

**MONEY LAUNDERING THROUGH INTERNATIONAL TRADE
LEGITIMATE BUSINESSES VIEWED BY LAW ENFORCEMENT
AS ENABLERS OF TERRORISM AND DRUG TRAFFICKING**

The last 15 years have seen major changes in law and law enforcement as the government has tried to stem the flow of drugs and the movement of drug proceeds. These changes are now in high gear because of the terrorist attacks on September 11, 2001. Since September 11, the government has recognized that terrorists use the same techniques as drug smugglers and money launderers to do their dirty work. There is little doubt that the way international business was done before will change as a result.

The coming phase is the government's drive to penetrate new levels of business where seemingly innocuous transactions occur that "enable" terrorism, drug trafficking and money laundering and by providing a source of "currency" able to cross international borders undetected and unmolested.

Discussed in the article below are two of the techniques terrorists, drug dealers and money launders use to ply their trades and the actions taken by law enforcement to stop them. One technique is the Black Market Peso Exchange and the other is False Invoicing. Unfortunately, you will see that legitimate businesses are viewed as "enablers" of these unlawful activities and are the likely injured bystanders. The question is whether they are innocent bystanders.

BLACK MARKET PESO EXCHANGE. The two principal uses of the Black Market Peso Exchange ("BMPE") are: (1) for the conversion of non-U.S. currency earned by lawful businesses in drug producing countries to U.S. dollars to pay for imported goods; and, (2) to conceal tax, customs duty and currency evasions committed by legal businesses that import products purchased in the United States with U.S. dollars. In both cases, the objective is to convert money to or from U.S. dollars and to move U.S. dollars or non-U.S. currency across international borders.

Beyond the risk to the U.S. and its citizens, the business risk associated with the Black Market Peso Exchange is that businesses engaged in ordinary international transactions are exposed to extraordinary liability by being enmeshed in such transactions. This can happen without any intent to act unlawfully. U.S. businesses engaged in importing and exporting, shipping, freight forwarding and customs brokering are routinely exposed to these risks. The risk is failing to identify for these businesses the liabilities, sometimes-unlimited liabilities, arising from otherwise lawful transactions. The goal is to identify the liabilities and advise these businesses how to avoid incurring them.

FALSE INVOICING. Money laundering through false invoicing in international trade is a growing problem according to a study by Florida International University. Accordingly to the analysis conducted by business professors Simon Pak and John Zdanowicz, more than \$131 billion was laundered out of the U.S. in 2000 due to artificial overpricing and underpricing of

products entering and leaving the U.S. Using the same methodology, the two researchers estimate that money laundered through phony pricing schemes totaled \$105 billion in 1998 and \$126 billion in 1999.

Money laundering through false invoicing is an outgrowth of law enforcement's effort to identify and forfeit money laundered through the banking system. Except for the detection of evasion or avoidance of customs duties, overpricing and underpricing has been all but ignored in law enforcement's efforts to prevent money laundering of drug proceeds. Law enforcement, other than the U.S. Customs Service and the IRS, have not had responsibility for analyzing international transactions involving otherwise routine imports and exports. For the U.S. Customs Service and the IRS, their responsibility has been policing the pricing of imported and exported products for duty collection and transfer pricing enforcement. Neither effort was targeted at nor useful in identifying false invoicing as a means to laundering money earned from illegal drug transactions.