miranda, 1999). The reports referred mainly to individuals with cash deposits. The transactions were singled out because they did not match the person's employment income or the fact that they were benefit recipients. Business companies were more frequent among these reports than observed by Gold and Levi (1994) but still individuals and personal accounts were clearly in the majority.

The bank spokespersons support these findings. What very often aroused the bank's suspicion was the private person's cash deposits, which did not correspond to the bank's knowledge of their personal economic situation.

Another indicator of the surveillance's inability to discover money laundering within the framework of legal business activity comes to light in a survey made among stockbrokers in Norway (Axelsen and Hopsnes 2005).<sup>11</sup> More than 70 per cent of the stockbrokers claimed to be quite familiar with the customers' business structure. The National Authority for Investigation and Prosecution of Economic and Environmental Crime had in the period 1996 – 2003 only received 1-3 suspicious transaction reports from management/investment companies (Økokrim 2003). This indicates that the stockbrokers, even though according to the survey, they are claiming to live up to the principle of knowing-their-customer, do not discover existing money laundering.<sup>12</sup> Does that mean that they

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<sup>11</sup> The survey is made by Axelsen in connection with his independent research project on crimes in the securities market.

<sup>12</sup> Included are some cases where the stockbrokers have limited possibilities of knowing their customers. Some customers' relationships are superficial and consequently do not enable the stockbrokers to form an estimate of which transaction pattern will

are simply missing most of the laundering transactions? It seems more plausible that in the light of this system of dense control not much laundering is going on.

A selection of convictions comprising money laundering (Ingvaldsen 2006) is conveying the same impression. A few companies are involved in the offences, mainly because the defendants were employed in these firms. The legal structures of the companies were not used in connection with money laundering: the involvement was personal. The money laundering has not taken place based upon ordinary legal business transactions. For instance a man who assisted in laundering NOK 500.000 withheld from taxation by four Russians. This person entered into a fictitious tenancy agreement, apparently renting out a flat to the Russians. He was employed in a company not involved in letting property. The Russians paid in half a million kroner to an account that seemed to be the personal account of the Norwegian according to the sentence, claiming that this sum represented 4 years' prepaid rent.

A final empirical source confirms the observations above (Stedje 2004). She has analysed the 36 cases in 2001 where suspicious transaction reports was communicated to the Oslo police from The National Authority for Investigation and Prosecution of Economic and Environmental Crime so these reports could be used in ongoing criminal proceedings.<sup>13</sup> Less than 20 % of the reports involved a company account. In more than 60 per cent of the cases a personal account was involved.<sup>14</sup>

In other words, a distinct pattern is reflected as to what the principle of knowing-your-customer fails to catch. Money laundering taking place within the framework of legal business activities, i.e. transactions where illegitimate actions in the form of money laundering are difficult to separate from legal transactions, are to a very small extent being detected. This also applies to firms operating in the securities market. Surveillance of money laundering is very selective. Principally private customers' simple transactions such as cash deposits are disclosed.

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be the normal for the customers (Axelsen and Hopsnes, 2005). This will also apply for the securities enterprises and the banks.

<sup>13</sup> None of the reports led to anyone being convicted of money laundering (Stedje 2004).

<sup>14</sup> In the remaining 20 per cent of the cases the reports did not have information about the kind of accounts referred to (Stedje 2004).

## **Money laundering and white collar crime**

The way the money laundering regulation works makes laundering of money deriving from various white-collar crimes a quite natural consequence of the fraud technique (Van Duyne, 2003). This does not mean that all dirty money of such origin is being laundered in the criminological sense of the word. That is, giving the crime-money a legal appearance. On the contrary, in some cases the nature of white-collar crime is such that no money laundering is needed because the illegal profits are immediately integrated in the firm by the same documents used to defraud ('tinned laundering').

Sometimes the amounts are too small to require any laundering technique. Larsson's (1995) study on tax evasion committed by Norwegian hairdressers is illustrative. His estimation is that the hairdressing trade's tax evasion amounts to NOK 300 – 600 millions per year. But the procedure utilized by each individual is such that the dirty money amounts to small sums and consequently there will be no need for laundering. The hairdressers regularly 'cut' the payment from some customers. The amounts are so small that they disappear into ordinary daily consumption. This also seems to be the norm of proceeds for other forms of traditional, organised and low level white-collar crime. Though the total amount looks large, per unit it is little more than pilfering.

