

Money Laundering
and Asset Recovery Section



**Money Laundering and
Bank Secrecy Act Statutes**

Version 7.0

Law Enforcement Sensitive

U.S. Department of Justice
Criminal Division
Money Laundering and Asset Recovery Section
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[justice.gov/criminal-mlars](https://www.justice.gov/criminal-mlars)

Introduction

The Money Laundering and Bank Secrecy Act Statutes flipbook is a go-to resource for prosecutors, agents, analysts, and other law enforcement professionals who seek a quick overview of the money laundering and BSA statutes.

Version 7.0 supersedes all previous versions of the Money Laundering and Bank Secrecy Act Statutes flipbook.

Law enforcement personnel seeking additional resources on money laundering should contact the Money Laundering and Asset Recovery Section (MLARS). MLARS also has a duty attorney available each business day to answer questions relating to money laundering, asset forfeiture, and financial investigations.

Important Phone Numbers

Bulk Cash Smuggling Center (BCSC)

866-981-5332

Clearinghouse for Interbank Payments System (CHIPS)

212-613-0198

Financial Crimes Enforcement Network (FinCEN)

Help Desk 866-272-1310

FedWire

Sean O'Malley 212-720-5573

Robert Amenta 212-720-1858

OCDETF Fusion Center

703-561-7965

El Paso Intelligence Center (EPIC)

888-873-3742

Money Laundering and Asset Recovery Section (MLARS)

Duty Attorney 202-514-1263

Resources

MLARS has resources dedicated to money laundering, including:

- *Federal Money Laundering Case Outlines*: Comprehensive topical index of key money laundering cases
- *Quick Release*: Monthly review of recent cases
- *Asset Forfeiture & Money Laundering Statutes*, which includes *Appendix A: List of SUAs*
- Money Laundering Merger Issue Consultation and Approval Requirements Fact Sheet and Flow Chart
- Bank Secrecy Act/Title 31 Outlines
- Sample pleadings and jury instructions

Additional money laundering resources are available on the [DOJ Book Money Laundering](#) topic page.

Currency Transaction Reports (CTR)

Financial Institution—Each agent, agency, branch, or office within the United States or any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed below:

- Bank(s) (except bank credit card systems);
- Broker(s) or dealer in securities;
- Money services businesses (MSB) as defined in 31 C.F.R. § 1010.100(ff);
- Mutual fund(s) as defined in 31 C.F.R. § 1010.100(t)(10);
- Telegraph companies;
- Casino(s);
- Card club(s);
- Person(s) subject to supervision by any state or federal bank supervisory authority;
- Futures commission merchant(s); or
- Introducing broker(s) in commodities.

See 31 C.F.R. § 1010.100(t).

Currency Transaction Reports (CTR)

31 U.S.C. § 5313 and the regulations in 31 C.F.R. § 1010.311 require financial institutions to file a **Currency Transaction Report (CTR)** for each deposit, withdrawal, exchange of currency, or other payment in currency of more than \$10,000 by, through, or to such financial institutions.

31 U.S.C. § 5324(a) makes it a crime to fail to file a CTR required by § 5313, file a CTR containing a material omission or misstatement, or structure any transaction with one or more domestic financial institutions.

TIP

Bank or casino tellers often remember important details that could show control and ownership of the currency. Consider where you are in the investigation and whether or not the tellers might inform the target about your inquiry before you interview them.

NOTE

All requests for certified copies of BSA documents (except CMIRs) must be submitted to FinCEN. For questions regarding the process, please contact your agency's FinCEN liaison or FinCEN's BSA Certification Office at (703) 905-5150 or CertifiedDocs@fincen.gov.

Currency or Monetary Instruments Reports (CMIR)

31 C.F.R. § 1010.100(dd) defines *monetary instrument* as:

- Currency;
- Traveler's checks in any form;
- All negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, third party checks, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title passes upon delivery;
- Incomplete instruments (including personal checks, business checks, official bank checks, cashier's checks, third party checks, promissory notes, and money orders) signed but with the payee's name omitted; and securities or stock in bearer form or otherwise in such form that title thereto passes upon delivery.

