

International Spotlight on the Netherlands

**Special
Edition**



Safeguarding America through
Financial Investigations

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Cornerstone is U.S. Immigration and Customs Enforcement's (ICE) comprehensive investigative initiative for fighting financial crime.

The *Cornerstone Report* is a quarterly bulletin highlighting key issues related to ICE financial, narcotics and public safety investigations.



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U.S. Immigration and Customs Enforcement (ICE) participates frequently in the U.S. Department of State International Visitors Leadership Program (IVLP) to show international guests the ins and outs of the agency's daily work. The IVLP invites foreign government participants to the United States to strengthen relationships, enabling them to get to know counterparts in the United States and learn about American culture as a whole.

Recently, Anne-Chris Visser, senior coordinating policy advisor for the Netherlands Ministry of Finance, visited ICE in Washington D.C. Her main responsibilities are developing policy regarding anti-money laundering and counterterrorism financing in the Financial Action Task Force and financial countermeasures, like designations and freezing of assets. She met with ICE Special Agent Kevin Tyrrell from the Financial Programs/Cornerstone Unit at ICE headquarters. As it turned out, there are a lot of similarities

between the United States and the Netherlands in the risks, vulnerabilities and trends in money laundering. One striking example is the exploitation of money service businesses for money laundering. For the *Cornerstone Report*, Ms. Visser wrote a contribution about the risks and vulnerabilities of money service businesses. The contribution represents her personal view only.

Walking a Fine Line: Regulation and Enforcement of Money Service Businesses

"The chain is as strong as the weakest link. A key element for successful Anti-Money Laundering-Combating the Financing of Terrorism (AML-CFT) regime is cooperation between the public and private sectors. It is a complete joint exercise of the private sector and public sector together. The role of the Financial Intelligence Unit (FIU) is vital in this joint exercise to ensure the quality of the data through analyzing of available information."

— Anne-Chris Visser,
senior coordinating policy advisor,
Ministry of Finance of the Netherlands

The X Factor: The Attractiveness of Money Transfer Businesses

Using money transfer businesses (regulated or unregulated) enables a client to send money to the far end of the world, where it arrives within minutes, without going through elaborative administrative requirements. These transfers are based on mutual trust between the sender and the receiver. An

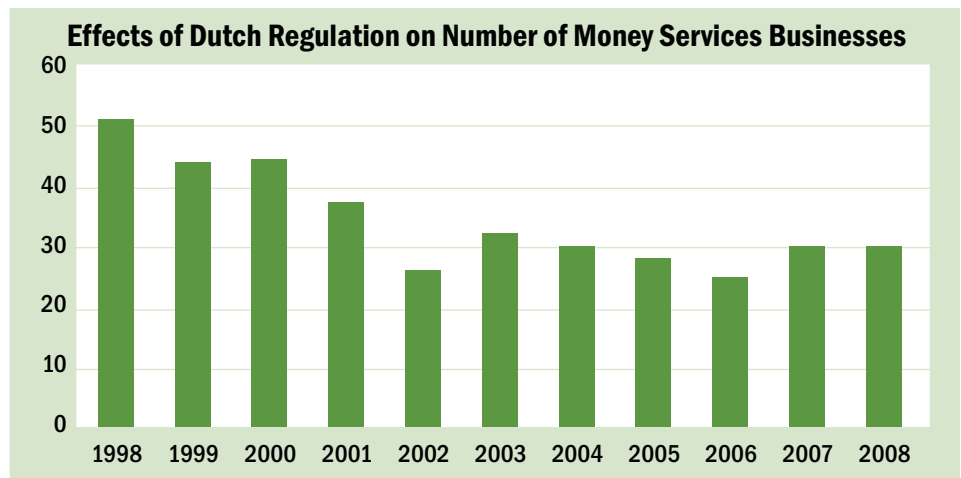
important element in the attractiveness of the money transfer businesses is the fact that the transfers reach the most remote places, where no financial structure exists.

One important legitimate function of money transfer businesses is that immigrants worldwide rely on them for the financial support of family abroad. Unfortunately, the attractiveness of the money transfer businesses has also been discovered by criminals. They benefit from the speed in transferring money and the limited traceability of the originator and the receiver of the transfer.

Facts and Findings of the Dutch Regulation on Money Transfer Businesses

In the Netherlands, the first specific legislation on money transfer businesses dates from 1995. Before 1995, money transfer businesses fell under the scope of a general prohibition without a banking license. The money transfer business provided a growing niche market, so more money exchange offices and money transfer businesses were established. One important factor of the growth of the money transfer businesses is immigration and the desire to support family members abroad.

However, already in 1995 it was clear from law enforcement investigations that in drug related and money laundering cases, both money exchange and money transfer businesses were frequently used to transfer money. From that moment onwards, legislation and



AML-CFT supervision for money exchange and money transfer businesses were introduced.