There are other sectors in the grey economy in which daily earned crime-money siphons off into the licit economy. Ellingsen (1991) has studied tax evasion in the Norwegian taxi business. Here too tax evasion is characterised by taxi drivers and owners lining their own pockets with a part of the customer's payment. Once again each sum is so small that there is reason to believe that money laundering is a non-existent topic among the trade representatives.

The restaurant industry's avoidance of taxes, rates and dues may also be considered as representing a grey zone in this connection. Axelsen (1995) has examined evasions in this business. According to the author's estimation which is partly based on the tax authorities' information on specific restaurants, it seems that some owners had an illegal profit up to NOK 100.000 during one week. Handling such large amounts of undeclared money over a relatively short period of time may create a need for money laundering.<sup>15</sup>

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<sup>15</sup> It goes with this that some of the restaurant owners led a disorderly life that included a luxurious daily consumption pattern where a considerable part of the money was



A major condition for laundering money from economic crime would thus be that the profit is too large for managing it undetected within a short time span. This reduces the number of suspicious transaction reports concerning economic crime and the volume of illegal money generated for which a need for money laundering is experienced.

It should be remarked, that applying the broad definition of money laundering, such as we find in the Convention of the Council of Europe or some authors like Walker (1995), spending *any* criminally obtained money in (daily) economic life is laundering. This virtually equates the (fiscally) unrecorded money flow to laundering, depriving it from any discriminatory meaning.

### **The Securities Markets: available to the few**

Another factor limiting the dirty money supply to the securities market is that few individuals will be considering this market as a channel of money laundering available to them. Certainly, during the last years the securities market has been opened up to “most people”. Far more customers than before now constitute average wage earners (Larsson 2001). However, few people have the appropriate knowledge of the securities market that is needed to make use of it for the purpose of money laundering. Van Duyne (2002) emphasises that the method of money laundering to a great extent is subject to the individual’s social and cultural capital, for example, in the sense of knowledge. Few customers will launder money within a sector about which they have not sufficient knowledge in order to feel familiar and comfortable. Social capital in the sense of belonging to social networks is of great importance. Most people prefer to launder money in settings where they have friends and acquaintances who can contribute with both knowledge of and services for money laundering purposes. Against this background most people will choose to launder money in social circles familiar to them. Few will feel socially and culturally well-acquainted within the financial sector and the securities market in such a way that this market appears as a natural arena of money laundering. For quite a number of persons the Register of Securities, Oslo Stock Exchange, shares and bonds will represent such an un-

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used on expensive clothes, jewellery and cars (Axelsen 1995). In our perspective this fact has essentially contributed to reducing the need of money laundering, at any rate in the meaning of integrating the money into legal economy through banks or other financial institutions.

known world. How many people will know that to trade listed shares it is obligatory to open an account with the Register of Securities?

This mechanism is demonstrated in some of the descriptions given by the aforementioned police officers.<sup>16</sup> The car- and building trades are good examples of how the actors knowing these sectors will keep within the same branches when laundering money. The two police officers state:

“They don’t start companies of their own. They will buy existing companies in sectors familiar to them. The car and building trades are recurring actors here. Craftsmen buy themselves way into the building trade where they can buy invoices covering fictitious income.”

This is an important observation: contrary to the general idea that criminals find their way anywhere, criminals prefer personal direct contacts, also in the handling of their criminal finances. Against this background, the securities market may be too distant and too abstract.

## **Money laundering and organised crime<sup>17</sup>**

Media, public officials and advocates of strong action against money laundering seem to agree that ‘organised crime’ is generating substantial amounts of ‘dirty money’ and that this money is frequently laundered in the financial market. In threat assessments made by Oslo police and Politidirektoratet (The National Police Directorate) (2003) it is emphasised that there exist links between Oslo’s financial world and organised crime. Well-known cases are those involving members of the biker gangs – notably of the Hells Angels and Bandidos - working as money collectors. The few cases uncovered indicate that there is some

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<sup>16</sup> The descriptions originate from an interview made by Ingvaldsen (2006) in connection with his research project on money laundering in the Norwegian securities market.

<sup>17</sup> The term organized crime is highly politically loaded. It is used here in a way that covers the “common sense” meaning of the concept used by police, in politics and by media in Norway. The term covers mainly drug related crimes, trafficking and other traditional crimes committed in some organized way. Economic and financial crimes are rarely included and usually fall outside this “common sense” definition.

connection between notorious members of ‘organised crime’ groups and shadier exponents of the financial world.<sup>18</sup>

Most estimates of money laundering from ‘organised crime’ are based on of meagre data if not on pure speculations, anedoctical “sensational” cases from abroad and extrapolations based on ‘conventional knowledge’, all intensely recycled until they become general truths. Nevertheless, such estimations remain very hypothetical and have repeatedly turned out to fail as the basis for statements on the extent and methods of money laundering (Van Duyne 1996; Van Duyne *et al.*, 2005), Naylor 2004, Reuter and Truman 2004).

