

**A COMMENTARY ON THE ANTI-MONEY LAUNDERING MEASURES
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BIRMINGHAM, ENGLAND.**ABSTRACT**

Money Laundering has become an evil which is causing many other ill-doings to the society across cultures. Internationally almost all nations have their own set of anti-money laundering activities. The Paper brings a commentary on the measures taken and adopted worldwide to curb the menace on money laundering.

INTRODUCTION

Money laundering is the processing of criminal proceeds to disguise its illegal origin. Terrorism, illegal arms sales, financial crimes, smuggling, and the activities of organised crime, including drug trafficking and prostitution rings, generate huge sums. Embezzlement, insider trading, bribery and computer fraud also produce large profits and create an incentive to legitimise the ill-gotten gains through money laundering. When a criminal activity generates substantial profits, the individual or group involved in such activities route the funds to safe heavens by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention. Most fundamentally, money laundering is inextricably linked to the underlying criminal activity that generates it. In essence, the laundering enables criminal activity to continue.

PROCESS OF MONEY LAUNDERING

The process of money laundering can be classified into three stages, namely, placement, layering and integration. In the initial or placement stage of money laundering, the launderer introduces his illegal profits into the financial system, by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments that are later collected and deposited into accounts at another location.

After the funds are entered into the financial system, the layering takes place. In this stage, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channeled through the purchase and sale of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. After successful processing of criminal profits through the first two phases of the money laundering process, the launderer moves them to integration. In this stage the funds re-enter the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures.

IMPACT OF MONEY LAUNDERING ON DEVELOPMENT

Economies with growing or developing financial centers, but inadequate controls are particularly vulnerable to money laundering, as against the established financial center countries, which implement comprehensive anti-money laundering regimes. The gaps in a national anti-money laundering system are exploited by launderers, who tend to move their networks to countries and financial systems with weak or ineffective countermeasures. As with the damaged integrity of an individual financial institution, there is a damping effect on foreign direct investment when a country's commercial and financial sectors are perceived to be subject to the control and influence of organised crime.

In times of decelerating growth, an infusion of hard currency can bolster a country's foreign reserves; ease the hardship associated with budget tightening policies and moderate foreign indebtedness. While these are short-term benefits associated with an inflow of criminal monies, the long-term effects are mostly negative. One difference between official borrowing and laundered funds is that the

former can be controlled by Government, whereas the funds owned by criminals escape the governments ability to control and regulate the economy. The possible social, economic and political effects of money laundering, if left unchecked or dealt with ineffectively, are serious. Through the process of money laundering, organised crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments. Thus, the economic and political influence of criminal organisations can weaken the social fabric, ethical standards and ultimately the democratic institutions of society.

PREVENTION OF MONEY LAUNDERING – GLOBAL INITIATIVES

Since money laundering is an international phenomenon, transnational co-operation is of critical importance in the fight against this menace. A number of initiatives have been taken to deal with the problem at international level. In this context, the United Nations or the Bank for International Settlements, took some initiatives in 1980s to address the problem of money laundering. However, with the creation of the Financial Action Task Force (FATF) in 1989, regional groupings, such as the European Union, Council of Europe, and organisation of American States also established anti- money laundering standards for their member countries. The major international agreements addressing money laundering include the United Nations Convention against Illicit Trafficking in Drugs and Psychotropic Substances (the Vienna Convention) and Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. The role of financial institutions in preventing and detecting money laundering has also been the subject of pronouncements by the Basle Committee on Banking Regulation Supervisory Practices, the European Union and the International Organization of Securities Commissions.

THE VIENNA CONVENTION

The first major initiative in the prevention of money laundering was the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in December 1988 (popularly known as Vienna Convention). This convention laid the groundwork for efforts to combat money laundering by obliging the member states to criminalize the laundering of money from drug trafficking. It promotes international cooperation in investigations and makes extradition between member states applicable to money laundering. The convention

also establishes the principle that domestic bank secrecy provisions should not interfere with international criminal investigations.

COUNCIL OF EUROPE CONVENTION

The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime, 1990 establishes a common policy on money laundering. It sets out a common definition of money laundering and common measures for dealing with it. The Convention lays down the principles for international cooperation among the member states, which may also include states outside the Council of Europe. This convention came into force in September 1993. One of the purposes of the convention is to facilitate international cooperation as regards investigative assistance, search, seizure and confiscation of the proceeds of all types of criminality, particularly serious crimes, such as, drug offences, arms dealing, terrorist offences etc. and other offences which generate large profits.