Currency or Monetary Instruments Reports (CMIR)

31 U.S.C § 5316 and the regulations in 31 C.F.R. § 1010.340 create an obligation to report the *transporting* of monetary instruments totaling more than \$10,000 at one time into or out of the United States. CMIRs are completed by individuals who are transporting monetary instruments.

Transporting also includes the mailing or shipping of monetary instruments via United States Postal Service, Federal Express, or similar means.

31 U.S.C. § 5324(c) makes it a crime to fail to file a CMIR required by § 5316, file a CMIR containing a material omission or misstatement, or structure any importation or exportation of monetary instruments.

TIP

A check endorsed without restriction is a bearer instrument and must be reported. A non-endorsed check does not need to be reported.

NOTE

Requests for certified copies of CMIRs should be submitted to HSI-Immigration and Customs Enforcement.

Suspicious Activity Reports (SAR)

SARs do not indicate criminal activity, only a suspicion of criminal activity. SARs are filed within 30 days after the initial detection of suspicious activity. SARs are available directly through FinCEN via FinCEN Query.

SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS

Who Files	Filing Threshold	Filing Date
Banks	\$5,000	30 days
Money Services Businesses (MSBs)	\$2,000/ \$5,000	30 days
Casinos and Card Clubs	\$5,000	30 days
Securities and Futures Industries	\$5,000	30 days
Insurance Companies	\$5,000	30 days
Investment Companies (Mutual Funds)	\$5,000	30 days

Suspicious Activity Reports (SAR)

31 U.S.C. § 5318(g) requires a financial institution to report any transaction that it suspects:

- Involves funds derived from illegal activity or is intended or conducted to hide or disguise funds or assets derived from illegal activity;
- Is designed, whether through structuring or other means, to evade the requirements of the BSA; or
- Has no business or other apparent lawful purpose or is not the sort of transaction in which the particular customer would be expected to engage.

SARs should not be:

- Referenced in an affidavit to support a search, seizure, or Title III warrant;
- Referenced in an indictment (or other charging instrument) or motions;
- Shown to a witness during an interview; or
- Given to anyone outside of the investigation.

Improper disclosure of a SAR is prohibited by § 5318(g)(2)(A). The penalty for disclosure is 5 years and/or a \$250,000 fine (31 U.S.C. § 5322). The government should oppose all discovery requests for SARs. If you have any questions about the use of SARs, please call MLARS.

SAR supporting documents are available from the filing institution upon request. No subpoena is necessary. (31 C.F.R. § 1020.320(d) [banks]; 1021.320(d) [casinos]; 1022.320(c) [MSBs]; 1023.320(d) [brokers/dealers]; 1024.320(c) [mutual funds]; 1025.320(c) [insurance]; 1026.320(d) [commodities brokers]).

Form 8300 – Cash Payments over \$10,000

Form 8300 is completed by trades and businesses, including lawyers, involved in a single transaction or related or connected transactions. Form 8300 does not apply to personal checks.

If multiple payments that exceed \$10,000 are received in a trade or business within a 12-month period, a Form 8300 must be filed within 15 days of the date of the payment that caused the amount to exceed \$10,000.

Form 8300 – Cash Payments over \$10,000

31 U.S.C. § 5331 and the regulations in 31 C.F.R. § 1010.330 require anyone who is engaged in a trade or business to report any transaction of more than \$10,000 in coin or currency.

For the purposes of § 5331, currency is defined as coin and currency of the United States or any other country or a cashier's check, bank draft, traveler's check, or money order having a face amount of not more than \$10,000.

31 U.S.C. § 5324(b) makes it a crime to cause, or attempt to cause, a trade or business to fail to file a report required by § 5331, file a report containing a material omission or misstatement, or structure any transaction with one or more non-financial trades or businesses.

Structuring

To prove that a defendant engaged in structuring, the government must prove that the defendant knew of the relevant reporting requirement.

The government need not prove that the defendant knew structuring was illegal; it is sufficient to prove intent to evade the reporting requirement.

31 U.S.C. § 5324 makes no reference to the source of the money or to the defendant's motive; its singular focus is on the method employed to evade the reporting requirement. While it is not necessary to establish a nexus between the structured funds and another crime, the criminal origin of the funds, to the extent it provides a motive for concealment, may constitute additional circumstantial evidence of the defendant's knowledge and intent.