‘Organised crime’ in Norway is limited to a few social circles and its scope is limited. The police estimate that there are between 103 and 125 criminal networks of some importance.<sup>19</sup> The major types of violations connected with organised criminal groups in Norway are smuggling of prohibited or highly taxed substances (tobacco and alcohol) as well as violence (The Police Directorate 2005). To a great extent the estimate may actually reflect the priorities of the police themselves as well as their qualifications. The following well-known ‘organised crime’ networks<sup>20</sup> are recorded in Norway (Larsson 2008):

- *The robbery milieu.* The so-called robbery milieu in Norway consists of a small group of persons.<sup>21</sup> They are specialists on robbery of transportation of valuables, banks and post offices. The average profit from a bank or post office robbery is usually limited while transportation of valuables might give larger profits. A number of the active persons belonging to this milieu are now imprisoned among other things in connection to the NOKAS robbery<sup>22</sup>.
- *Bikers.* Opinions differ as to whether groups like Hell’s Angels, Bandidos, Outlaws and the Pagans truly should be defined as groups of organised criminals or as an ‘alternative way of life’ (Junninen 2006; Rørhus 1999). In

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<sup>18</sup> For instance related to Aker Brygge Invest, a company surrounded by scandals, see among others Aftenposten February 10, 2001.

<sup>19</sup> These are of course approximate figures and are not supposed to be understood otherwise, but if nothing else, they are indicating that organised crime is of a limited extent.

<sup>20</sup> We will not define organised crime here but adopt the definitions regularly used in Norway, i.e. EU’s list of 11 articles (Larsson 2008 and Finckenauer 2005).

<sup>21</sup> In “Project on organised crime” of the Police Directorate 18 important persons are connected with aggravated robbery.

<sup>22</sup> The NOKAS robbery in Stavanger in 2004, named after the financial institution being robbed (Norsk kontantservice), is the biggest and best planned robbery in Norwegian history. A police officer got shot and the robbers escaped with 57 million Nkr (5,7 million pounds). The robbers were heavy armed and it was fired 119 rounds.

Norway these groups count, with the exception of the Pagans who have no section here, less than one hundred full-members.<sup>23</sup> In Norway individuals are linked to import and trading of hash and amphetamine as well as being notoriously known as torpedoes.<sup>24</sup> Hell's Angels members have been convicted in connection with extensive cases involving smuggling of hash and amphetamine and there is every indication that their activities as the men behind the scenes, especially when it comes to smuggling of hash and amphetamine, can generate a considerable profit (Larsson 2006a).

- *Alcohol smugglers.* Today's smugglers are keeping up a tradition dating back to the days of prohibition 1917 – 1927 (Johansen 2004). Until the cases involving selling methanol in 2001 – 2002 that caused the death of 11 persons, smuggling was mainly linked to spirits. In the peak year 2001 254.000 litres of strong spirits were confiscated. A substantial quantity of this was produced in Spain and Portugal and the profits were large.<sup>25</sup> After 2002 – 2003 smuggling has mostly been diverted to beer and wine and new actors have entered the scene (Larsson 2008).
- *Drug smugglers.* The A- and B-gangs as well as the biker groups are among the most important actors when it comes to hash and tablets (amphetamine) There are also a number of minor and ephemeral groups involved in smuggling (Larsson 2006a). Hash and tablets are often smuggled simultaneously while heroin smuggling and dealing seem to be a separate market. Groups such as the Kosovo Albanians and the Nigerians have now and then played a prominent role within the heroin market.
- *The A- and B-gangs.* The A- and the B gangs are two gangs predominantly of Pakistani origin. These two gangs developed in the mid to late 80's as youth street gangs. With growing age these gangs have evolved into organized crime groups (Larsson 2008). The members of the A-gang are now

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<sup>23</sup> In the Police Directorate's evaluation of threats from 2003 is referred to figures that date back to 2001 in which year Hell's Angels had 36 members, the Bandidos approximately 25 and the Outlaws approximately 10. Lately the Outlaws have expanded considerably. Rørhus (1999) reports that Kripas had registered 200 members in 1997 but does not mention their status.