After the terrorist attacks of 2001, the legislation for money transfer businesses was strengthened and a new act on money services businesses came into force on July 19, 2002. The stringent new legislation resulted in a considerable decrease in the number of providers, as shown by the chart above.

The risk of such a significant decrease in providers is that the providers might continue to offer their services, but without a license, essentially transforming themselves into an underground banking system. Close cooperation between law enforcement and financial supervisors ensured that previously licensed providers did indeed withdraw from the market.

Further amendments to the legislation are on the way. To promote an open European integrated financial market, the member states of the European Union drafted, with the European Commission, the Payment Service Directive (PSD). This legislation enables payment service providers, like money transfer businesses, to use similar payment structures. To implement the PSD, our national

legislation will be amended, especially in relation to the licensing requirements. The new legislation is planned to come into force on November 1, 2009.

Some Facts and Findings Regarding Regulation and Law Enforcement

The following is a short overview of the current requirements that money transfer businesses have to comply with in the Netherlands. This is simply an introduction; it is not meant to serve as a complete detailed description of the supervision and law enforcement of money service businesses.

Pursuant to their licensing legislation, money transfer businesses are obliged to maintain a full internal administrative and organizational procedure handbook to ensure the integrity requirements of their offices and employees. Examples of these requirements are, among others, a fit and proper test for the owner and the person in charge of setting the policy, an accountancy report by a separate accountant and a strict division between working with the clients and the handling of settlement and cashier functions.

On the basis of the Dutch AML-CFT legislation, money transfer businesses are obliged to identify each and every client (natural person and if it concerns a legal person, the beneficial owner of the legal entity), regardless of the size of the transaction. The records of the identification have to be kept for five years. Furthermore, the money transfer businesses are required to report each transfer of 2,000 euros and above to the

Financial Intelligence Unit Netherlands (FIU NL). Even though these transactions are not necessarily suspicious, through analyzing and matching the information with other existing information in the FIU NL, the Dutch have discovered interesting patterns in criminal activity. The information has proven to be very useful to law enforcement. Finally, money transfer businesses are also obliged to report unusual transactions below the threshold when they have reason to believe that the transaction could be related to money laundering or terrorist financing.

Over the years, the FIU NL has seen a gradual increase in reporting by money transfer businesses. Below is a chart from the annual reports 2007 of the FIU NL:

Number of Unusual and Suspicious Transaction Reports		
Year	Unusual Transaction Reports	Suspicious Transaction
2007	188,947	40,893
2006	146,158	28,994
2005	130,992	29,573
2004	116,615	31,008

Case Examples

Case examples derive from the Financial Action Task Force (FATF) "Money Laundering and Terrorist Financing Typologies, 2004-2005" report and from our contribution to the 2009 typology study of money service businesses. These documents and more information on typologies and risk indicators are available at the FATF Web site at www.fatf-gafi.org.

Case Example: 2004-2005

A major human trafficking and money laundering case in the Netherlands began with suspicious transaction reports concerning transactions at a Hong Kong bank in which large amounts of cash were deposited into accounts and immediately followed by outward remittances into a personal account in the Netherlands. Following the suspicious transaction reports (STRs) (in 1999), the FIU launched an investigation into the account of Z., the head of a dismantled alien smuggling organization in the Netherlands, from which an address in the Netherlands was established.

The Hong Kong FIU contacted the Netherlands National Police Agency for background inquiries and was told that the agency had already started an investigation into Z.'s syndicate involving human trafficking. She coordinated with her accomplices for the purpose of smuggling mainland Chinese through Russia, Ukraine, Turkey and Slovakia into Western Europe. The final destinations were Canada, the United States and Mexico.

The Hong Kong FIU identified five accounts held by Z., with a total amount of \$283,000 USD. The information was passed to overseas counterpart agencies. Throughout the period, the FIU continued to monitor the cash flows and the updated balance amounted to over 2 million euros. To

avoid suspicion, Z. appeared to use several bank accounts in various countries in her own name or in the name of facilitators to hide and launder the illegal proceeds. Funds were wire transferred to foreign accounts. The investigation by the Hong Kong, FIU revealed that Z. had also triggered 8 STRs for purchasing casino chips with both Dutch and foreign currencies (cash) in a state-run casino.

Z. was arrested in the Netherlands in June 2000 and convicted in October 2003. She was sentenced to three years and six months imprisonment. In January 2004, a Dutch court made a confiscation order for 8.7 million euros, representing unlawful gains. Overseas police agencies also arrested several persons abroad and seized assets, including real estate and accounts situated in foreign countries.

