Money Laundering: The European Approach

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Organized crime is only profitable to the criminals if the money obtained from their activities can be used without alerting the authorities to its source. To disguise the source of the money, drug cartels, and other criminals are forced to launder criminal proceeds. Laundering the proceeds renders the underlying crime, regardless of its nature, lucrative and therefore attractive.[1] "Money laundering" is defined as the process of converting quantities of cash, generally currency that has been tainted in some way, to a form that can be used more conveniently in commerce and thus concealing the origin of the converted funds.[2]

Money laundering has grown dramatically over the past decade. Although there is no scientific method of quantifying the criminal profits that have found a way into the international financial system, all experts agree that the figure arrived at by any calculation is staggering.[3] One recent article, several years ago, placed the "Gross

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1. *See* Duncan E. Alford, *Anti-Money Laundering Regulations: A Burden on Financial Institutions*, 19 N.C. J. INT'L L & COM. REG. 437 (1994).

2. *See* Lisa Barbot, *Money Laundering: An International Challenge*, 3 TUL. J. INT'L & COMP. L. 161, 162 (1995).

3. *See* Ronald Noble & Court Golumbic, *A New Anti-Crime Framework for the World: Merging the Objective and Subjective Models for Fighting Money Laundering*, 30 N.Y.U. J. INT'L L. & POL. 79, 87 (1998) (citing *Hearings Before the Subcomm. on Oversight of the House Comm.*

Criminal Product" in need of laundering at over $1,000 billion.[4] This money is laundered throughout the world and not just through one country or geographic region:

United States of America	$241.63 billion
European Community	$35.44 billion
United Kingdom	$3.87 billion[5]

The growth of money laundering is due not only to ever-increasing criminal activity but also to the increasing complexity of transactions and advances in technology. With the rapid integration of world markets as well as the removal of barriers to the free movement of capital, especially within the European Community, it has become easier to conceal criminal proceeds.[6]

This Article examines the evolution of European legislation and enforcement of money laundering laws. The paper then examines how individual member states, using France as an example, have gone about implementing the laws. It then proceeds to examine whether current laws and law enforcement techniques have been effective, and concludes with proposals for the future development of new money laundering laws.

I. DEVELOPMENT OF EUROPEAN UNION LEGISLATION

A. Council of Europe

In 1977, the Council of Europe became the first international organization to focus on the problem of money laundering.[7] The Council established the Select Committee of Experts to focus on the problem of the "illicit transfer of funds of criminal origin frequently used for the perpetration of further crime."[8] On June 27, 1980, the Council adopted the recommendations of the Select Committee

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Ways and Means, 103d Cong. 6-12 (1994) (statement of Ronald K. Noble, Under Secretary for Enforcement, United States Treasury Department)).

4. *See* Vincent Boland, *Earnings from Organized Crime Reach $1,000 bn*, FIN. TIMES, Feb. 14, 1997, at 9 (including proceeds from all criminal activities including drug trafficking, illegal gambling, prostitution, bank and securities fraud etc.).

5. *See* Memorandum Submitted by Interpol and Reproduced in House of Commons, Home Affairs Committee, Organized Crime, H.C. Paper 18-11 (1994-1995).

6. *See* BRIAN HARTE, BUTTERWORTH'S INTERNATIONAL GUIDE TO MONEY LAUNDERING LAW AND PRACTICE 243-45 (Richard Parlour ed., 1995).

7. *See* WILLIAM GILMORE, DIRTY MONEY: THE EVOLUTION OF MONEY LAUNDERING COUNTER-MEASURES 133-35 (1995) (explaining that the Council of Europe was until recently only composed of western European nations; however, with the fall of communism and the end of the cold war, eastern European countries have been invited to join (e.g., Estonia, Hungary, Poland, and the Czech Republic)).