<sup>24</sup> The list of various types of criminality tied to these groups is a long one, but it is mostly traditional violations of the law and can to a small extent be linked to individual memberships in the clubs. The most interesting from a Nordic point of view is that they seldom seem to be involved in the market of prostitution.

<sup>25</sup> At times we are here talking about big money. Smuggling spirits and alcohol has always been more lucrative than narcotics. Taking into consideration the penalty level, from a rational point of view, everybody should be smuggling alcohol.

mainly in their forties while members of the B-gang are more than 10 years younger. 24 members of the A-gang are identified and 29 in the B-gang. The gangs are notorious for violent clashes between the gangs. Of great interest is their profit making activities which in the main are supposed to be drug importation and dealing. The groups have good connections in the Netherlands and in Copenhagen and are engaged in the import and resale of hash. Sources in the police report that this generates substantial incomes that are then invested in Norway, Pakistan, Brazil and Thailand.

- *Foreign groups.* Some activity from Estonian groups has been observed, but the Lithuanian criminals seem to be the most active (Larsson 2006b). If they really are Lithuanian is often another case, they often have passports bought in the town of Kaunas, but much indicates that these persons come from many eastern countries. So far these persons have mainly committed thefts of mobile phones, razor blades, nylon stockings as well as boat engines. Even if each single object has been of little value, they have sent out large quantities of the commodities.

Prostitution and organised crime have attracted a great deal of attention. Until the new law that criminalized the buying of sex came into force on the first of January 2009, there were Nigerian and East-European girls (Bulgaria, Estonia, Lithuania, Romania, Poland and Albania) engaged in the highly visible street prostitution. When it comes to indoor prostitution mainly Thai girls are involved. The Nigerian prostitutes are linked to organised Nigerian criminal networks (Nicola 2005). Behind the Baltic prostitutes we often find Baltic networks. The extent of force and exploitation exerted by these 'assistants' seem to vary somewhat (Aromaa 2002). It also appears that there is a large range as to what extent the women are financially exploited. The whole range is represented from those running their own businesses to women economically exploited by pimps. For that reason it seems difficult to estimate how much money this activity generates that goes to organised criminal groups in Norway.

## **Where does all the money go?**

It is worth noticing that most income sources of the 'organised crime' groups are mainly based on the smuggling of illegal or heavily taxed stimulants such as

narcotics, alcohol and tobacco. Initially the money laundering precautions were developed in the name of fighting drug offences (Levi 1991) which supposedly generated staggering amounts of crime-money. This is emphasised both in media and scientific literature (Dyrnes 2004; Van Duyne and Levi, 2005). Consequently it is noticeable that empirical studies on organised crime and illegal markets seldom find these activities to be as profitable as frequently claimed (Reuter and Greenfield 2001). It is well documented in international research papers that pushing of narcotics is far from representing a particular lucrative business. Desroches (2005) summarises research showing that “criminality doesn’t pay” and that the street pushers usually do not end up with an incredible profit.

“In short, most lower socio-economic dealers are involved only sporadically in drug sales, attempt to hold on to a conventional lifestyle, work at poor-paying jobs, and struggle with periods of unemployment and poverty.” (Desroches 2005:4)

Not all illegal trade is fully commercialised. Dorn, Murji and South (1992) point to the fact that many dealers sell narcotics privately to their friends and acquaintances to finance their own drug abuse and partly as a friendly favour. This might seem old fashioned in continental Europe, but might still be a good description of the workings in Norway. The indications are that the greatest part of the drug dealing is not marketed to relatively distant traders, but among known contacts and friends (Parker 2000). The myth that the drug market should create extensive criminality because crimes-for-profit are financing drug purchases does not quite seem to fit in either. It might instead be more valuable to describe this market as a part of the irregular and informal economy (Ruggiero 1994, Gruppo Abele 2003). Brettville-Jensen has for years studied buying and selling of heroin in Oslo. She points out that the pushers are financing a lot of their own use through a combination of social security, begging and pushing. The main purpose of pushing is not to gain large profits but to finance their personal use. In any case, street pushing is not a glamorous life!<sup>26</sup>

What about the big smugglers and drug wholesalers? They must surely make handsome profits? That is possibly so, but to have a realistic perspective on the supplies of crime-money one needs more knowledge of the function and struc-

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<sup>26</sup> This is a well documented fact in international research as well. See Vesterhav, Skinnari and Korsell (2007), Sandberg and Pedersen (2006) and Levitt & Dubner (2007).

ture of these markets. Smugglers are regularly presented as people making big fortunes. Estimations of the value of drug confiscations are mostly based on the street prices, while business expenses are rarely included (Van Duyne and Levi 2005, Reuter and Greenfield 2001).

