

MONEY LAUNDERING LEGAL AND THEORETICAL ASPECTS

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Introduction to Money Laundering

The present essay is focused on money laundering, widely acknowledged by different international bodies and instruments. In the domain of money laundering, two main aspects can be approached both doctrinally and practically. First, money laundering is viewed per se as well as from both historical and conceptual points of view. According to the law and the social approach, the historical perspective develops the emergence of money laundering practices and the transformation of traditional activities developed from the Far East or Silk Road to today's worldwide economic criminal activities. Meanwhile, from a conceptual point of view, we emphasize the most significant theories and methods regarding the delimitation, definitions, fields and placement of money laundering in the general global context.

Money laundering represents the process whereby the assets or earnings obtained through criminal activities are invested into various legal activities and real legal assets or goods, as part of today's free market or system, thus appearing to be lawfully and rightfully obtained resources. In addition, the concepts of money laundering also include the definition of proceeds of crime (direct or indirect benefit from criminal activities) and criminal assets (proceeds covered by money laundering offences found not to be invested into criminal activities). In the doctrinal framework, money laundering is viewed in the light of the main concepts of globalization, world economy, transnational, organized crime in correlation – i.e., with economic side of the criminal offences (the black economy).

Keywords: Money Laundering, Money, Legal, Theoretical

1.1. Definition and Concept

Various definitions of money laundering try to illuminate the essence of this notion. The most thorough definition has been suggested by the Bank for International Settlements (BIS) in its guidelines, dated October 18, 1979, according to which "money laundering" means the process used by criminals to show the proceeds of crime as originating from a legitimate source. In most cases, money laundering occurs in three stages – placement, layering, and integration. The essence of this concept is apparent in the first stage of money laundering, generally known as "placement". The latter arises upon the process of placing, or "placing out" money originating from illegal activities in the

monetary system in such a way as to mask its identity, that is, to integrate it into the flow of legitimate money. The funds are placed into a cash structure, the financial structure, and other extensive structures such as fraud and debt upon the identification of available subjects and territories best matching the enterprise model, with the subsequent disbursement, entry, or investment involving illegal cash. The funds are placed into a cash structure, the financial structure, and other extensive structures such as fraud and debt with an intention assumed to transform the financial instruments with the subsequent disbursement, entry, or investment involving legal cash.

On the theoretical level, explanations of money laundering can be classified into two main directions: economic theories and sociological-typological theories. The economic perspective explicates that the demand for money laundering is generated by dishonesty, prohibition, and regulation. Regulation, dishonesty, and prohibition are intertwined and, usually, regulations have inefficient effects on the degree of money laundering because they establish a political division among the operators of an economy by defining more restrictive laws and standards for some (legal, legitimate financial intermediaries) and fewer or no constraints for others (illegal personnel).

1.2. Historical Background

The historical context of money laundering is classified in several ways. Most researchers agree with one classification, where three stages are distinguished: the money, professional criminal period, the gangster, or large-scale criminals period, and the white-collar criminals or gray areas period. Researchers will define some tools and crimes associated with money laundering accordingly. Money laundering has ancient origins; its most ancient form is shrouded in mystery. Its early history is connected with crimes of murder, extortion, illegal gambling, and prostitution, forcing competitors out of a locale by setting up their own operations there, to a greater or lesser extent. Money laundering's origins are thus closely aligned with the activities of the criminal underworld as we know it today. With the combination of the various underground economies that revolved around gambling rings, prostitution, drug smuggling, and smuggling in general, in many cases, the profits were held and accounted for in cash. It is important to realize that as long as there was some form of currency, precious metal, or anything recognized as valuables, the following stages were most likely a part of any underworld dealings conducted strictly in cash. The end of every century brought a new wave of organized crime activity and thereby more money laundering. The criminal industry has

always had to rely on illegal funds. The history of this phenomenon is inexorably linked with the historical and sociological situation of that time. No regime change, in either people control as dictatorships, or profit control as company mergers.

