Websites:
http://www.sciencepub.net
http://www.sciencepub.net/report

Emails:
editor@sciencepub.net
reportopinion@gmail.com

Report and Opinion

MARSLAND PRESS
Multidisciplinary Academic Journal Publisher

Study on Money Laundering and Its Fall-out

Dr. Raman Nehra

H. No. 123A/14, Kirpal Nagar, Rohtak-124001, Haryana (India)
Email: rnehra39@gmail.com

Abstract: Money laundering occurs through banks and through NBFIs (Non-bank Financial Institutions) i.e., real estate companies, securities brokers/intermediaries, leasing companies and insurance companies. It is most likely to be more prevalent in countries that do not have a developed financial and legal framework for detection/prevention of money laundering. It has negative effects in the development of the country as it causes a diversion of resources to less productive areas of the economy which in turn depresses economic growth. The legitimization of large profits emanating from illegal activities encourages corruption and crime.
[Nehra, R. **Study on Money Laundering and Its Fall-out**. *Rep Opinion* 2023;15(1):47-51]. ISSN 1553-9873 (print); ISSN 2375-7205 (online). http://www.sciencepub.net/report. 06. doi:10.7537/marsroj150123.06.

Keywords: Money Laundering, Corruption and Its Fall-out

Introduction:

Money laundering is a process where the proceeds of crime are transformed into apparently legitimate money or other assets. In India, money laundering is popularly known as Hawala transactions. Hawala is a method of transferring money without any actual movement. Transactions between Hawala brokers are done without promissory notes because the system is heavily based on trust. The most common types of criminals who need to launder money are drug traffickers, embezzlers, corrupt politicians and public officials, mobsters, terrorists and con artists. Drug traffickers are in serious need of good laundering systems because they deal almost exclusively in cash, which causes all sorts of logistics problems. Criminal activities such as terrorism, illegal arms sales, financial crimes, smuggling, or illicit drug trafficking generate huge sums of money and criminal organizations need to find a way to use these funds without awakening suspicions about their illicit origin. The purpose of these criminal organizations is to generate profits for the group or for one of its individual members. 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. The logic of controlling the drug money trial is that profit motivates drug sales, and because most sales are in cash, the recipient of cash has to find some way of converting these funds into utilizable financial resources that appear to have legitimate origins.

A layman would probably equate money laundering with something related to washing, cleaning and drying of currency notes. To some extent this is right, since it is that process, where illegally obtained money is given the appearance of having originated from legitimate sources. In simple words, it is conversion of black money earned from illegal activities to white money and makes it appear as if it is earned legal means. Money laundering is the process used by launderers across the world to conceal criminal activity associated with it such as drug / arms trafficking, terrorism and extortion. It's a criminal practice of filtering ill-gotten gains or "dirty" money through a series of actions so that the funds are "cleaned" to appear like proceeds from legal activities. This process is fuelled by criminal activities and conceals the true source of funds. As per The International Monetary Fund, the size of money laundering in the world could be somewhere between 2-5% of the world's gross domestic product.

Money laundering has close connections with organized crime and is the process used to conceal the true ownership of huge profits accumulated from illegal activities. The types of criminals who need to launder money are drug traffickers, embezzlers, mobsters, terrorists and con artists. Drug traffickers are in serious need of a good laundering network as they deal almost exclusively in cash, which causes all sorts of logistics problems. One important aspect of money laundering is the tendency and need for perpetrators to operate cross border schemes for the purpose of concealment and/or to take advantage of the uneven developments in the national anti money laundering regimes.

Once the process is successful, it allows the criminals to maintain control over the proceeds and ultimately provide a legitimate cover for their source of income. Money laundering plays a primary role in facilitating the ambitions of drug traffickers, terrorists, organized criminals, tax evaders and many others who would like to avoid the kind of attention from the authorities that sudden wealth brings in its wake. These criminal enterprises seek to obtain money and power through criminal conduct and then attempt to infiltrate the legitimate society. Banks and financial institutions are vulnerable from Money Laundering as criminal proceeds can enter banks in the form of large cash deposits. Bank officials should therefore need to exercise constant vigil and need to keep a check on large cash deposits and other suspicious transactions.