In a study on hash smuggling into Norway Larsson has tried to draw up a realistic calculation of this activity's profitability (Larsson 2006a, 2009). Hash is generally bought in the Netherlands. The price when buying large quantities is usually around NOK 15.000 per kilo depending on the quality. In Norway the selling price by wholesale of large quantities is approximately NOK 20.000 – 25.000 which would make it possible to earn from NOK 5.000 – 10.000 per kilo.<sup>27</sup> But in order to have the narcotics transported to Norway there will be expenses, which at times they may be substantial. These expenses will, to some degree dependent on the smuggling technique, naturally cut back on the profit (25 – 50 per cent). Despite these operational costs it is possible to make large profits on smuggling of large quantities. Import of one hundred kilos could possibly give NOK 200 – 400.000 to be divided among the smugglers (mostly 5 or 6 persons). But this activity entails risks. There is always the risk of being swindled, of receiving bad hash, too small a quantity, occasionally friends are stealing from the lot or at worst disappearing with it all.<sup>28</sup> Junninens's (2006) informants reported how common it was to make a bad investment or a mistake. Besides there is always a possibility to be caught which in Norway will result in 10 – 15 years in prison for having smuggled 80 kilos of hash or more. These are the risks tied to hash smuggling.

Another significant element is that the hash market like any other drug market primarily is based upon credit. In practice this means that very few will be handling the big packets of cash that often are described, which in turn implies that everybody will be owing money to somebody, that they often have to wait some time for the money and that some loss must be assumed. Van Duyne has used the term *aquarium economy* to describe this semi-closed criminal economy of credit. Practically it also means that somebody has to take on the task to physically be transporting the cash to the Netherlands. The arrangements are of course simpler when smuggling smaller volumes, however, the amount of

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<sup>27</sup> The street price is estimated to NOK 100 per 0,7 gram, but the smugglers don't sell drug on the streets, they are selling to wholesalers who in turn will arrange for re-sales.

<sup>28</sup> In one of the cases in my material one of the couriers ran away with 420 kilos in Spain. Gross (1992) describes very well the dangers of this activity.

money likely to be earned is smaller. Smugglers operating on a small scale and going to Copenhagen for half a kilo of weed are often operating in networks of friends who are both users and dealers. They will not generate a great volume of money for money laundering techniques are required.

Johansen (1996, 2004) has analysed alcohol smuggling and illicit distilling in Norway describing shifting markets where it is more advantageous to be small and flexible than big and 'bureaucratic'. Smuggling of alcohol is a typically Norwegian kind of organised crime with long traditions dating back to World War I or even earlier. He shows that a number of participants within this market occasionally are earning good money, but their ways of handling the money differ. Only a few will end up as wealthy and well established persons. A great deal live their lives based on high consumption and other such 'bad habits' and are spending as much as they are earning. Junninen's (2006) Finnish organised criminals are living likewise: many of them are handling and spending significant amounts but few will invest the money in something lasting.

Most sectors of organised crime markets do not generate the enormous amounts claimed.<sup>29</sup> And if they do, the surplus savings in the sense of accumulation of capital from these activities is far less than assumed. Granted, there are exceptions because the criminal wealth distribution is unequal but for most participants in the organised crime markets, their crimes allows them to finance their drug habit, obtaining status symbols and gaining acceptance or quite simply a way of financing their lifestyles.

Nevertheless, at times a few crime-entrepreneurs succeed in earning substantial money, especially within narcotics and alcohol smuggling. The question is then what this handful of organised criminals does with their money. Do they

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<sup>29</sup> Walkers (1995, 2005) model 'refined' by Unger (2007) is probably the best known and developed calculus of the amount of money laundering. This models starting point is a calculation of the proceeds of crime in the nations and takes the broadest definition of laundering: spending crime-money = laundering. Already at this point it is on thin ice since such calculations normally is based on substantial guessing about both volume of crime and prices of drugs. The models is based on layers of guessing and taken for granted knowledge about the hidden and criminal economy. It also tries to estimate the level of laundering for the different crimes. There seems to be multiple flaws in the model the most important is the idea that there is a need for laundering money and that it must be used in the legal economy. Another is that the costs of crime are not calculated in. For drugs which is presented as the backbone of the criminal economy laundered money seems to be the same as the value of the smuggled drugs sold at street price, while many rightly point out that this is a wild exaggeration of the real value (Reuter and Greenfield 2001).



invest it in the open and legal economy laundering it through advanced financial arrangements?