8. *Id.* at 135.

entitled Measures Against the Transfer and Safekeeping of Funds of Criminal Origin.[9]

The central focus of the recommendations was on bank practices. The committee saw bank secrecy laws as the largest obstacles in preventing money laundering.[10] The recommendations included a proposal that banks be required to know their customers' identity.[11] It was felt that by knowing their customers' identity, banks would be able to aid authorities in apprehending criminals. These recommendations, although now widely accepted, were summarily rejected by the participant nations at the time.[12]

B. UN Convention

The United Nations (UN), at the request of the Venezuelan government in 1984, began working on a convention to combat the growing drug problem. In 1988, the UN put forth for ratification to the member states the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[13] The UN Convention was presented to 106 countries at the Vienna Conference.[14] By September of 1994, 101 countries had signed it, including the European Community.[15]

The UN Convention's central idea was to "provide the law enforcement community with the necessary tools to undermine the financial power of the cartels."[16] Article 3 of the UN Convention mandated that all participating countries criminalize "the concealment or disguise of the true nature, [and] source . . . of property knowing that such property is derived from [illegal activities]."[17] Furthermore, the article required all participants, to the extent their constitutions

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9. *See id.*
10. *See id.*
11. *See id.* at 136.
12. *See id.*
13. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 26 U.N.T.S. 3, 28 I.L.M. 493 [hereinafter UN Convention].
14. *See* GILMORE, *supra* note 7, at 63.
15. *See id.*
16. *See id.* at 64. The UN Convention does not use the term "money laundering"; instead the phenomenon was expressed as follows:

> The conversion or transfer of property knowing that such property is derived from any offence or offences established in accordance with subparagraph (a) of this paragraph, or from an act of participation in such offence or offences for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions.

UN Convention, *supra* note 13, art. 3(b)i.
17. *See* UN Convention, *supra* note 13, art. 3(b)ii

permitted, to criminalize "the acquisition, possession or use of property, knowing, at the time of receipt that such property was derived from [an illegal activity.]"[18]

Another important aspect of the UN Convention appeared in Article 5, which addressed the confiscation of proceeds.[19] Article 5 used mandatory language, forcing the confiscation of assets even if their form has been changed or commingled with legitimate assets.[20] Because of its broad language, the individual countries had the task of determining on whom the burden of proof should fall in proving that the assets in question resulted from illegal activities.[21]

The UN Convention has been widely accepted, including in Latin America, and the Caribbean. It is now regarded as the "the foundation of the international legal regime" in the fight against money laundering.[22] It has also served as a model for further and stricter legislation throughout the world.

C. European Convention

Following the example set by the UN Convention, the European Community decided to develop and adopt its own convention. On September 12, 1990, the European Council adopted the Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime (EC Convention).[23] It was ultimately signed by eighteen countries.[24] France was one of the last European nations to ratify the convention, doing so on October 8, 1996.[25] In addition to mandating the criminalization of money laundering, the EC Convention

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18. *Id.* art. 3(c)i.
19. *See id.* art. 5.
20. *See id.* art. 5, para. 6(b).
21. *See id.* art. 5, para. 7.
22. *See* NOBLE & GOLUMBIC, *supra* note 3, at 115 (citing E.U. Savona & M.A. De Feo, *Money Trails: International Money Laundering Trends and Prevention/Control Policies*, Paper presented at the International Conference on Preventing and Controlling Money Laundering and the Use of the Proceeds of Crime: A Global Approach (June 18-20, 1994)).
23. Convention on Laundering Search, Seizure and Confiscation of Proceeds from Crime, Sept. 12 1990, Council of Europe, Europ. T.S. No. 141, 30 I.L.M. 148 (1991) [hereinafter EC Convention].
24. The countries are: Austria, Australia, Belgium, Bulgaria, Cyprus, Denmark, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. *See* Alford, *supra* note 1, at 448.
25. *La France Ratifie une Convention Européenne sur le Blanchiment des Capitaux* [*France Ratifies a European Convention on Money Laundering*], Agence France Press, Oct. 8, 1996.