2. Legal Frameworks and Regulations

In legal terms, money laundering is the criminal act of disguising the source of illegally or fraudulently gained funds. It is the process of changing large amounts of money, made through illegitimate operations, so that the money appears to have been earned legally. The international standard setting body, the Financial Action Task Force (FATF), has made money laundering prevention one of its primary aims. Consequently, they have suggested a set of 40 recommendations, completed in 48 detailed sets of rules, which law enforcement agencies should follow when combating money laundering. The main goal of these sets of rules is to curb money laundering and its underlying crimes, forfeit profits realized off the back of crimes and generally put as much serious pressure as possible onto drug abusers and other criminals.

In 1998, the FATF's philosophy spread onto the international stage and it extended membership to countries outside the original Organisation for Economic Co-operation and Development membership. Additionally, the FATF also committed itself to assessing its members – and other countries of interest or concern – on demonstration of their cooperation with the FATF's recommendations. Not long after the FATF's creation in July 1999, the general assembly of the United Nations provided a 'mandate' for members that wanted to be more involved in fielding the war against money laundering by being 'invigorated' to sign up to the Vienna and Palermo conventions. The United Nations conventions are broader than the 1988 and include listing the perpetrators of all specified offences defined in the conventions, developing a code of conduct and responsibilities for public officials, and greatly

improving international cooperation by involving specialized law enforcement units, diplomatic efforts, and the UN Security Council if necessary to ensure criminals do not abscond or 'champion' operations.

2.1. International Standards and Conventions

1. Introduction The term "money laundering" appeared in the 1970s in the United States. The term refers to the investments that lived in the shadow economy, in order to legitimize them. This term refers primarily to large financial structures, which in the framework of the institutional division of labor are directly related to the implementation of the monetary, but also in the financial area of crime. The banking system occupies a special place in it. Money tends to be the most representative form of enriched criminal capital. It is therefore obvious that the banking system cannot be insulated from them. The interdisciplinary nature of the adoption of individual approaches for the recognition and neutrality of money laundering generates a specific approach to the concept. The anti-money laundering system in the broad sense of the concept was one of the first formulated in 1987 in the United States of America. The efforts have found their basis in the international and national level in the early seventies. Essentially, these are the legal aspects and the theoretical aspects in the broader sense of the word. Apart from these, we have the motivation of the article about performance.

2. The Scope by International Standards and Conventions A series of conventions against money laundering tip by now for a concerted approach of member countries of the UN on this issue. Thus, it was in 1996 of the UN (United Nations) Pakak bed one convention against transnational organized crime, which was comprised of three protocols. Ten years later, in 2000, so plan was another convention black money, which in detail describes money laundering as a criminal and is dedicated to it, directly and remember the provision of material nature and legal norms on the criminalization of

the previous convention. In 2003, the UN adopted a United Nations Convention against Corruption, developing the 1996 Protocol Against. This document marks a very important step in the fight against corruption, including because it incorporates a number of provisions which it recognized, in essence, the phenomena of money laundering. The conventions on the EU side had two directives. In 1991, the Community adopted against Money Laundering Directive, which was epidemiologically a series of guidelines on fighting money laundering. In 2005, the European Union engaged further in normalizing the anti-money laundering system through the direct payment of 3rd and 4th directives. At the regional level, there was a dynamics to increase blocking and fighting money laundering because in 1999 came the Valetta Convention on money laundering, closed by African countries, and in 2003 opened for signature the Santiago Convention, which closed the SADAC countries.

2.2. National Laws and Enforcement

The response to money laundering in individual countries proceeds from their legal systems, legal traditions, but first of all it depends on international legal transfers. Legal systems, rules and institutions are the global knowledge of modern finance and develop mainly accordingly with a set of international guiding principles and standards embedded in the main international legal documents dealing with organized crime, corruption, drugs, and terrorism. Specific anti-money laundering laws – in a few cases regulations and institutional arrangements – marked the first group of countries, and included in the 1980s and 1990s mainly offshore financial centers, but after 2001, changes were also imposed on countries that already had specific laws, including EU member states.