**Why there is no need for laundering and why there is no possibility for it.**

One of the problems of the “choose a number” calculation games that are continually presented in the money laundering literature has been the lack of knowledge about the relationship between legal and illegal economies and how illegal economy and the criminal markets are functioning (Naylor 2002, 2003). Knowledge about criminal carriers and diverging lifestyles and desires seem to be lacking as well. Those who make the calculations take it for granted that everybody thinks, acts and shares their set of values. It is assumed that the actors are acting according to a specific kind of rationalism that fit in with the economic models.<sup>30</sup> What if the criminals do not want to play this game or do not share the economists’ understanding of a good life?

A good deal of the aforesaid underlines that the lifestyle among many criminals is not merely governed by economic rationality, but substituted by a combination of opportunities at hand, interest in narcotics and alcohol, “wine, women and song”, the sweet life as well as money (Gross, 1992; Adler 1993; and Junninen, 2006). When money starts pouring in consumption also usually increases. Having adapted to a life characterised by extensive consumption, it is difficult to change this. Money and private consumption often tend primarily to have symbolic status functions.<sup>31</sup> Adler (1993) describes the lifestyles of the great marijuana smugglers in California. Their money spending, as well as their use of drugs is impressive. Along with high incomes come great expenses to hotels, restaurants, cars, narcotics and friends, not to mention gambling. She is describing something that can be called a hedonistic lifestyle. The same goes for the A- and B-gangs in Oslo.

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<sup>30</sup> The actors are usually made out to be typical utilitarians characterised by a purpose oriented rationality. See Larsson (1993).

<sup>31</sup> Of course this is not a distinctive feature for criminals only, the same goes for a number of other economic actors such as for example, brokers within the financial world. Money gives status!

“Expensive lifestyle: Elegant cars, narcotics, costly vacations, women whom are very generously treated and spending a lot of money in general”. (Norwegian Police 2006:12)

Obviously this kind of life will attract quite a few, but it also has an important function as a symbol of success. Besides, it creates and strengthens bonds between those involved in organised crime. Big time smugglers will often be big time spenders and their lifestyles are expensive. Quite a number of Adler’s smugglers may be described as successful, but few of them managed to make a fortune or create permanent assets that they could use to withdraw from the scene. In fact it seemed as if very few took an interest in stashing away money, their concept of a good life being to avoid the trappings and boredom of a conventional life. Similar findings are reported in Junninen’s study (2006). One of his sources declares:

“ . . . at least one million per year is spent just on living. Suits and everything, they cost a lot. Everything is always the best that money can buy, like hotels and everything. That’s what we are doing it for, so we can live like that. . . ”  
(Junninen 2006: 52)

Reuter and Haaga (1989) and Desroches (2005) confirm this. Besides, quite a few are forgetting that the illegal economy is to a great extent an economy based on cash and that it still is possible to live a life using cash, even if it is becoming increasingly difficult. Gross’ (1992) book dealing with the life of a big smuggler is an interesting reading. Even though the book is not recently written one would expect a chapter on money laundering. There is no such thing, but instead several chapters are devoted on how to live a life based on cash only. Almost everything can be bought with cash money although it occasionally demands some creativity. The book’s mantra is never to leave a paper trail which the authorities can get hold of – “don’t leave a paper trail”.

A major objection to the belief that criminals would want to convert into legal business is the fact that many of the decisive skills to survive in illegal economy frequently are of less value in the legal one. In Van Duyne’s (1996) study on the economy of large organised criminal networks his findings showed that not many of the actors in the illegal economy managed to work within the legal one. Most of them were rather helpless in their effort to run a legal business, but exceptions existed:

“It has to be mentioned that most of the persons who were investing at a high profit in the legal economy had a background from ordinary legal business before they started their criminal careers!” (van Duyne 1996: 367)

Nevertheless, there are a number of examples of financial investments made by criminals, but mostly these investments are in business activities they understand, have personal knowledge of, and experience with. First and foremost it is to be supposed that considerable amounts are re-invested in the informal, illegal and criminal economy (Naylor, 2002; Skinnari and Korsell, 2007). Gross (1992) emphasises that many criminal enterprises need initial capital. As observed earlier, part of such investments is done on mutual credit, even if it is risky. If no ‘criminal credits’ are available the smuggling of substantial quantities of hash, cocaine, wine or alcohol can be an expensive business and is often in need of financing. The gains when lending money to this type of expeditions use to be far better than the usual bank interest, but then again the risks can be considerable. The profit from the well-known NOKAS robbery estimated to NOK 57.000.000 partly ended up financing other crimes, among which 1000 kilos of hash were confiscated when imported to Norway. Why would someone invest their money legally when investment can be made in the illegal economy? The advantages of the illegal economy are numerous. There is no need to worry about being notified to the money laundering section at The National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim). Within the illegal economy the money is accepted without unnecessary questions and in general the money is paid back at an acceptable rate of interest. The risk is higher, but for persons accustomed to an exciting risk-taking life this is not necessarily regarded as anything negative.

