

14-4205. Money laundering; definitions.¹

A. **“Person”** means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, unincorporated organization or group, or other entity.²

B. **“Conducted”** means initiating, concluding, or participating in initiating or concluding a “financial transaction.”³

C. **“Structured”** means a series of transactions conducted in a specific pattern that could have been conducted as one transaction.

D. **“Financial transaction”**⁴ means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of
[any “monetary instrument”]

[OR]

[the movement of funds by wire or other means].

E. **“Monetary instrument”** means coin or currency of the United States or any other country, traveler’s checks, personal checks, bank checks, money orders, investment securities in bearer form or in such other form that title passes on delivery of the security and negotiable instruments in bearer form or in such other form that title passes on delivery of the instrument.⁵

F. **“Property”** means anything of value, including real, personal, tangible, or intangible property.⁶

G. **“Proceeds”** means property that is acquired, delivered, produced or realized, whether directly or indirectly, by an act or omission.⁷

H. **“Specified unlawful activity”** means an act or omission, including any initiatory, preparatory, or completed offense or omission, committed for financial gain that is punishable as a felony under the laws of New Mexico or, if the act occurred outside New Mexico, would be punishable as a felony under the laws of the state in which it occurred and under the laws of New Mexico.⁸

I. **“Transaction reporting requirement”** includes _____
*(brief description of the requirement, e.g., under 31 U.S.C. § 5316 (a)(1), “Knowingly transporting more than \$10,000 at one time from a place within the United States to a place outside the United States.”)*⁹

J. **“Financial institution”** includes _____ *(applicable definition(s) from NMSA 1978, § 30-51-2 A(1)-(17)).*¹⁰

USE NOTES

1. Give each of the applicable definitions after the money laundering charge to which they pertain. Additional definitions may also be required under the facts of the case.

2. Section 30-51-2(D) NMSA 1978. Use as necessary to instruct on whether a person engaged in a transaction to avoid a transaction reporting requirement under state law, Section 30-51-2(A) NMSA 1978, or whether a person fails to properly report a financial transaction, Section 30-51-3(B) NMSA 1978.

3. Use applicable alternatives. See Section 30-51-2(B) NMSA 1978; see

a/so 18 U.S.C. § 1956(c)(2) (defining “conducts”) and 18 U.S.C. § 1956(c)(3) (defining “transaction” as substantially the same as New Mexico’s definition of “financial transaction”).

4. Section 30-51-2(B) NMSA 1978.

5. Section 30-51-2(C) NMSA 1978.

6. Section 30-51-2(F) NMSA 1978.

7. Section 30-51-2(E) NMSA 1978.

8. Section 30-51-2(G) NMSA 1978. It is for the court, as a question of law, to decide and, if requested, instruct the jury whether a particular New Mexico statute or statute from another state meets the legal definition of “specified unlawful activity.” (SUA). If there is no question requiring the court to instruct the jury regarding whether alleged conduct is a felony under New Mexico or other state law, do not instruct on specified unlawful activity; instead instruct on the essential elements of the alleged felony.

Unless the money laundering defendant is also charged with the substantive, predicate SUA, the uniform instruction on the essential elements of the SUA should be modified to inform the jury that it does not need to determine *who* committed the SUA - but only beyond a reasonable doubt that *someone* committed the predicate offense.

Because whether the act was committed for financial gain is a jury question of fact, in the infrequent cases where a specified unlawful activity does not exist without that motive, an optional factual element should be added to the substantive instruction.

9. “Transaction reporting requirement” is not defined in Section 30-51-2 NMSA 1978. If there is no stipulation by the parties, the court should give a definition tailored to the facts in evidence.

10. Section 30-51-2(A)(1)-(17) NMSA 1978. Use as necessary to instruct on whether a financial institution failed to properly report a financial transaction or whether a person engaged in a transaction to avoid a transaction reporting requirement under state law. If there is no stipulation by the parties, instruct as a matter of law whether a particular entity meets the statutory definition.

[Adopted by Supreme Court Order No. 17-8300-012, effective for all cases pending or filed on or after December 31, 2017.]