These laws set new standards of financial transparency and liabilities of banks, insurance companies, stock markets, financial intermediaries and professions, which became legally and juridically very important for a

comprehending of financial systems in general. Specific laws against money laundering have spread all over the world and since the first years of the first decade of the XXI century about 150 countries have adopted some form of legal regime against laundering, with in most cases a financial intelligence unit, a financial supervisory authority, a law enforcing or authority, and border control arrangements. Some countries had an anti-money laundering regime before the legal globalization process has gone through to completion; and the impact of international specific EU measures has got decentralized from core to peripheral countries.

3. Money Laundering Techniques

The process of money laundering seems attractive to criminals because of the number of ways it can be done. The technique of money laundering consists of several steps, including:

1. Placement is the initial stage of money laundering. At this stage, criminals introduce dirty money into the economy. Major types of placement include, among others, transfer of funds and the most traditional: physical disposal of large amounts of money. Smurfing and/or structuring is a particular placement technique used to avoid bank account reporting requirements at the beginning of a depository for illicit cash and ensuing money laundering through the intermediary of financial institutions.

2. Layering involves moving funds in such a way as to conceal their criminal origin. At this stage, criminals will try to change the form of dirty money or to convert the money to another form or currency; change the magnitude of amounts and instruments. To do this, they may use several bank accounts. This technique makes it very difficult to accurately trace the origin and flow of dirty money and differentiate it from legitimately earned money. By associating "clean" money with dirty money, once the currency sources have been "layered," criminals can incorporate the total amount of funds into the global economy. The process of layering

has increased in speed and ability due to the technological advances available on today's financial market.

3.1. Placement

One of the first things that everyone who is attempting to launder money must do to confront the problem of ownership is to introduce the illicit proceeds into a legitimate financial system. This process is what is referred to as the "placement" of the proceeds of crime. This is the stage of the laundering process that is most prone to disruption due to the ease in which controls can be circumvented, hence the near unanimous call for all available measures to be used to afford the maximum protection of this area of the financial system from the introduction of illicit funds. The final report on this study, therefore, devotes a large amount of space to addressing effective methods for control and it is the placement phase that is held up as a "danger zone for the integrity of the entire financial system".

The controls that are put in place, in particular, reporting systems and customer identification procedures, have been relatively successful in deterring some attempts to place illicit proceeds directly in the financial system. This has partly been achieved through the move of these systems to a global regime, rather than allowing for a territorial approach and the worldwide instigation of sanctions to act as a deterrent. This has pushed the problem outwards and helped to limit the idea of tax-free criminal business. The controls have not yet been fully successful, however, and the money launderer continues to make considerable use of banks to introduce his or her funds into the legitimate system. The move of money remittance activities, from the informal to the formal sector in 2005-2006, serves as one example of this.

3.2. Layering

Once illicit money has entered the financial system, money launderers can begin its layering - an essential stage in the money-

laundering process. This is the most complex of the three cycles, directed to obscuring the usual association between the proceeds and the underlying criminal activity. This operation has to complicate the paper trail of the initial placement of the proceeds. Thus, if difficult to trace, it reduces the possibilities that the identification of the criminal and the retrieval of the proceeds will result.

Layering in the money-laundering process refers to the international practice of conducting an involved series of financial services incidental to the clean-up or disguising of the illicit origin of assets. The multiplicity of transactions represents an obstacle to any claim or repayment to the victim. A professional money launderer or criminal can use a variety of methods to create layers. But all methods of layering typically involve three steps: convert the "dirty" money's financial value in some way, move it through a series of commercial bank accounts into different banks across various international boundaries (the more so the better), stack the money back down again from the series of commercial banks to little private banks.

3.3. Integration

Integration is the final stage of the money laundering process. It is the phase in which the laundered property is reintroduced into the legitimate economy, often using potentially complex and convoluted financial intermediation schemes or finding "seamless" pathways for integration into the formal economy of a developing country. The methods used for these purposes can be summarized as follows: (1) payment of bribe laundering; (2) shell and shelf company laundering; (3) bank capture and securities laundering; (4) virtual bank laundering; (5) currency exchange company brokering.