When money is invested in the illegal or grey market it seems, as mentioned earlier, that the favourites are pubs, restaurants, discos and companies that run business activities like selling cars, doing repairs etc. This corresponds very well to what the theory of routine activities preaches. These are enterprises the criminals often are familiar with, take an interest and are experienced in. Why should they invest their means in business activities they do not know anything about or are acquainted with? In a network perspective there are few, if any, reasons for an ordinary organised criminal to invest his profit in the financial market or se-

curities market.<sup>32</sup> They do not know these markets or anybody engaged in such business and generally has no idea on how the finance- and securities markets are functioning, so why rely on them? From our point of view this represents a major objection to the idea that organised criminals are investing substantial amounts in the securities market. Van Duyne and Levi (2005) summarizing their own and Suendorff's (2001) observations came to similar conclusions.

Some will argue (Skinnari and Korsell, 2007) that they can make use of experts on money laundering to invest within this market. Few studies are able to prove that such utilization of experts is internationally widespread (Reuter and Truman 2004). As far as we know there is little evidence that such services have evolved in Norway.

Some of the most obvious effects of the increased effort towards fighting money laundering as well as confiscations are noticed in connection with the consumption patters and lifestyle of members of 'organised crime' groups. Quite a number have reduced their use of visible status symbols such as Rolex watches, thick gold chains and expensive cars which will attract unwanted attention not only from friends but also from the police. In addition the police report that nowadays the money is invested abroad, in real estate in typical tourist areas such as Thailand, Venezuela and Brazil.<sup>33</sup> In criminological terms this represents a displacement effect and an adjustment to the new regulation.

### **The mixture of legal and illegal in the Norwegian business sector**

However, there exists a way of laundering money from organised crime into "legal" companies. Seemingly legal companies can be used for dirty money to be invested in the ordinary and legal activities, or alternatively in activities altogether illegal. Using these "front companies" will give the dirty money an appearance of legitimacy. Basically a restaurant owner will for instance have the opportunity of putting dirty money into ordinary and legal trade unnoticed. He is acting in a sector which is more or less based on cash, and related substantial cash transfers on a regular basis are normal practice. The bank clerk will have

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<sup>32</sup> Studies report that to be connected with central traders on the stock exchange is of vital importance if one wants to make a career there.

<sup>33</sup> Since this was originally written there has been one of the biggest confiscation cases in Norway ever. Members from the A and B gang had invested millions in holiday houses and apartments in Brazil.

little reason to suspect anything as long as the restaurant owner is not exaggerating his co-mingling of dirty money with 'white' turnover or exceeding the bank clerk's conception of what will be normal business activity and earnings. Based upon his analysis of reports of money laundering from the British financial sector, Levi (1997) argues that money laundering regulation is only to a limited degree able to catch criminal money channelled into legal economy through front companies.

“. . . , there is little evidence to suggest that financial institutions are very successful at spotting the misuse of 'front' companies for the intermingling of crime proceeds with legitimate takings.” (Levi 1997: 268)

The mingling of the legal and the illegal within the framework of business activities varies from country to country. Some cases will show an extensive mingling. Ruggiero (1996) give some examples from Italy where groups of organised criminals almost completely are in charge of an entrepreneur business sector. Nothing supports such a picture when it comes to Norway. On the basis of empirical analyses on various forms of organised crime both in Norway and internationally, Johansen (1996) qualifies the mixture of the legal and the illegal economy within Norwegian business as limited. Compared to a number of other countries, the connection between organised crime and business life is small in Norway, especially when it comes to drug entrepreneurs. Even so, there are examples of amalgamations of money earned on illegal alcohol markets. On several occasions attempts has occurred to conceal illegal profit within business activity. Even if grey zones exist, primarily in connection with gains from the illegal alcohol markets, Johansen (1996) is of the opinion that as a whole the distinction between organised crime and business life is reasonably pronounced in Norway.