established the guidelines for cross-border investigation and cooperation among law enforcement agencies.[26]

Unlike any other international convention or agreement involving a criminal matter, the EC Convention allowed for spontaneous exchange of information relating to the "instrumentalities and proceeds in circumstances where it is felt that this might be of practical assistance to the authorities of another participating state."[27] In the past, an official request would have been made for exchange of information.[28] The EC Convention went further than the UN Convention in several other ways. First, the EC Convention criminalized money laundering stemming from all criminal activities, whereas the UN Convention only criminalized money laundering stemming from drug trafficking.[29] Second, the EC Convention held banks liable for negligent money laundering whereas the UN Convention required actual knowledge for prosecution.[30]

Although broader than the UN Convention, the EC Convention has several flaws. First, it allowed signatory states to set out reservations to the types of crimes that would be subject to its provisions. Second, although it mandated the criminalization of money laundering, it created an exception where criminalization would violate a country's constitution.[31] This second exception created a large loophole for many signatory states with bank secrecy laws within their constitutions. Finally, even signatories without bank secrecy laws, who criminalized money laundering, did not allow banks to disclose client information without risking civil liability. This effect undermined the money laundering legislation.

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26. *See* Alford, *supra* note 1, at 448 (citing Hans Nilsson, *The Council of Europe Laundering Convention: A Recent Example of a Developing International Criminal Law*, 2 CRIM. L.F. 419, 426 (1991)).

27. *See* GILMORE, *supra* note 7, at 145; *see also* EC Convention, *supra* note 23, ch. 3, art. 10. For example, in 1993, the United Kingdom and the Netherlands entered into an agreement to supplement the EC Convention that contained the following provision: "In the event of urgency . . . requests for investigative assistance and any immediate response thereto . . . may be exchanged directly between the competent law enforcement authorities of the Parties." *See* GILMORE, *supra* note 7, at 146. Such agreements expedite investigations and raise the effectiveness of investigations.

28. *See* GILMORE, *supra* note 7, at 145.

29. It should be noted however, that although the EC Convention targets money laundering stemming from all crimes, it contains a reservation in Articles 2 and 6 of Chapter 2. This reservation allows the participating nations to determine the underlying offences that will qualify for purposes of the convention. For example, the Netherlands has used article 6 "to remove the proceeds of taxation and customs and excise offences from the scope of the confiscation obligation." GILMORE, *supra* note 7, at 142.

30. *See* EC Convention, *supra* note 23, ch. II, art. 6(3)a.

31. *See id.* ch. II, art. 6.

D. European Directive

To rectify the problems with the EC Convention, as well as assure the integrity of the financial system as the community rapidly approached a single market,[32] the European Community issued Council Directive 91/308 of 10 June 1991 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering.[33] The directive was passed with three specific goals in mind: (1) to prohibit money laundering in all member states, (2) to require credit and financial institutions to facilitate the criminal investigation of money laundering by reporting suspicious transactions, and (3) to regulate all professions that handle cash transactions.[34]

The European Council does not have the power to force criminal laws upon the member states. To avoid this obstacle, the directive states only that "money laundering is prohibited."[35] However, when passing the directive, the Council knew that all member states had signed the EC Convention criminalizing money laundering; therefore, in the preamble to the directive, the Council stated that the directive is meant to implement the ideas of the EC Convention.[36]

In writing the directive, the Council wanted to cast the widest net possible for all money laundering. According to Article 1, the directive applies to all credit and financial institutions, as well as all "criminal activity."[37] The directive also applies to individuals who may handle financial transactions on behalf of clients but who would not qualify as a financial institution. Article 12, in relevant part, provided that "provisions of the directive are extended in whole or in part to professions . . . which engage in activities which are particularly likely to be used for money laundering purposes."[38] This provision, in effect, undermines the traditional idea of a liberal

32. *See* GILMORE, *supra* note 7, at 162.