At this point, the proceeds or property are no longer associated with criminal conduct and are indistinguishable from legitimate assets without comprehensive, diligent, and knowledgeable financial inquiry or forensic

accounting analysis. It is accurate to state that the profession has not yet seen a well-reasoned proposal or discussion on building a comprehensive and effective "pro-active" approach to detecting and verifying laundered assets as a substantial and high priority focus of financial due diligence. At its core, the potential for financial institutions to ardently and pro-systemically devote resources and effort to any aspect, whether corrupt practices or illegal conduct or from any other regulated and documented source, would be characterized as a dangerous misallocation of resources. Certain improvements could result in some collateral, barely beneficial results, but most would be overshadowed by the costs, opportunity costs, and competing anti-money movements. A few recommendations provided herein could significantly assist in understanding and quantifying conventional anti-money laundering liability funding expenditure.

4. Theoretical Perspectives on Money Laundering

Money laundering is a complex and multifaceted phenomenon. It is often viewed from two perspectives - a systematic one and a legal one. Researchers rely on their research objectives in their study of money laundering when choosing the perspectives mentioned above. The offense of money laundering is often described based on theoretical aspects. These aspects can also provide the framework for integrating research data and suggesting further recommendations for combating money laundering. The aim of this article is to provide an overview of the theoretical aspects of money laundering. It discusses and critically analyzes rational choice theory, social learning theory, and other contemporary criminological theories that can be used to provide insight into money laundering.

The economic theory of money laundering is founded upon Hirschman's analysis of decision making. In fact, the pioneering approach is decidedly ahead of developed psychological

theories and behavioral sciences, which had not yet begun to examine the underlying decision-making processes and the multiconflictual, layered, and often passive-aggressive dynamics the theory had discovered. In this respect, money laundering is used as the ultimate form of expressing dissent, as it completely violates not just government and state authority, but also disavows every moral and ethical foundation upon which every monetary system, every social and economic network, is based. It is fundamental to the individual that uses money as a means of value transfer, as instilling confidence in money allows for the continuous functioning of markets in terms of exchanging specific goods. Otherwise, every purchase could only be carried out through barter, which is highly unsatisfactory in terms of human needs.

4.1. Rational Choice Theory

Rational choice theory is the perspective that individuals make decisions that they believe will maximize their personal well-being. This perspective interprets all types of behavior, including money laundering, as the result of people weighing the costs and benefits of possible alternative actions and selecting the one that is most advantageous. According to this view, people launder dirty money because it is advantageous for them to do so. For instance, money laundering can be undertaken to satisfy personal needs, which may include receiving more money for the operation, protecting financial or criminal partners, or maintaining anonymity.

From a rational choice perspective, when individuals performing these cost-benefit calculations find that the benefit of converting an amount of illicit funds into licit money outweighs the costs, they initiate a money-laundering process. They may prefer money laundering over the alternative of handling illicit funds directly by taking into account an array of factors, including but not limited to the risks of being apprehended, the likely punishment if caught, the effort required, the investment

required, and the victim impact. It is quite plausible that these calculations are unique for each individual performance. According to the Geneva Program studies, consider the following as the most commonly cited reasons for an individual to launder illicit funds: - Personal financial advantage, - Complicity with business associates, - Evading detection by law enforcement agencies, - Avoiding penalological by recycling money back into the business.

4.2. Social Learning Theory

Social learning theory is the theoretical part of the general theory of social control and social learning perspective, which emerged in the 1960s. Akers and others found that there are abundant social factors in society, which can produce social learning effects, promoting or inhibiting crime, delinquency, and deviance. In terms of money laundering, criminal behaviors are also influenced by others, and learning from the behaviors of others is also applied to guiding the behavior of money laundering. According to the social learning theory, an individual makes a decision to commit a crime based on the internal (attitudes, beliefs, motivations, and morals) and social (friends, social norms, and morals) determinants.