EUROPEAN UNION MONEY LAUNDERING DIRECTIVE

In response to the new opportunities for money laundering opened up by the liberalization of capital movements and cross-border financial services in the European Union, the Council of the European Communities in June, 1991 issued a directive on the Prevention of Use of the Financial System for the Purpose of Money Laundering. The directive requires member states to outlaw money laundering. The member states have been put under obligation to require financial institutions to establish and maintain internal systems to prevent laundering, to obtain the identification of customers with whom they enter into transaction of more than a particular amount and to keep proper records for at least five years. The financial institutions are also required to report suspicious transactions and ensure that such reporting does not result in liability for the institution or its employees.

BASLE COMMITTEE'S STATEMENT OF PRINCIPLES

In December 1988 the Basle Committee on Banking Regulation Supervisory Practices issued a statement of principles to be complied by the international banks of member states. These principles include identifying customers, avoiding suspicious transactions, and cooperating with law enforcement agencies. The statement aims at encouraging the banking sector to adopt common position in order to ensure that banks are not used to hide or

launder funds acquired through criminal activities.

RESOLUTION OF THE INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

The International Organization of Securities Commissions (IOSCO) adopted, in October 1992, a resolution encouraging its members to take necessary steps to combat money laundering in securities and futures markets.

THE FINANCIAL ACTION TASK FORCE (FATF)

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FATF is therefore a “policy-making body” which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.

The FATF has developed a series of Recommendations that are recognised as the international standard for combating of money laundering and the financing of terrorism and proliferation of weapons of mass destruction. They form the basis for a co-ordinated response to these threats to the integrity of the financial system and help ensure a level playing field. First issued in 1990, the FATF Recommendations were revised in 1996, 2001, 2003 and in 2012 to ensure that they remain up to date and relevant, and they are intended to be of universal application. The FATF monitors the progress of its members in implementing necessary measures, reviews money laundering and terrorist financing techniques and counter-measures, and promotes the adoption and implementation of appropriate measures globally. In collaboration with other international stakeholders, the FATF works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

HISTORY OF THE FATF

In response to mounting concern over money laundering, the Financial Action Task Force on Money Laundering (FATF) was established by the G-7 Summit that was held in Paris in 1989. Recognising the threat posed to the banking system and to financial institutions, the G-7 Heads of State or Government and President of

the European Commission convened the Task Force from the G-7 member States, the European Commission and eight other countries.

FATF RECOMMENDATIONS

The Task Force was given the responsibility of examining money laundering techniques and trends, reviewing the action which had already been taken at a national or international level, and setting out the measures that still needed to be taken to combat money laundering. In April 1990, less than one year after its creation, the FATF issued a report containing a set of Forty Recommendations, which were intended to provide a comprehensive plan of action needed to fight against money laundering. In 2001, the development of standards in the fight against terrorist financing was added to the mission of the FATF. In October 2001 the FATF issued the Eight Special Recommendations to deal with the issue of terrorist financing. The continued evolution of money laundering techniques led the FATF to revise the FATF standards comprehensively in June 2003. In October 2004 the FATF published a Ninth Special Recommendations, further strengthening the agreed international standards for combating money laundering and terrorist financing - the 40+9 Recommendations. In February 2012, the FATF completed a thorough review of its standards and published the revised FATF Recommendations. This revision is intended to strengthen global safeguards and further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime. They have been expanded to deal with new threats such as the financing of proliferation of weapons of mass destruction, and to be clearer on transparency and tougher on corruption. The 9 Special Recommendations on terrorist financing have been fully integrated with the measures against money laundering. This has resulted in a stronger and clearer set of standards.

UNITED NATIONS GLOBAL PROGRAMME AGAINST MONEY LAUNDERING

Office of the Drug Control and Crime Prevention implement this programme against Money Laundering with a view to increase the effectiveness of international action against money laundering through comprehensive technical cooperation services offered to Governments. The programme encompasses following three areas of activities, providing various means to states and institutions in their efforts to effectively combat money laundering:

(i) Technical cooperation is the main task of the Programme. It encompasses activities of creating awareness, institution building and training.

(ii) The research and analysis aims at offering States Key Information to better understand the phenomenon of money laundering and to enable the international community to devise more efficient and effective countermeasure strategies.

(iii) The commitment to support the establishment of financial investigation services for raising the overall effectiveness of law enforcement measures.

The implementation of the Global Programme against Money Laundering is carried out in the spirit of cooperation with other international, regional and national organizations and institutions.

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