33. *See* Council Directive 91/308 of 10 June 1991 on Prevention of the Use of the Financial system for the Purpose of Money Laundering, 1991 O.J. (L 166) 77 [hereinafter Council Directive].

34. *See* Konstantin Magliveras, *Defeating the Money Launderer-The International and European Framework*, 1992 J. BUS. L. 161, 170 (1992).

35. *See* Council Directive, *supra* note 33, art. 2.

36. *See id.* at preamble.

37. The commission defined financial institutions very broadly, it includes any institution that handles money (e.g., investment banks, foreign exchanges, credit reference services); *see also* Directive 89/646/EEC, 79/267/EEC (defining financial institutions). "Criminal activity" was defined as " a crime specified in Article 3(1)(a) of the Vienna Convention and any other criminal activity designated as such for the purposes of this Directive by each Member State." *See* Council Directive, *supra* note 33, art. 1.

38. *See* Council Directive, *supra* note 33, art. 12.

profession, because it no longer allows any profession in a position to handle money to be self-regulated.[39]

The next major provision of the directive is Article 3, which requires member states to implement "know your customer" requirements for all financial institutions.[40] The directive required financial institutions to obtain "identification of their customers by means of supporting evidence . . . when opening an account or savings accounts or when offering [safety deposit boxes.]"[41] The directive placed an additional burden on financial institutions to examine all deposits closely. It required a financial institution to conduct further inquiries in order to discover the true identity of the person actually opening the account if it suspects that the person opening the account is a "front man." Furthermore, if it suspected money laundering and/or the amount exceeded 15,000 Euros it was obligated to obtain identification from the depositor.[42] However, Article 3 also creates an exception for bank-to-bank transactions.[43] A small loophole allows potential money launderers to cleanse money through inter-bank transfers, but such a launderer must still be able to make the initial deposit.[44]

The Council directive then granted financial institutions the right to refuse transactions which they suspect are related to money laundering. According to Article 7, "member states shall ensure that . . . financial institutions refrain from carrying out transactions which they know or suspect to be related to money laundering until they have apprised the authorities."[45] The directive however, failed to define what qualifies as a "suspicious transaction," and therefore the member states had the duty to define it in their implementing legislation.[46]

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39. The directive meant to target lawyers and the equivalent of certified public accountants. *See* Barbot, *supra* note 2, at 181.

40. *See* Council Directive, *supra* note 33, art. 3.

41. *See id.* art. 3, cl. 1. The satisfaction of this requirement varies drastically from member state to member state. In Germany for example, a person must present either a passport or national identity card as well as the date of birth and address; whereas in the United Kingdom the only requirement is that the financial institution obtain "satisfactory evidence" of identity. *See* GILMORE, *supra* note 7, at 165-66.

42. *See* Council Directive, *supra* note 33, art. 3, cl. 2.

43. *See id.* art. 3, cl. 7.

44. *See* Alford, *supra* note 1, at 452.

45. *See* Council Directive, *supra* note 33, art. 7.

46. The United Kingdom, for example, defined suspicious transaction as "one which is inconsistent with a customer's known, legitimate business or personal activities or with the normal business for that type of account." This of course presumes that the bank tracks all transactions by all customers so that it is able to recognize an "unusual transaction." JOINT MONEY LAUNDERING STEERING GROUP, MONEY LAUNDERING: GUIDANCE NOTES FOR

Most member states had laws against disclosing customer information; therefore, the directive had to immunize bank employees from civil and criminal liability in the event they were forced to disclose client information. A bank was allowed to disclose customer information if done in good faith and to the proper authorities.[47] The disclosed information would only be used in the investigation of money laundering, but the directive allows member states to provide in their implementing legislation that the information may be used for other purposes.[48]

Through Council Directive 91/308, the European Community hoped to eradicate money laundering. The Council feared that with the open borders coming into existence after 1992, criminals would find it easy to hide criminal proceeds by moving the money to the country with the fewest restrictions.[49] Once the directive was passed, it was up to the member states to choose how to implement it and to set the penalties for violating its laws regarding money laundering.