The jury may infer a defendant's knowledge of the reporting requirement and their intent to evade it from the pattern of their transactions—depositing a large sum of cash in sub-\$10,000 transactions, with multiple deposits sometimes occurring at different banks on the same day, is powerful circumstantial evidence.

NOTE

Each financial institution defines its own banking day to determine if a transaction occurred on the same day.

Structuring

31 U.S.C. § 5324 makes it a crime to engage in certain conduct with respect to four different BSA reporting requirements.

It is a crime to break up transactions to avoid transaction reporting requirements under:

- 31 U.S.C. § 5313 (greater than \$10,000) (CTR)
- 31 U.S.C. § 5316 (greater than \$10,000) (CMIR)
- 31 U.S.C. § 5325 (equal to or greater than \$3,000)
(Customer ID Required)
- 31 U.S.C. § 5331 (greater than \$10,000) (Form 8300)

The penalty for a § 5324 violation is imprisonment for not more than 5 years and/or a fine of \$250,000. If the structuring involves more than \$100,000 in a 12-month period or is performed while violating another U.S. law, the penalty is increased to imprisonment not to exceed 10 years and/or a fine of \$500,000.

NOTE

DOJ's [Asset Forfeiture Policy Manual](#) provides specific guidance on the use of asset forfeiture authorities in connection with structuring offenses.

Bulk Cash Smuggling

If an individual enters or leaves the United States and makes no attempt to conceal the monetary instruments, the bulk cash smuggling statute does not apply. However, the individual could still be prosecuted for failure to file a CMIR. Go to [Tab 4: CMIR](#) for a definition of monetary instruments.

TIP

Money found on couriers can be forfeited. Couriers can be a good source of information on the criminal organization.

Ask questions to establish:

- Ownership of the money
- Source of the money
- Subject's destination
- Vehicle information, if applicable
- The source and use of the money (to the extent Fourth and Fifth Amendment limitations allow)

See MLARS *Financial Investigations Field Guide* for a complete list of questions.

Bulk Cash Smuggling

31 U.S.C. § 5332 makes it a crime to

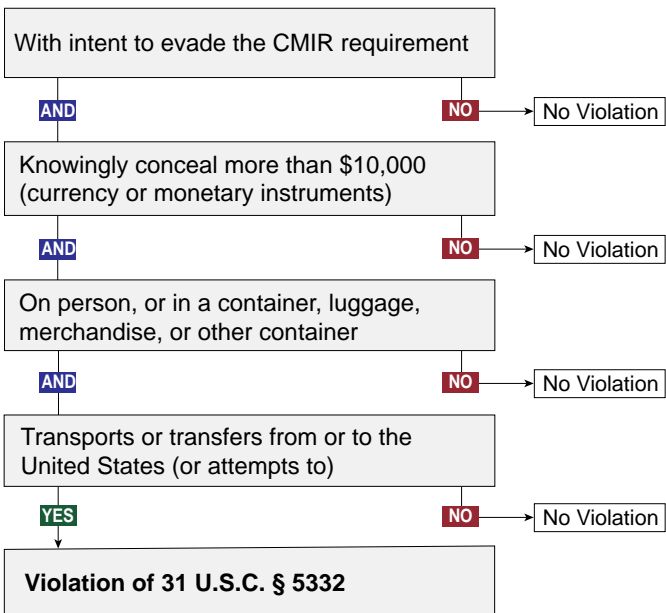
- Intend to evade reporting requirements;

AND

- Knowingly conceal on person, or in conveyance, in luggage, in merchandise, or other container;

AND

- Transport or transfer (or attempt to transport or transfer) more than \$10,000 in currency or other monetary instruments into or out of the United States.



Basic Money Laundering Provision

Financial transaction means a transaction:

- Affecting interstate or foreign commerce involving:
 - the movement of funds by wire or other means;
 - one or more monetary instruments;
 - transfer of title to any real property, vehicle, vessel, or aircraft;

OR

- Involving the use of a financial institution engaged in activities affecting interstate or foreign commerce.