Crime is learned and learned mainly in interaction with intimate personal groups. Learning occurs within a context of interpersonal groups that provide affective and value orientations and evaluate cognitions about delinquent and non-delinquent behaviors. Learning includes techniques of committing the crime. A person becomes delinquent or not to the extent of excess of definitions favorable to the violation of law over definitions unfavorable to the violation of law. The social learning theory focuses on the process of learning by others. People are shaped more by what others think of them and by their expectations about themselves and others than by reality. Observational learning involves watching others. They claimed that observation plays a big part in making criminals. Even children can be affected by

watching others. They observe that in observing a person whose behavior is reinforced, they will be more likely to be influenced by the response, behavior, attitude, and values.

5. The Role of Financial Institutions

To prevent and combat money laundering, it is necessary to involve key financial institutions (especially the entities involved in the transfer of funds) and exert due diligence on them in order to detect legal and illegal proceeds entering the financial system. Chapter 5 (Item IV of the chapter) further provides information about the financial institutions and their due diligence and Know Your Customer (KYC) practices, along with what should be the obligation of a financial institution. Including financial institutions, such as banks, money exchangers, investment companies, and others that are subject to control.

One of the vital provisions of the Recommendations of the Financial Action Task Force (FATF) on combating money laundering is that financial institutions and others shall be mandated to have due diligence pertaining to their management, operations, technology, and marketing to establish the source of the clients' financial flows and their real identity and transaction specifics. Identification of the clientele and the application of due diligence are required to be an ongoing and continuous activity. Identification of the clientele and the application of due diligence are requirements mandating all financial institutions and professionals to develop and document a profile of their potential and actual clients using "know your customer" (KYC) norms. The objectives behind these recommendations are to form a view of the underlying behavior so as to be able to detect large-scale or small-scale criminal behavior; to establish enhanced due diligence policies in the case of high-risk clients; and to be in a position to provide relevant information to the law enforcement authorities.

5.1. Due Diligence and Know Your Customer (KYC)

The main measures aimed at preventing and combating money laundering, as well as proceeds from crime, are effective tools today. The following section is dedicated to the analysis of due diligence procedures and the necessity to know a client by banks in order to verify the source of customer's assets as well as the variety of the transaction being conducted. The key step in this sort of control is the necessity to identify and verify the client, taking into account that in many countries anonymity is the major reason for opening an account. This type of account must ensure that it is used for the purpose of funds proceeds and not for the secrecy of capital. In many cases, there is evidence that the funds have been used for the functioning of criminal groups, therefore police authorities and tax administrations that lack the possibility of identifying these funds also encounter copious difficulties working on both national and international levels.

The obligation of banks and financial institutions to identify and know their customers is a long-standing one. However, the recommendation of the FATF marked an extension of this area from one which focuses primarily on anti-money laundering or suspicious transaction reporting into one of financial investigation. The trajectory of the progression of anti-money laundering multi-agency action groups may thus be conceptualized as one that is moving away from criminal market policing towards a model in which financial investigation and intelligence as to proceeds of crime form the centerpiece. However, many law enforcement remain deeply suspicious as to the ultimate utility of such changes in the existing financial reporting regimes for money launderers as a value added to traditional law enforcement. In an international survey on money laundering that was conducted by the Swiss finance scholars, an overwhelming majority of Swiss police, prosecutors, and customs officials stated that it was nearly impossible to come into possession

of adequate documentation of the sources of income or the course of events, as all too frequently it was easy to document exogenous sources of income.

6. The Impact of Money Laundering

Money laundering harms the economy as a whole and the financial system of the country because it affects the economy in a variety of ways. It is important to acknowledge a range of impacts. Firstly, large or unusual transactions can distort statistical indicators by overvaluing incomes, the size of the economy, or the balance of payments. Second, countries risk being downgraded if they are unable to account for statistically recorded financial flows and deviations from the market value of goods. Third, the credibility of institutions reporting statistics is compromised. The government's public finance management capacity is undermined by negative effects on investment plans. If there is no sound anti-money laundering policy in place, official development aid could be influenced, and financial institutions will be subject to stricter supervision if they are in a country where the regulatory regime is inadequate. Terrorists misuse extra money through money laundering, and therefore, the fight against money laundering is linked to the fight against terrorism. Money laundering and corruption are boosting each other. Money laundering has a general disruptive effect on the economy. It creates illegal and illegitimate competition in the economy. It strengthens illegal activities, siphons off potential earnings from taxation, and undermines the economy as well through its societal aspects.