II. MONEY LAUNDERING IN FRANCE

Upon passage of the directive, France took immediate action to assimilate it into its laws.[50] Although it already had regulations against money laundering, France proceeded to expand them in accordance with the directive. France had passed law number 90-614,[51] in July 1990, to regulate laundering drug trafficking proceeds. It provided for disciplinary measures of financial institutions that knowingly accepted money derived from the drug trade.[52] In addition, it provided that prosecution of individuals would take place under the criminal code.[53] It also contained provisions requiring financial institutions to know whose funds they were handling, but did not specify the level of financial activity which would trigger the requirement.[54]

MAINSTREAM BANKING, LENDING AND DEPOSIT TAKING ACTIVITIES § IV, para. 106 (London 1993).

47. *See* Council Directive, *supra* note 33, art. 9.

48. *See id.* art. 6.

49. *See* Magliveras, *supra* note 34, at 169.

50. *See generally* HARTE, *supra* note 6 (detailing money laundering laws in: Australia, Canada, France, Germany, Hong Kong, Italy, Japan, Luxembourg, Netherlands, Singapore, Switzerland, Spain, United Kingdom, and the United States).

51. *See* Law No. 90-614 of July 14, 990, J.O. July 14, 1990, at 8329.

52. *See* Law No. 90-614, *supra* note 51, art. 7.

53. *See* C. PÉN. § 378. [French Criminal Code].

54. *See* Law No. 90-614, *supra* note 51, ch. 2, art. 12.

This law alone was insufficient to satisfy the broad requirement of the directive. The French parliament began passing decrees that expanded the scope of law 90-614. On April 1, 1992, it passed Decree 92-362,[55] which expanded law 90-614. It extended the "know your customer" principle in 90-614, to casinos. It required them to obtain verification of identity of anyone attempting to cash in more then FF 10,000 ($2,000) in chips.[56]

To avoid problems of launderers structuring[57] their transactions, the French Senate issued a ruling clarifying the identification requirement for financial institutions. The ruling stated in relevant part that if over a period of one year a person deposits more than FF50,000 ($10,000) that the identification requirement would be triggered.[58] This requirement mirrors that of the United States, where a currency transfer report (CTR) must be filled anytime a client makes a deposit or payment of $10,000 in cash.

More recently, France has begun to establish stricter fines for those convicted of money laundering. In 1996, it passed its most far reaching anti-money laundering legislation law—No. 96-392,[59] which augmented jail terms and fines associated with money laundering. The law established two separate offenses: (1) money laundering and (2) aggravated money laundering.[60] Simple money laundering is committed by an individual on his own behalf, whereas aggravated money laundering is by an individual on *behalf of organized crime*.[61] The mandatory punishment for money laundering for an individual is five years in prison plus a FF2,500,000 ($500,000) fine; for aggravated money laundering, the penalty is ten years imprisonment in addition to a FF 5,000,000 ($1,000,000) fine.[62] The law also allows judges to give more severe sentences depending on the circumstance; however, discretion is limited as to the fines they may assess. The maximum fine is half of the value of the laundered proceeds.[63] The law also provides a penalty for those who were in a position to prevent the laundering but failed to do so. If, for example, a banker

55. *See* Decree 92-362 of Apr. 1, 1992, J.O. Apr. 3, 1992, at 4931.
56. *See* Decree 92-362, *supra* note 55, art. 1.
57. Structuring is a method by which one deposits a sum less then that required to trigger a certain requirement, and repeating this as many times as needed to obtain the same end result as if the whole sum was deposited at once.
58. *See* Arret of 13 Mars 1992, J.O. Apr. 3, 1992, at 4956.
59. *See* Law 96-392 of May 13, 1996, J.O. May 14, 1996, at 7208.
60. *See id.* § 1.
61. *See id.* § 1, art. 324-2(1), (2), respectively.
62. *See id.* art. 324-1.
63. *See id.* § 1, art. 324-3.

was found guilty of being negligent then his punishment could include being fired and forbidden to work in the banking industry as well as the public sector for a period to be determined by the judge. This period can be as short as five years, but it may be made indefinite.[64] Furthermore, the banker can lose his driver's license as well as his civil rights, such as voting, for a period of five or more years.[65] However, instead of jail time, he may be required never to leave France for a period of five years.