Money Laundering: The Concept

Money Laundering as an expression is one of fairly recent origin. It is a sophisticated crime not taken seriously at first glance by anyone in the society. As compared to street crimes, it is a modern crime. At times it is also referred to as a victimless crime, since in reality it is not a crime against a particular individual, but it is a crime against nations, economies and governments, rule of law and world at large. Money laundering has become a matter of concern worldwide and governments across the world are taking stringent measures to control this global menace.

Money Laundering is not an independent crime in itself, it depends upon another crime, the proceeds of which is the subject matter of the crime in money laundering. From the legal point of view, the defining and criminalizing factor in money laundering relates to the so-called ‘predicate offences’ understood as the criminal offences which generated the proceeds thus making laundering necessary. Hiding or disguising the source of certain proceeds will of course, not amount to money laundering unless these proceeds were obtained from a criminal activity. Therefore, what exactly amounts to money laundering, which actions and who can be prosecuted is largely dependent on what constitutes a predicate crime for the purpose of money laundering. The main objective of criminal activities is to generate profit for the individual or group that carries out the act and then hide either the source or the destination of money. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance to the criminals, as it enables them to enjoy these profits without jeopardizing their source. Criminal activities like illegal arms sales, smuggling, corruption, drug trafficking and the activities of organized crime including tax evasion generate huge sums of money. Insider trading, bribery and computer fraud also generate large profits for the perpetrators of the crime and create the incentive to legitimize the ill-gotten gains through money laundering.

When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved. This is done by disguising the sources, changing the form, or moving the funds to a trail is not effectively covered the very purpose of doing the whole process is defeated as the law enforcement authorities would be able to detect the transaction easily. After conversion, eventually channelizing them into the financial market legitimizes the ill-gotten gains. It is against the law to utilize laundered money. Further, facilitating money laundering indirectly supports the underlying activity; thus it is considered a criminal activity.

An Organized Crime

The need of money laundering rose as the crime syndicates had to conceal the enormous profits accumulated from illegal activities. Cash transactions are predominantly used for Money Laundering as they facilitate the concealment of the true ownership and origin of money. It is well recognized that through the huge profits the criminals earn from drug trafficking and other illegal means, money laundering contaminates and corrupts the structure of the country at all levels. Further, this adds to constant pursuit of profits and the expansion into new areas of criminal activity. Through money laundering, organized crime diversifies its sources of income and enlarges its sphere of action. The social danger of money laundering consists in the consolidation of the economic power of criminal organizations, enabling them to penetrate the legitimate economy. In advanced societies, crime is increasingly economic in character. Criminal associations now tend to be organized like business enterprises and to follow the same tendencies as legitimate firms; specialization, growth, expansion in international markets and linkage with other enterprises. The holders of capital of illegal origin are prepared to bear considerable cost in order to legalize its use.

Evolution of Money Laundering

Money Laundering as an expression is one of fairly recent origin and as a crime attracted interest in 1980. Efforts to launder money and finance terrorism have been evolving at a fast pace in recent years as against the increasing countermeasures. The international community has witnessed the use of increasingly sophisticated methods to move illicit funds through financial systems across the globe and has acknowledged the need for improved multilateral cooperation to fight these criminal activities. The word

'Money laundering' was reported in newspapers reporting the Watergate scandal in the United States in 1973. The expression first appeared in a judicial or legal context in 1982 in America. It was from an increasing awareness of the huge profits generated from this criminal activity and a concern at the massive drug abuse problem in western societies which created the impetus for governments to act against the drug dealers by creating legislation that would deprive them of their illicit gains. The term "money laundering" is said to originate from Mafia ownership of Laundromats in the United States. In 1993, a UN Report noted: The basic characteristics of the laundering of the proceeds of crime, which to a large extent also mark the operations of organized and transnational crime, are its global nature, the flexibility and adaptability of its operations, the use of the latest technological means and professional assistance, the ingenuity of its operators and the vast resources at their disposal.

