

Abstract

The laundering of earnings from illegal activities is a phenomenology of crime that has continued for more than half a century, and it struck indiscriminately every nations and every economy. Italy has been one of the nations most involved in this crime, due to the presence of numerous criminal organizations such as Cosa Nostra, 'Ndrangheta and Camorra. In this regard, the regulatory activity of the legislator has tried to be as accurate and rigorous as possible.

The entire international community shares this problem. In particular, after the spread of globalization, the removal of borders and the free movement of capital from one financial centre to another, combating money laundering is an issue more relevant than ever.

Money laundering was estimated in 2011 by the International Monetary Fund in a value between 2% and 5% of global gross domestic product, for a total of about \$ 600 billion.

The importance of this regulatory process and the depth-analysis of the resulting contrast procedures are also fundamentally important since, international terrorist organizations are able to raise the funds needed to perpetrate their plans by recycling. It is very current, actually the hard news about massacres, beheadings and attacks carried out by the terrorist jihadist group called "Islamic State of 'Iraq and al-Sham" better known as ISIS.

The objective of this paper is to analyse the history of the regulations for the prevention of money laundering and terrorist financing, how it was decided to respond and then on the offensive in order to suppress this crime.

The paper consists of three sections which respectively describes: the decisions and directives of the European Union, the regulatory activity by the

Italian legislator, and a case that more than any other responds to the exact dynamics of what has been said up to now: the USA PATRIOT Act.

The first chapter starts from a premise about the many features of recycling, and then describes the three phases in which we could break down the process: immersion, laundering, and integration. Secondly it is analysed the legal acts of the European Union. The first act made by European legislation is the Directive n. 91/308 of June 10th 1991. This is focused mainly on the creation of guidelines that states could follow. The aim pursued by the act was to set up cooperation between police and judicial bodies, including banks and financial services. The second step is the Directive 2001/97 / EC of December 4th 2001, which brought minor revisions. The main provision in this area is Directive 2005/60/EC of October 26th 2005, also known as: Third Directive on Money Laundering. This repealed entirely the two previous directives, becoming the regulatory text of reference for all the member countries of the Union.

The second chapter deals with the history of the Italian rules. First of all there is a description of the configuration of the offense of money laundering according to the Italian doctrine, which separates the crime into two phases. The commitment of the predicate offense which has actually produced the value, and in a second moment the recycling of the earnings. Secondly it is analysed the various laws and the many decrees that have followed, starting with the Decree Law March 21st 1978, n. 59, which has criminalized money laundering. The chapter concludes with a brief focus on the role the Internet is playing and the possibilities that it can offer to criminals engaged in international money laundering.

The last section of the elaborate examines the provisions of the Patriot Act, designed to counter the use of the American financial system as a tool for money laundering and the financing of international terrorism. This particular piece of legislation was put in place as a consequence of the attack to the Twin Towers on the September 11th 2001. It is still one of the most rigorous and specialized texts in the field of recycling. Caused it reformed in a very broad way the previous

regulations, it has been, and it still is, one of the piece of law that has attracted more disapproval. Some of these are present below the analysis of prescriptions.

By the doctrine emerged through the activities of the legislators, it is clear that the problem was considered and still is now considered vital to the fight against national and international criminal organizations; the possibility of confiscating the proceeds of criminal organizations such as Cosa Nostra or Camorra in Italy; to be able to trace the funds of the South American cartels of international drug trafficking; to be capable to unravel the complicated ways in which the international terrorist groups are able to finance the attacks. These are the police and intelligence units' main objectives.

The strategy that has been considered the best way to achieve a so difficult purpose is to follow the trails lived by the money and to pursuit it. The capital reinvested in financial assets, in business, or in any other instrument, are the engines, the lifeblood without any criminal organizations cannot survive. It has been analysed that the simply pursuing of the people in charge of all these different criminal structures is not sufficient and does not guarantee the same results.

The second reason for the strong and shared desire to hinder the international money laundering, through the creation of legislative instruments more effective and efficient by the entire international community resides in the dynamics of the stock market. This is constantly flooded with illicit capital causing discrepancies and dysfunctions. It has been shown how a large amount of illicit funds are merged in the main financial centres, particularly on Wall Street, through offshore centre, which have played an active role in the outbreak of the derivatives bubble and the subsequent international crisis of 2007.

The European Union as a supranational institution has played and keep playing a leading role. It fought so consists in supplying to each state the necessary legal instruments to combat this phenomenon. Anyway it is important to point out that, for its nature, the European Union require the same intensity and depth from national enforcement.

In this respect, Italy has done a great normative job. The legislative framework is based on collaboration and interaction between: Ministry of Economy and Finance, who designs the regime to combat money laundering; the Financial Intelligence Unit, which plays the role of financial intelligence; prudential and market conduct supervisor such as the Bank of Italy, Consob and the Ivass, and finally the GdF and other law enforcement agencies.

The International Monetary Fund assessing our regulatory regime has concluded that the Italian anti-money laundering framework is extensive and mature, with a high level of compliance with the "FATF 40 + 9 Recommendations". The Italian law enforcement developed so far allows Italy to successfully carry out more than 600 anti-money laundering operations every year, appearing as one of the jurisdictions with the highest percentage of success in Europe and in the world.

During the course of this paper I have briefly examined, the role the Internet is playing in the international money laundering process. International Organizations and States are taking action to provide a regulatory framework that could hinder this new instrument for money laundering. I believe that the legislative work, in the near future, should be focused more on this critical issue, since the Internet has become the main tool of international money laundering.

For the preparation of this paper, I have benefited from an extensive literature that has led me to understand the nature, as well as the extent of recycling. Through studying the numerous articles of journals, I came into possession of such information and concepts that have allowed me to analyse this huge regulatory story. I tried, using the tools at my disposal, to be exhaustive in the discussion of the contents of this thesis in order to allow a reader, who is approaching to this subject for the first time, to grasp the salient points of a regulatory action that is started in a historical moment very different from the one in which we live today.