There is another major catch in law 96-392: an innocent businessman who associates with known drug dealers could be found guilty of money laundering. The law places the burden on the accused to show that the proceeds from his activity with the drug dealer never came into contact with "drug money."[66] This article is one of the provisions in France's laws. Law 96-392 also amended the French tax code. The law rewrote tax code article number 415 so money launderers could be prosecuted for tax evasion as well.[67] The new tax code provided for the punishment of people evading taxes through money laundering by a fine of one to five times the amount laundered, in addition to an additional two to ten years of imprisonment.[68]

Although France has expanded the scope of money laundering to include offenses other then those involving drug trafficking, the case law indicates that only people involved in drug trafficking are actively being prosecuted. In the French Criminal Bulletin, from May 21, 1992 through July 1998, all the accuseds were tried for laundering drug proceeds.[69]

III. EFFECTIVENESS OF CURRENT LEGISLATION

The effectiveness of the legislation among the fifteen member states, as well as Iceland, Liechtenstein and Norway, has varied widely. The legislation was meant both to curb money laundering and to jail those involved in the process. Statistics show that financial institutions are doing their part by reporting suspicious transactions,

64. *See id.* § 2, art. 324-7(1).
65. *See id.* § 2, art. 324-7(1)-(11).
66. *See id.* § 2 art. 324-9.
67. *See id.* § 2 art. 4.
68. *See id.*
69. All the following cases are for laundering drug proceeds through different channels: *See* Cass. crim. May 21, 1992-Pourvoi 91-80.304 (through a financial intermediary); Oct. 20, 1993 Pourvoi 93-83.568 (through a foreign exchange company); Dec. 7, 1995-Pourvoi 95-80.888 Arret 6905 (through real estate transactions); July 2, 1997-Pourvoi 96-84.813 Arret 4071 (prosecuted under the tax code for not declaring the proceeds).

most member states have more than tripled the number of reports filed with their Financial Intelligence Units (FIU).[70] (See appendix 1 for exact numbers). However, the prosecutor is having difficulty in obtaining convictions.[71] For example, in France there have been only thirty-four convictions to date for money laundering, although there have been 174 cases referred to the prosecutor.[72]

There could be many reasons for this lack of success in convicting suspected money launderers. One of the possible explanations is the lack of cooperation between the member states. Each member state was required to create an FIU.[73] However, in different member states FIUs took different forms. Some were administrative bodies while others were police or judicial authorities, or a mixture of both.[74] These different forms created barriers to the exchange of information because some member states only permit police authorities to communicate with other police authorities and not with an administrative body.[75] The only current method to resolve this problem is through the use of bilateral agreements.[76] However,

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70. Financial Intelligence Units are the offices set up by each member state to receive and process the suspicious transaction reports. *See* JAMES RICHARDS, TRANSNATIONAL CRIMINAL ORGANIZATIONS, CYBERCRIME, AND MONEY LAUNDERING 239 (1999).

71. *See generally* Rory Watson, *Serious Crime*, 1 Dialogue (Jan.-Feb. 1999) <http://europa.eu.int/en/comm/dg10/infcom/eur_dial/99i1a5s0.html>.

72. Money Laundering: EU Directive to be extended (July 13, 1998) <http://europa.eu.int/comm/dg15/en/finances/general/launden.htm> [hereinafter EU Directive to be Extended].