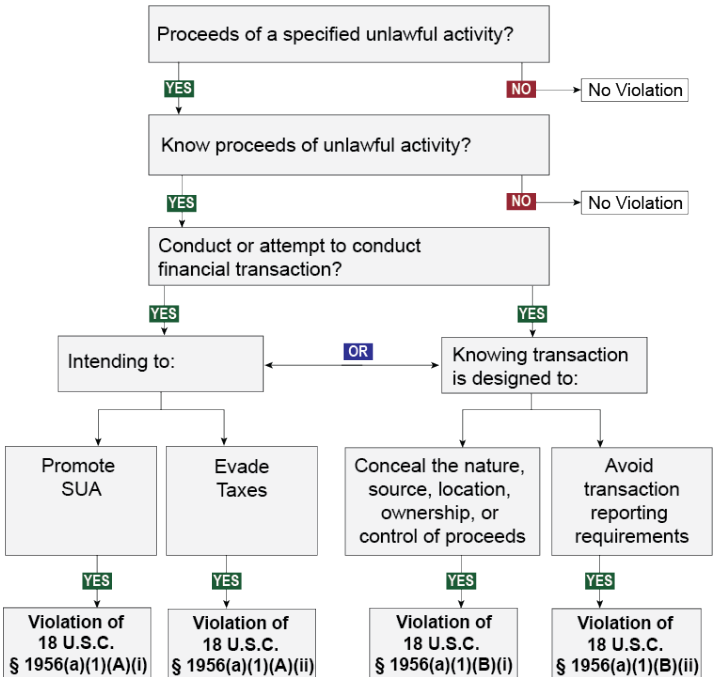
See 18 U.S.C. § 1956(c)(4).

Go to [Tab 12: Spending Statute](#) for more information on financial institutions.

Basic Money Laundering Provision

18 U.S.C. § 1956(a)(1) makes it a crime to knowingly conduct, or attempt to conduct, a “financial transaction” with proceeds from “specified unlawful activity” (SUA) either:

Intending to:	OR	Knowing the transaction is designed in whole or part to:
<ul style="list-style-type: none"> • Promote SUA <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Evade taxes 		<ul style="list-style-type: none"> • Conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Avoid transaction reporting requirements



Sting Provision

Represented means:

- Any representation made by a law enforcement officer; or by another person at the direction of, or with the approval of, a federal official authorized to investigate or prosecute 18 U.S.C. § 1956 violations.

NOTE

Section 1956(a)(2)(B) has its own sting provision applicable to international transfers of funds represented to be SUA proceeds. Go to [Tab 11: International Money Laundering Provision](#).

Sting Provision

18 U.S.C. § 1956(a)(3) makes it a crime to conduct or attempt to conduct a financial transaction with money or other property provided by a federal agent or someone working for the agent that is represented to be proceeds of an SUA with the intent to:

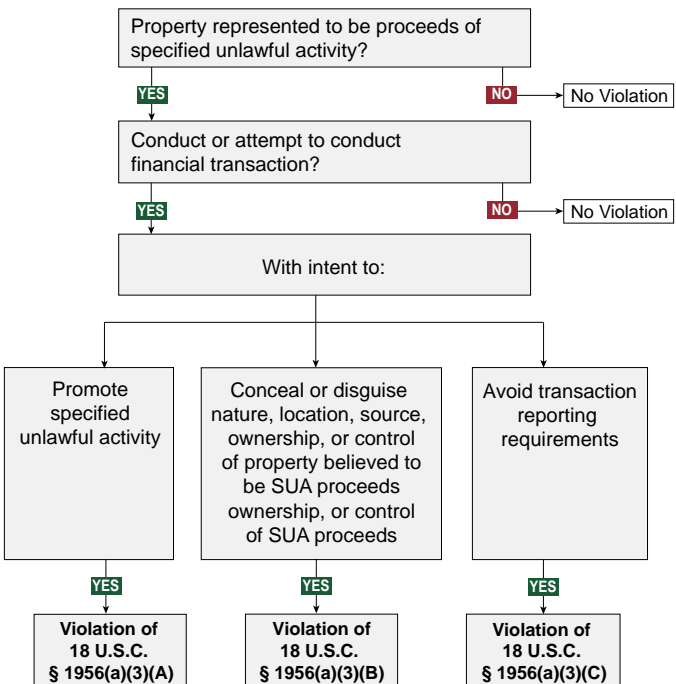
- Promote SUA;

OR

- Conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds;

OR

- Avoid transaction reporting requirements.