And at the domestic level, money laundering is popularly known as Hawala transactions. It gained popularity during early 90's when many persons were caught in its net. Hawala is an alternate remittance system that facilitated the conversion of money from black into white. "Hawala" is an Arabic word meaning the transfer of money or information between two persons using a third person. The system dates to the Arabic traders as a means of avoiding robbery. It predates western banking by several centuries.

Money laundering is not a single act but is in fact a process that is completed in three basic steps given below:

1. Placement:

Placement refers to the physical disposal of bulk cash proceeds derived from illegal activity. Under this stage, the launderer infuses the black money into a legitimate financial institution. This is the first step of the money-laundering process and the ultimate aim of this phase is to remove the cash from the location of acquisition so that it does not attract attention from the authorities. This is achieved by investing criminal money into the legal financial system by opening up a bank account in the name of unknown individuals or organizations and depositing the money in that account. This is the riskiest stage of the laundering process because large amounts of cash are pretty conspicuous, and banks are required to report high-value cash transactions.

2. Layering:

Layering refers to the separation of illicit proceeds from their source by creating complex layers of financial transactions. It involves sending the money through various financial transactions to change its form and make it difficult to track. It conceals the audit trail and provides anonymity and this process consists of several bank-to-bank transfers, wire transfers between different accounts in different names in different countries, making deposits and withdrawals to continually vary the amount of money in the accounts, changing the money's currency, and purchasing high-value items to change the form of the money. Nowadays, Electronic Funds Transfer (EFT) has come as a boon for such layering exercise. Different techniques like correspondent banking, loan at low or no interest rates, money exchange offices, back-to-back loans, fictitious sales and purchases, trust offices, and recently the Special Purpose Vehicles (SVPs) are utilized for the purpose of laundering the money. This is the most complex step in any laundering scheme, and it's all about making the original dirty money as hard to trace as possible.

3. Integration:

Integration refers to re-injecting the money into mainstream economy. Under this process the laundered proceeds re-enter the economy in legitimatelooking forms -- it appears to come from a legal transaction. The launderers normally accomplish this by establishing unknown institutions in nations where secrecy is guaranteed. Under this process, a final bank transfer into the account of an unknown institution in which the launderer is investing in exchange for a cut of the profits. At this point, the launderer can use the money without getting caught. It is very difficult to catch a launderer during the integration stage if there is no documentation during the previous stages.

IMPACT ON THE ECONOMY OF THE COUNTRY

Money laundering has negative effects on economic development. It poses a serious threat to national economies and respective governments. The infiltration and sometimes saturation of dirty threaten economic and political stability. Economic crimes have a devastating effect on a national economy since potential victims of such crimes are far more numerous than those in other forms of crime. Economic crimes also have the potential of adversely affecting people who do not prima-facie, seem to be the victims of the crime. For example, tax evasion results in loss of government revenue, thus affecting the potential of the government to spend on development schemes thereby affecting a large section of the population who could have benefited from such government expenditure. The negative economic effects of money laundering on economic development are difficult to quantify, yet it is clear that such activity damages the financial-sector institutions that are critical to economic growth, reduces productivity in the economy by diverting resources and encouraging crime and corruption, which slows economic growth. Developing countries' strategies to establish Offshore Financial Centre (OFC) as vehicles for economic development are also impaired by significant money laundering activity through OFC channels. Ill-effects of money laundering are witnessed across the globe and almost all the sectors of life. Developing countries often bear the brunt of modern money laundering because the governments are still at the nascent stage of establishing regulations for their newly privatized financial sectors. In the 1990s, numerous banks in the developing Baltic states ended up with huge, widely rumored deposits of dirty money. Bank patrons withdraw their own clean money for fear of losing it if the banks came under investigation and lose their insurance, which is likely to shut down the banks. Other major issues facing the world's economies include errors in economic policy resulting from artificially inflated financial sectors. Massive influxes of dirty cash into particular areas of the economy that are desirable to money launderers create false demand, and officials act on this new demand by adjusting economic policy. When the laundering process reaches a certain point or if law enforcement officials start to show interest, all of that money will suddenly disappear without any predictable economic cause resulting in that financial sector to fall apart. Laundered money is usually untaxed, meaning the rest of us ultimately have to make up the loss in tax revenue.