73. *See* RICHARDS, *supra* note 70, at 238.

74. *See* EU Directive to be Extended, *supra* note 72. The FIUs took the following forms in the individual member states:

Administrative body:	Belgium, Finland, France, Greece, Italy, Netherlands
Police Authority:	Austria, Finland, Germany, Ireland, Sweden, United Kingdom
Judicial Authority:	Luxembourg, Portugal
Mixed Police/Judicial Authority:	Denmark.

See id.

75. Current limits on exchange of information:

Austria:	No exchange with administrative units, and no law enforcement information
Denmark, Germany, Luxembourg:	No exchange with administrative units
Ireland:	No exchange with administrative units or judicial authorities
Finland:	No exchange with police or judicial authorities.

See id.

76. Current bilateral agreements for direct exchange of information:

For intelligence purposes:	Italy, Portugal and Sweden
For intelligence purposes, criminal investigations, and prosecution:	Belgium, France, Netherlands, Spain, and the United Kingdom

See id.

these will likely be ineffective in the fight to eradicate money laundering, as the current statistics illustrate.

Another problem faced by authorities is the sophistication of the money launderers. They are usually extremely well educated and experienced.[77] The advances in technology have made it much easier for anyone to conceal his identity, or money, or simply to create such a complicated trail that authorities will be unable to follow the money back to the source.[78] One of the best examples of technology that aids sophisticated money launderers is the Electronic Money system. This system in its simplest form is an online bank.[79] The Electronic Money system will allow users to transfer cyber money between individuals without the use of a financial intermediary.[80] The current system of monitoring and investigating money laundering would be rendered ineffective

IV. THE FUTURE

The European Community has taken substantial steps to eliminate money laundering. Nevertheless, the future holds many new challenges. With the introduction of the Euro in 2002 and the elimination of national currencies, the European Community must find a way to prevent money launderers from taking advantage of this opportunity.[81] The European Community has already taken into account the dangers of counterfeiting the Euro.[82] Furthermore, the

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77. *See* Wee Timothy L. Obrien, *Cash-Flow Woes: Law Firm's Downfall Exposes New Methods of Money Laundering*, WALL ST. J. EUR., May 29, 1995 (arresting a graduate of Columbia Law School, who was a Manhattan attorney for money laundering); *see also* Barbot, *supra* note 2, at 197; RICHARDS, *supra* note 70, at 49 (detailing the recruitment of accountants, lawyers, money managers, and stock brokers by traffickers).

78. *See* RICHARDS, *supra* note 70, at 75.

79. *See generally* Catherine Lee Wilson, *Banking on the Net: Extending Bank Regulation to Electronic Money and Beyond*, 30 CREIGHTON L. REV. 671 (1997).

80. A good example would be a person using a Smart Card (also known as Stored Value Card). These are similar to debit cards except a person can load their entire bank account onto them. Once the funds are on the card, they are untraceable. A person could simply go to any telephone booth, call any computer in the world, and transfer the money without anyone knowing. *See* RICHARDS, *supra* note 70, at 68.

81. *See* Watson, *supra* note 71 (discussing how banks are going to have difficulty identifying suspicious transactions because they will have a surge in new customers, and therefore the transactions falling under the 15,000 Euros threshold will appear legitimate); *see also Introduction of Euro Seen as Money Laundering Opportunity*, 4 MONEY LAUNDERING L. REP. 3 (Nov. 1998) (Mr. Pierluigi Vigna, Italy's chief anti mafia prosecutor, said that during the first half of 2002, there will be a great flux of money, millions of transactions will occur within a very short period of time, making it impossible to pick out the suspicious transactions).

82. The Commission has an antifraud task force, Uclaf, working on the security features of the new currencies, making it as difficult as possible for counterfeiters. *See* Watson, *supra* note 71.