International Money Laundering Provision

Monetary instruments means:

- Coin or currency of the United States or of any other country, traveler's checks, personal checks, bank checks, and money orders;

OR

- Investment securities or negotiable instruments, in bearer form or otherwise in such form that title passes upon delivery.

See 18 U.S.C. § 1956(c)(5).

The term *funds* is not defined by § 1956, but courts have interpreted the term to include a financial asset which allows a person to pay for goods and services, or can be exchanged for another currency, including virtual or digital currency and cryptocurrencies like Bitcoin.

NOTE

Because § 1956(a)(2)(A) contains no proceeds element, it does not implicate the merger issue discussed in [Tab 16: Merger / Approvals / Consultations / Notifications](#).

Section 1956(a)(2)(B) has its own sting provision applicable to international transfers of funds represented to be SUA proceeds. Where the purpose of the transportation or transfer of funds is to either conceal the proceeds or avoid a transaction reporting requirement, defendant's knowledge may be established by proof that a law enforcement officer represented the purpose of the transaction and defendant's subsequent statements or actions indicate that defendant believed those representations to be true.

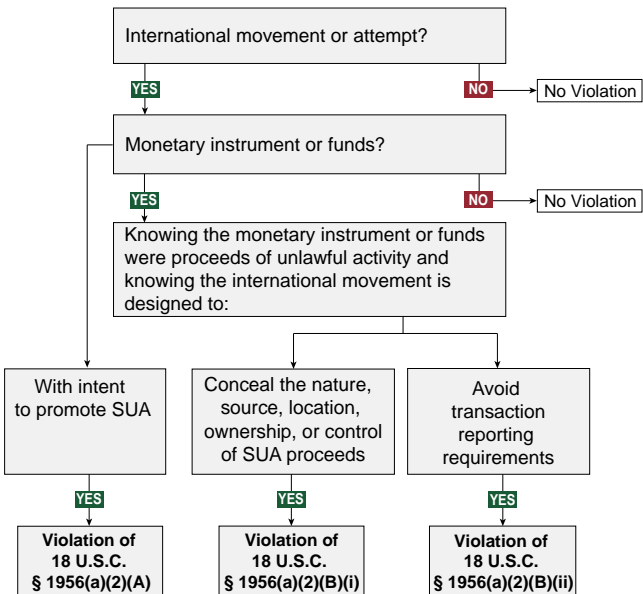
International Money Laundering Provision

18 U.S.C. § 1956(a)(2) makes it a crime to transport, transmit, or transfer, or attempt to transport, transmit, or transfer, monetary instruments or funds from the United States to or through a place outside the United States, or to the United States from or through a place outside the United States. It can be violated by:

- Moving any money internationally (including money that is not criminal proceeds) with the intent to promote an SUA;

OR

- Moving money internationally, knowing that it is the proceeds of some form of unlawful activity, and knowing that the movement is designed to conceal or disguise the nature, location, source, ownership, or control of the proceeds of an SUA, or to avoid a transaction reporting requirement.



Spending Statute

Monetary transaction means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in 18 U.S.C. § 1956(c)(5)) by, through, or to a financial institution (as defined in § 1956(c)(6)), including a transaction that would be a financial transaction under § 1956(c)(4)(B). Monetary transaction does not include any transaction necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment.

See 18 U.S.C. § 1957(f)(1).

Financial institutions include any foreign banks as defined in 12 U.S.C. § 3101 **and** any financial institutions as defined in 31 U.S.C. § 5312 and 31 C.F.R. § 1010.100(t).