Money laundering has impacts on the financing system and therefore on markets and the stability of the economy. It also has an impact at a more general level of society on the well-being of individuals where trust and confidence are endangered. It is the government's responsibility to create and maintain society's confidence in the financial and banking system. Where funds from illegal sources can pass

freely through the financial system and disguise their origin and ownership, society's confidence in the role of the financial sector to proceed with economic undertaking can suffer an impact. In the short term, a bank could potentially profit from taking a money laundering client. But, in the longer term, a bank could suffer great losses (economic and reputational) from taking and servicing such clients. Government intervention and regulation are needed to ensure that everyone acts in a fair manner and to set the rules of the game. Additionally, consumers, when making a choice of a provider of goods and services, are encouraged to observe and consider the way a company does business, including the way the right people's money is treated.

6.1. Economic Impact

Money laundering has several serious legal problems, but is primarily considered an economic problem. The most important economic concerns relate to the respectability and security of financial and banking transactions. The resort to money laundering usually implies a lack of legal sources, as its author prefers this illegal nightclub from the tax authorities and therefore uses all the means at his disposal to take this money to work legally. It is a liability for the economy to avoid sanctions, investment offsets, public accounts or public charges, as well as in illegal immigration, union tax evasion or employment and social fraud. Such violations of the basic rules of a free and competitive economy undermine the confidence of both assembly laws and the economy in society. Legal and moral values have an impact on changing the regulatory environment and undermining its physical integrity or compensation. Money laundering can also be a source of criminality, as the laundering services that take place can make money, and to finance future criminal activities, or to avoid the defects of financing illegal acts.

Money laundering procedures are similar to financial markets and infringement of human trafficking/markets, causing investment, budget

integration and restructuring: illegal dollars in pounds ultimately affect the value of pounds possible at the end of investment. Worlds created in the hands of money laundering are often sold at auction at low prices. An obvious investment in the legal system, anti-money laundering mechanisms and the cost of carrying or operating infrastructure. Financial relations are also affected, especially as it undermines the trust and confidentiality of financial intermediaries. Money laundering usually involves combining professional legal descriptions between financial intermediaries with small transactions or cash donations and cash donations, transferring the money electronically to the recipient's legal account and extracting it in cash from the changing bank or making third country transfers. These agreements are set up in dozens to document the work, to sell goods or to distribute goods to buyers and to mix the outlook for legal goods. Dynamic, SME, customer and retail banks are the main beneficiaries of illegal funds, which are more dependent on supply than servicing financial markets, causing increased systemic risk.

6.2. Social Impact

Money laundering: Legal and theoretical aspects

6.2. Social impact

Assuming that criminal activity and public resources are finite, the more money laundered, the more illegal activity and the fewer public resources. The proceeds of organized crime amount to billions of dollars. For instance, it is estimated that proceeds from Afghan narcotics represent around half of the national GDP. Businesses are difficult to maintain in a legal way in a country that is shattered. Furthermore, it becomes virtually impossible in this situation to attract foreign direct investment, and any inflow of remittances from expatriates to Afghanistan's commercial banks are transfers from natural persons receiving illegal proceeds. Thus, money laundering has a direct effect on the well-being of society. For the sake of all the

parties involved in the cash cycle, money laundering undermines the faith of the spontaneously depositing public. What is more, a state that is not able to comply with its anti-money laundering obligations turns out to be dishonest in the developing banking sector of many states, leading to compulsory anti-money laundering obligations. Trust in the governance of national control authorities working for economic observers.