The negative economic effects of money laundering on economic development are difficult to quantify. It is clear that such activity damages the financial-sector institutions that are critical to economic growth, reduces productivity in the economy's real sector by diverting resources and encouraging crime and corruption, which slow economic growth, and can distort the economy's external sector – international trade and capital flows – to the detriment of long-term economic development. Money laundering also facilitates crime and corruption within developing economies, which is the antithesis of sustainable economic growth. Money laundering reduces the cost of doing business for the criminal element, thereby increasing the level of crime. Money laundering can also be associated with significant distortions to a country's imports and exports. On the import side, criminal elements often use illicit proceeds to purchase imported luxury goods, either with laundered funds or as part of the process of laundering such funds. Such imports do not generate domestic economic activity or employment, and in some cases can artificially depress domestic prices, thus reducing the profitability of domestic enterprises.

CONCLUSION

India has a long way to go before we can match the efforts of developed countries in the area of AML. The government needs to take more effective actions and generate a grassroots-level focus amongst financial institutions. It is difficult to implement control over money laundering activities without support from legislative and executive bodies. However, what needs to be done further is to increase enforcement and action against the entities violating them. A lack of awareness and a lack of political support are major hindrances to AML implementation. The creation of AML-focused regulatory bodies and a close partnership with global financial institutions to implement the necessary AML programs are necessary take the cause forward. Financial entities also have to take a more dynamic approach – renewing their focus on ongoing programmer enhancement in order to better mitigate old risks, while simultaneously managing new risks and regulatory requirements. Furthermore, a renewed focus is needed to look beyond simple name matching, peer-group analysis, link analysis and data matching. A new approach must be adopted by every individual working in a financial institution. Financial institutions need to identify global practices that also allow for a risk-based approach which take into account variations in risks by customer, product and country specific requirements.

References:

[1]. Chandan Mitra (1 Jan. 1999), " The Corrupt Society ". Publisher: Penguin Books Indian Pvt. Ltd., New Delhi . (Pp. 4-8)

[2]. Adukia, Rajkumar S. (2007). Encyclopedia on Prevention of Money Laundering Act 2002, 1st Edition, Published by K.G.Maheshwari , (Pp. 6-7)

[3]. M. Michelle Gallant (2005), "Money laundering And The Proceeds Of Crime ", Edward Elgar publishing (Pp. 14-18)

[4]. Pillai, K.N. Chandra Sekharan. & Julian, A. Francis. (2008). Prevention of Money Laundering Legal and Financial Issues, Published by Indian Law Institute (ILI). , (pp.46, 88).

[5]. Kumar S. Vijay. (2009) "Controlling Money Laundering in India –Problems and Perspectives" Mumbai, INDIA.

[6]. Kumar, Praveen. (2003) "Recent Trends in Economic Crimes" Available at: http://recenttrends.blogspot.com/

[7]. Shah, Giriraj. (1997), Money Laundering and countermeasures, CBI Bulletin, Vol. V, No.5-May 1997, (Pp.9-12).

[8]. Sharma, M.L. (1998), The Organized Crime In India- Problems & Perspectives. CBI Bulletin, Vol.vi, No.7- July 1998, (Pp.8-24).
[9]. APG -FATF, (2010), Mutual Evaluation Report- Anti-Money Laundering and Combating the Financing of Terrorism, India, 25 June 2010.

1/22/2023