Section 5412(a)(2) defines a financial institution to include:

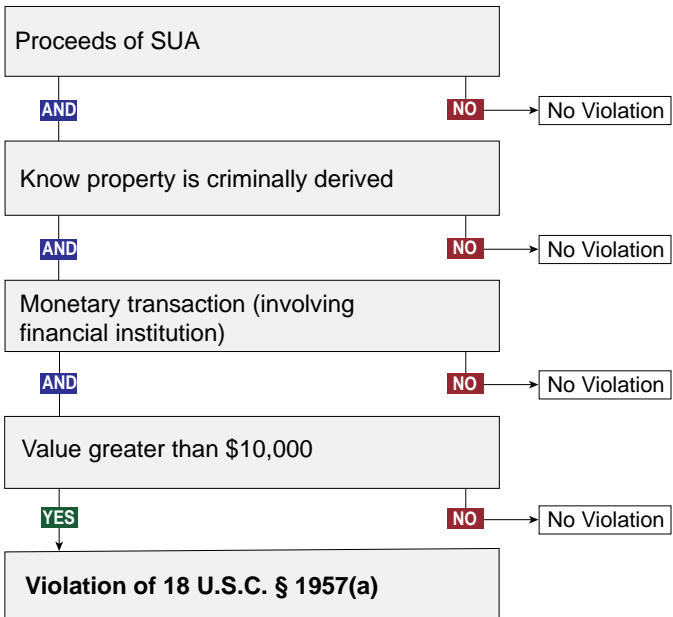
- Insured bank
- Commercial bank
- Private banker
- Credit union
- Thrift institution
- Insurance company
- Branch or agency of a foreign bank
- Securities/futures broker/dealer
- Investment banker or company
- Issuer, redeemer of travelers' checks, checks, money orders
- Casino
- Pawnbroker
- Travel agency
- Money transmitter
- Telegraph company
- Currency exchange
- Real estate company
- Operator of a credit card system
- Loan or finance company
- Vehicle sales of autos, boats, aircraft
- Dealer in precious metals, stones, or jewels
- Any person who engages as a business in the transmission of currency, funds, or value that substitutes for currency

Spending Statute

18 U.S.C. § 1957 makes it a crime to knowingly engage, or attempt to engage, in a monetary transaction with proceeds of an SUA in an amount greater than \$10,000 by, through, or to a financial institution.

NOTE

Courts' decisions regarding whether commingled funds may be used to satisfy § 1957's \$10,000 requirement have not been consistent. Check the law in your circuit.



Money Laundering Conspiracy

A **conspiracy** is an unlawful agreement between two or more people to commit a crime.

NOTE

The courts are somewhat unclear regarding the elements of an 18 U.S.C. § 1956(h) conspiracy. Refer to the law in your circuit.

Prosecutors should avoid charging a money laundering conspiracy as an object of an 18 U.S.C. § 371 conspiracy. Section 371's language and the Supreme Court's discussion of the statute in *Whitfield v. United States*, 543 U.S. 209 (2005), suggest that § 1956(h) encompasses all money laundering conspiracy offenses, but this remains an open issue until the Supreme Court explicitly addresses it. Also, § 371 does not provide authority for money laundering forfeitures under 18 U.S.C. § 982(a).

Sections 1956 and 1957 may be charged as multiple objects of a § 1956(h) conspiracy. As long as the jury is instructed that it must be unanimous as to which offense(s) were the object of the conspiracy, proof of either object will support a conviction.

Section 1956(h) may not be used to charge violations of Title 31 offenses.

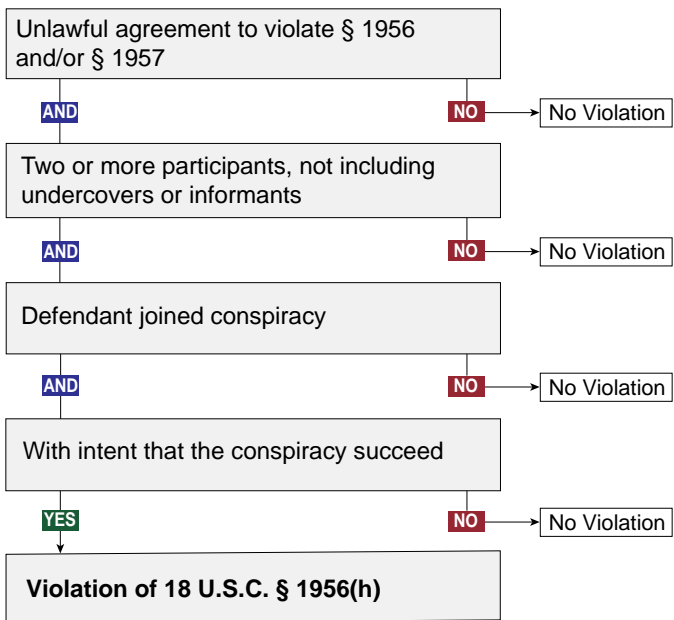
Money Laundering Conspiracy

18 U.S.C. § 1956(h) makes it a crime to conspire to commit any of the offenses set forth in § 1956 and/or 18 U.S.C. § 1957.