Euro will facilitate the oldest method of money laundering—carrying a suitcase across borders.[83] The currency of choice for traffickers is the United States' $100 bill. When the Euro begins to circulate, however, it will become the 500 Euro note (approximately $420).[84] It will be easier to hide large amounts of cash while traveling.[85]

The Commission is already in the process of revising the Directive on Money Laundering.[86] The commissioners are calling for more cooperation between the FIUs, and for stricter enforcement of the laws.[87] The European Community has also made it clear that for any country even to be considered for possible membership in the European Community, its laws regarding money laundering have to be in line with those of the community.[88] This is vital because any other policy would create "a race to the bottom," in addition to undermining all the progress achieved by the Community.[89]

The European Community, however, while revising its money laundering legislation, should start considering how it will combat the emergence of new technologies such as Electronic Money systems. The drug problem is an international problem with no boundaries. The European Community has done its share to combat it, and must continue to do so. It must continue to use the assets that it seizes to expand its investigations and constantly train its officers in the latest technology.[90] As an extra incentive, the Commission should consider creating legislation promoting further cooperation, using the seized assets as a reward. The legislation could set forth the conditions

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83. *See Introduction of Euro Seen as Money Laundering Opportunity*, 4 MONEY LAUNDERING L. REP. 3 (Nov. 1998).

84. *See id.*

85. *See id.*

86. *European Commission Calls for Extension of EU Directive on Money Laundering*, European Commission Press Release No. 70/98; July 13, 1998 <http://www.eurunion.org/news/index.htm>.

87. *See id.*

88. *Agenda 2000, Commission Opinion on Hungary's Application for Membership of the European Union* <http://europa.eu.int/comm/dg1a/enlarge/agenda2000_en/op_hungary/b37.htm> (detailing Hungary's adaptation of EU Directive on money laundering).

89. A trafficker would simply deposit his money in the member state with the least regulation, without any problems, because of the free movement of capital.

90. The Member States may not have much success convicting money launderers but it has been able to seize a substantial amount of money:

Figures are in millions of US $:	
Belgium	83.82l (1993-97)
Italy	40.13 (1993-97)
United Kingdom	16.97 (1996)
Sweden	15.02 (1996)

See Watson, *supra* note 71.

under which there would be a sharing of seized assets among all member states involved in an investigation.[91]

The field of money laundering is an ever-changing field. The European Community must continue to adapt its laws continuously to account for advances not only in the technology involved but also in the techniques. It must (1) find a way to improve the detection systems utilized by its authorities, (2) continue to promote cooperation between its member states and nonmembers, and (3) invest more in the fight against money launderers.

APPENDIX. NUMBER OF REPORTS FILED WITH THE FIU[92]

Member States	**1994**	**1995**	**1996**	**1997**
Belgium	2,183	3,926	5,771	7,747
Denmark	200	174	254	
Germany	3,282	2,935	3,289	
Greece				38
Spain		163	670	
France	684	866	902	1,213
Ireland		199	378	
Italy	1,034	2,961	3,218	
Luxembourg		75	77	
Netherlands **(Unusual)** **(suspicious)**	 14,753 3,546	 15,007 2,994	 16,087 2,572	 17,000
Austria	346	310	301	
Portugal	17	85	115	129
Finland	223	190	232	206
Sweden	429	391	502	909
United Kingdom	15,007	13,170	16,125	14,148

91. Instead of the current system of bilateral negotiations every time assets are seized because of the efforts of several member states which results in delays of the disbursement of assets. For example, in 1998, the United States and Switzerland agreed to share $175 million seized from a Colombian drug lord. The United states and Swiss authorities cooperated and then shared the rewards. The United States received $90million which it allocated to bolstering its drug enforcement activities. *See Money Laundering Hotline*, 5 MONEY LAUNDERING L. REP. 7 (Dec. 1998).

92. Reproduced from Money Laundering: EU Directive to be extended (July 13, 1998) <<http://europa.eu.int/comm/dg15/en/finances/general/launden.htm>.