Case Examples: 2005-2006

The two cases mentioned below provide a good example of successful cooperation between regulatory and law enforcement agencies:

- The Dutch Central Bank discovered counterfeiting of identity papers and transaction reports at two money transaction offices (who were competitors) and filed police reports, which led to further investigations by law enforcement agencies. In the end, both money transaction offices were struck from the register. The outcome of these investigations by the law enforcement agencies is not yet known.
- In another case, the police listened in on a money transaction office (in connection with an investigation of drug trafficking) while the Dutch Central Bank visited the money transaction office for an AML-CFT investigation. The police overheard the suspect's conversations and

obtained information about their intentions and actions. The managers and employees of the money transaction office involved were arrested and the money transaction office was struck from the register. Prosecution is pending.

Case Example: Internet Fraud and Money Mules

Russian and Ukrainian criminal organizations retrieved data from Internet bank account holders. These organizations used "money mules" in order to obtain money from these account holders. A money mule is a person who makes his bank account available to a criminal or criminal organization for remuneration. A money mule is often persuaded via a spam e-mail to withdraw money—which he receives from victims of a criminal or criminal organization—from his account and forwards the money to the account of another person (whose personal details the money mule also received via e-mail from the criminal organization). The money mule can retain a part of the money for the services rendered to the criminal or criminal organization.

When Dutch investigators replied to such a spam e-mail, they obtained the personal details of several persons in Russia and the Ukraine who were to receive money on behalf of the criminal organization. The FIU NL could even retrieve the personal details of other persons involved in this fraud scheme. Several money mules were arrested in the Netherlands and money and accounts were seized. The Russian law enforcement agencies were asked to arrest several "beneficiaries" of this fraud scheme.

The Dutch authorities handed over all relevant information to their Russian and Ukrainian counterparts so that they could start prosecutions in their jurisdictions.

In the Netherlands the increase of the use of money transfers can easily be explained by the fact that immigration figures have increased. As is shown in the table on the previous

page, only part of the reports that are filed to the FIU NL can be considered as suspicious transactions. As mentioned earlier, a unique point of the legislation of the Netherlands is that every money transfer of 2,000 euros and more has to be reported. This enables the FIU NL to analyze and match more information. Combining the information is the key to the increase of suspicious transactions.

The Dutch FIU passes the valuable information on to law enforcement, which results in more investigations being conducted. It can be concluded from the law enforcement investigations that criminal organizations' use of money transfers as a technique to quickly relocate illicit proceeds to other parts of their network is occurring. Money transfers can be used in all types of predicate offenses, like drugs, human trafficking and illegal prostitution. A well-known phenomenon in the Netherlands is the advanced fee fraud by West African criminal networks. A more recent trend in that respect is relocating the profits from retail fraud via the Internet (such as eBay fraud). To successfully complete these schemes, the use of false identification documents is a key element.

The following are examples of current money laundering and terrorist financing typologies:

- use of intermediaries (straw men of second person);
- cash couriers;
- use of "money mules," "smurfing";
- atypical money transfers; and/or
- use of businesses (travel agencies).

New Trends: Combining Internet and Money Transfers

One of the trends the Netherlands has seen is the combination of the unlimited possibilities of using the Internet for fraud schemes. The underlying predicate offense is a very simple fraud scheme: products are sold through the Internet, money is collected and in the end the purchased goods are never delivered. The attractiveness of this scheme is that both Internet and money transfers are anonymous and it is a "clean" criminal offense. It enables the criminals to leave very little information compared to the use of bank accounts and high contact crimes, like human trafficking and drugs. Most cases are still under investigation.

The typical scheme structure is as follows:

A fictitious product is posted for sale on a legitimate online auction site, such as eBay. Usually the focus is on high price articles, such as computers or watches, or high-value collector's items. The product must be paid for before it is shipped to the buyer. The purchase is never shipped, so the buyer never receives the product.

Underlying this simple scheme the following actions take place:

- Fraudster had Romanian nationality;

- Buyer sends a money transfer to the Netherlands;
- Cash withdrawal in the Netherlands;
- Victims are in another country, like U.S. or Canada;
- Use of false identity (identical address, but various individuals); and
- Use of false ID cards (identical ID cards, various ID card holders).

Conclusion

Because of the type of service, a clean, fast relocation of money and limited personal contact with the provider, money transfers remain vulnerable to exploitation by criminals. Given the importance of the type of service in providing families abroad with the necessary resources, money transfer businesses fulfill a crucial role in the society. However, policymakers, regulators and law enforcement should not close their eyes to the vulnerabilities of money transfer businesses in the financial system. In the Netherlands, the information on all money transfers is used to detect possible criminal offenses. Solid cooperation between financial regulators, the FIU and law enforcement enables the Netherlands to successfully combat the exploitation of money transfer businesses. §