To charge a conspiracy, there must be at least two participants, not including any undercover government agents or informants.

The government has to prove that each defendant joined the conspiracy at some point with knowledge of at least some of its purposes or objectives and with the intent to accomplish them.

Proof of an overt act is not required for a conviction of a money laundering conspiracy. See *Whitfield v. United States*, 543 U.S. 209 (2005).



Sentencing Guidelines

A number of sentencing provisions in the U.S. Sentencing Guidelines depend on whether the money laundering conviction was a violation of 18 U.S.C. §§ 1956 or 1957 or defendant(s) were convicted of a conspiracy under § 1956(h). See USSG §2S1.1 and the Application Notes.

Venue

Section 1956 has its own venue provision, § 1956(i), which also includes offenses under § 1957.

Section 1956(i)(1) states that “a prosecution for an offense under this section or § 1957 may be brought in (A) any district in which the financial or monetary transaction is conducted; or (B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.”

Section 1956(i)(2) provides venue for an attempt or conspiracy offense: “A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.”

Extraterritoriality

Section 1956 has its own extraterritorial provision, § 1956(f), which states that “[t]here is extraterritorial jurisdiction over the conduct prohibited by this section if (1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and (2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding \$10,000.”

Section 1957 also has its own extraterritorial provision, § 1957(d), which states “that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person.”

Comparing 18 U.S.C §§ 1956 and 1957

18 U.S.C § 1956

- 20-year felony
- Financial transaction (interstate or foreign commerce)
- Knows some form of unlawful conduct
- No dollar threshold
- Sting
- Specific intent
- No Sixth Amendment exclusion

18 U.S.C § 1957

- 10-year felony
- Monetary transaction (requires use of financial institution)
- Knows property is criminally derived
- Greater than \$10,000
- No Sting
- No specific intent
- Excludes transaction necessary to protect Sixth Amendment rights

Unlicensed Money Transmitting Businesses

18 U.S.C. § 1960(b)(2) defines **money transmitting** to include transferring funds on behalf of the public by any and all means, including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier.

31 U.S.C. § 5330(d)(1), which creates FinCEN registration requirements, defines a **Money Transmitting Business** as any business other than the U.S. Postal Service that:

- (A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments or any person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside the conventional financial institutions system;
- (B) is required to file currency transaction reports under 31 U.S.C. § 5313; and
- (C) is not a depository institution.

NOTE

FinCEN provides contact information to assist law enforcement with determining if a money transmitting business needs to register in a state, and whether it has registered with FinCEN.

- **State Contact Information for MSBs**
fincen.gov/sites/default/files/shared/msbstatecontactsfinal.pdf
- **MSB Registrant Search Page**
fincen.gov/msb-registrant-search