Johansen's (1996) empirical findings are somewhat old. Has things changed dramatically since his study? The police seem to think so. The aforementioned police officers that were interviewed as part of Ingvaldsen's (2006) study on money laundering in the Norwegian securities markets said the following when asked about criminals' connection to legal business:

“During the last three to five years we have seen a clear tendency towards a situation where every criminal has his own company, for instance people from the robbery milieu. This also applies to people involved in drug felonies. In gen-

eral this development involves organised criminals responsible for a vast amount of crime and which are part of criminal networks”.

If taken as a statement on the overarching picture of the intermingling between business and organised crime in Norway, there is reason to treat the police officers descriptions critically. More recent studies of organised crime in Norway do not support the descriptions of the police officers. Both Johansen (2008) and Larsson (2008) concludes that there seem to have been a slight tendency towards more mixing of legal and illegal within business life. But their findings by no means support such a dramatic change that the police officers describe.

In accordance with Johansen (2008) and Larsson (2008) we can still say that organised crime has definitely not penetrated the legal economy in Norway.

## **Conclusion**

We can draw some conclusions on what is stated above. The anti money laundering regime is based on the principle of know-your-customer. This means a controlling eye that will arouse suspicion whenever something different from the ordinary patterns is spotted. Money laundering in connection with legal business activities, will regularly not be standing out. It will not leave the kind of traces that are presumed according to the methodology of “follow the money”. It certainly will leave a paper trail, but not one that does have a suspicious character. In this respect neither the banks’ nor the securities enterprises’ control are likely to be aware of it, unless they carry out a deeper investigation. The regulators predominantly uncover simple transactions made by individuals, what is easily to recognize because of the customer’s private economy and personal appearance. Then this selectively controlling eye also opens up for money laundering via apparently legal business activities with mixed legal and the illegal money flows. For the shrewd launderer this leaves room for channelling money from organised crime into the finance sector through business activities.

In the light of this there is reason to believe that money laundering in the Norwegian securities markets may happen, although there is no empirical sources substantiate this threat. Concurrently our analyses of the conditions of money laundering are indicating that the authorities’ and media’s suppositions and calculations as to the extent of money laundering are unrealistically high. In

some cases economic crimes are committed in ways which will generate an illegal profit it may be big enough for all kinds of money laundering constructions. This applies also to a good deal of other forms of 'organised criminality'. The illegal profit deriving for instance from drug felonies will for quite a few be very limited. To a good many people criminality represents business on the side, criminal expenses are incurred, the net profits are financing their own drug use etc. Some are making great money, but quite a few will be using the profit to live a hedonistic life with high daily consumption. Others have no wishes of integrating the dirty money into legal economy. It is safer to keep it within the underground economy. There is little reason to believe that money from organised crime is channelled into the financial sector by those wanting to launder their gains. The blending of the legal and the illegal in Norwegian business life is limited in scope. Lastly, to many people the securities markets are hardly accessible as an arena of money laundering, both socially and culturally. That is why money is being laundered elsewhere, in settings which the actors have knowledge of and will rely upon.

Consequently the most likely money launderer in the Norwegian securities market will be characterised as follows: He is operating within legal economic activity, the dirty money comes from specific kinds of economic crime such as insider trading and currency manipulation, the illegal profit is relatively large and he knows very well the securities market. He has both *the need for* and *the possibility* to launder money through the securities market, where the money is already on some bank account.

If we return to the opening of this article we see that many of the assumptions that make the fundament of the fight against money laundering does not seem to be well documented. There is the basic idea that criminal activity, and specially organised crime generates vast sums that have to be laundered to be used or re-invested. Many forms of crime do not generate great profits per operation and, also, what matters are the profits per business and not the accumulated profits for the whole criminal sector. The costs of crime and the reinvestment of whatever leftovers into new crimes are often underestimated. To a rather large degree the criminal economy can be seen as a rather closed, aquarium like economy. Many studies have also documented that the lure of a life in crime is often to be a big spender and live a fast life. Probably only few exponents of the criminal

economy probably share the ideals preached in business schools around the world.

So here we are then, with a massive apparatus designed to catch certain forms of taken for granted illegal activity and big crime-money being washed in the securities sector. This big fishing net constructed to catch some types of fish does not seem to work that well. At the same time we do not say that there are not big fishes or even financial whales in this ocean. But how many of these are there and are these worth the huge efforts? If they exist, the system does not seem to catch them or even detect them. Instead we end up with the some well known figures, the easily detectable and highly visible 'usual suspects'.



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