Unlicensed Money Transmitting Businesses

18 U.S.C. § 1960 makes it a crime to conduct, control, manage, supervise, direct, or own a money transmitting business:

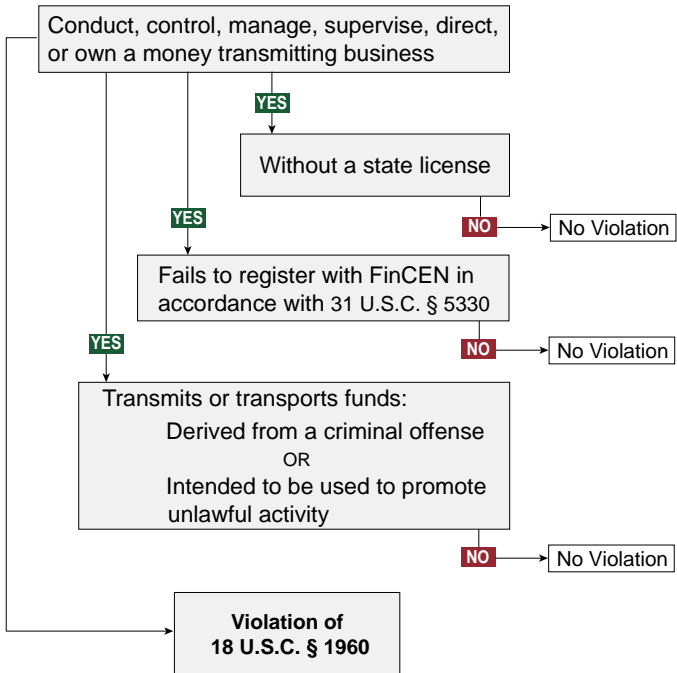
- Without a state license if that is a crime in the state [18 U.S.C. § 1960(b)(1)(A)];

OR

- While failing to register with FinCEN in accordance with 31 U.S.C. § 5330 [18 U.S.C. § 1960(b)(1)(B)];

OR

- While transmitting or transporting funds known to be derived from a criminal offense OR with the intention to promote unlawful activity [18 U.S.C. § 1960(b)(1)(C)].



MERGER

[Justice Manual § 9-105.330](#) requires prosecutors to obtain prior approval for certain money laundering prosecutions that implicate the “merger issue” identified in the Sense of Congress provision in § 2(g) of the Fraud Enforcement and Recovery Act of 2009, Pub. L. 111-21, § 2, 123 Stat. 1618 (May 20, 2009). JM § 9-105.330 requires prosecutors to consult with MLARS, and to obtain prior approval from an appropriate authorizing official, before filing an indictment or criminal complaint charging 18 U.S.C. §§ 1956 or 1957, where the conduct to be charged as money laundering under §§ 1956(a)(1)(A)(i) or 1957, or a conspiracy with one of these objects, consists of a financial transaction alleged to have promoted the SUA that generated the proceeds, and where both the money laundering and the SUA itself are being charged as offenses.

To determine whether consultation with MLARS is required, prosecutors should ask the following questions:

- Does the indictment or complaint propose to charge separately both an SUA offense and a money laundering offense or conspiracy involving proceeds generated by that same SUA?
 - Does the proposed indictment or complaint charge §§ 1956(A)(1)(A)(i), 1957, or a conspiracy under 18 U.S.C. §§ 371 or 1956(h) where the object of the conspiracy is a § 1956(a)(1)(A)(i) or § 1957 offense?
 - Did the financial or monetary transaction to be charged:
 - promote the charged SUA offense that generated the proceeds involved in the financial transaction—other than future SUA criminal conduct or a new phase of the SUA activity or scheme;
- OR**
- involve the payment of an essential expense or an ordinary business expense or expenses of the criminal operation that generated the SUA proceeds involved in the transaction;
- OR**
- constitute an integral part or essential step in the commission of the SUA offense that generated the proceeds involved in the transaction?

If the answer to all three of these questions is **YES**, consultation and approval are **REQUIRED**. For further information and discussion, see MLARS’ *Money Laundering Merger Issues Consultation and Approval Requirements Fact Sheet*, or contact MLARS.

A complete list of the approval, consultation, and notification requirements for money laundering cases can be found in [Justice Manual](#) (JM) § [9-105.000](#).

Some of the most important requirements are approval (JM § [9-105.300](#)), consultation, and reporting (JM § [9-105.330](#)).

Approval Requirements (JM § [9-105.300](#))

- Extraterritorial Jurisdiction
- Tax Division Authorization
- Prosecutions of Attorneys
- Prosecution of a Financial Institution

Consultation and Reporting Requirements (JM § [9-105.330](#))

- Forfeiture of Businesses
- Cases Filed Under 18 U.S.C. § 1956(b)
- Cases Involving Financial Crimes
- Certain Promotion Cases
- Prosecutions in Receipt and Deposit Cases
- Title 31 Investigations of Financial Institutions

DOJ's [Asset Forfeiture Policy Manual](#) provides specific guidance on the use of asset forfeiture authorities in connection with structuring offenses, including approval and notification requirements.