To complete the social dimension of money laundering, there is the mere existence of equity. Criminal activity will be conducted until offenders are prosecuted. The very debtor policy and administration of legal regulations are also a community advocacy. This is described in the phrase "nullum crimen, nulla poena sine lege," which stipulates all criminal offenses. Because any infraction that was not legalized before the offense was unlawful because it was not known until they were transgressed. If the obligation to recognize and implement reporting, examining, convicting, and prosecuting money laundering offenses is not met, it will result in chaos in a framework of laws based on regulations. Nothing else read as a result of legal chaos due to non-implementation are social trends to money laundering.

7. Emerging Trends in Money Laundering

The evolving landscape of money laundering compels bankers, regulators, intelligence, and law enforcement officials alike to keep pace with the financial transactions utilized to obscure and legitimize criminal proceeds. In doing so, they uncover many new methods of illicit financial activities. While money launderers, as well as regulators, historically 'bad actors' and new market entrants, adopt a variety of legitimate and illegitimate financial transactions to further their own interests, we see a common pattern emerging. As each market transaction is processed, customized, split, recombined, and executed in real-time through legitimization-legitimation-obscuration, they further enhance their ability to

embed the illegal has become socially normal within all forms of financial services.

At this juncture, a vibrant research program involving two EPSRC grants was set up/postulated concerning the move to a cashless society and tradable virtual currencies that were decoupled from any government and bank. Physical or electronic currencies are equally susceptible to abuse, serving as "leg-kit" and "laundering service" by facilitating anonymity through a diverse range of cash conversion means and exchange services, as a means of payment for goods and services (nominally to acquire illegal pornography, arms, counterfeit money, drugs, stolen goods, finance acts of terrorism, and fund mercenaries, revolutionaries, and paramilitary operations), and through speculative trading in some unique features of cryptocurrencies as they were not fiat or commodity monies supplied by a central bank or pan bank international authority. Financial institutions increasingly have to comply with and in some respects spearhead measures to counter the round-tripping of digital currencies through defining and monitoring boundaries that operate over "transactions."

7.1. Cryptocurrencies

Cryptocurrencies represent a new and, in many ways, disruptive phenomenon in the world of finance and finance-related crimes. They are considered to be an alternative means of payment and a store of value, trajectories which can, in the future, replace, complement, and erode governments' monopoly of fiat money. Cryptocurrencies have unique properties that make them attractive to money launderers and terrorist financiers – characteristics that are sometimes erroneously associated only with offshore banks. First, cryptocurrencies do not operate within borders, allowing funds to be transferred across jurisdictions at a rapid pace. Second, they offer a degree of anonymity and privacy. However, most existing cryptocurrencies are only pseudonymous by design and do not fully offer the same level of

secrecy. Third, when needed, stored cryptocurrencies can be easily converted to regular money with minimal to no paper trail. At present, major exchanges are introducing "know your customer" (KYC) and "anti-money laundering" (AML) controls in order to comply either with legislation and regulations or to attract a larger client base that values transparency and legitimacy in the operations. Thus, cryptocurrency trading is rapidly becoming less appealing to launder money or proceeds from criminal activity, and the effect scale of AML measures is still to be established.

Cryptocurrencies can be used to launder funds through tumblers, mixers, and Monero, which alter and obfuscate transaction details. This problem varies depending on the widespread use of virtual currencies, with Bitcoin currently being the most adopted. Professional money launderers will alter the original source of the Bitcoin or make use of mixers improperly implemented by digital currency exchanges, rendering the laundering process practically invisible except for the most sophisticated criminal investigations. Altering of the source takes place when transactions or digital wallet addresses are altered by using a centralized server or accounting service run by the laundering network. With the diversification of cryptocurrencies, digital exchanges are complementing the selection of virtual currencies available for trading with new alternatives such as Monero. Monero is seen as the leading anonymous cryptocurrency by design, and it can thus be potentially even more appealing for laundering operations compared to Bitcoin.

8. Technological Solutions and Challenges

Since anti-money laundering (AML) is an area of so much complexity, it seems like using technology to resolve these matters could be a reasonable solution. For example, blockchain is considered to be at the very core of the future of AML on the US market. It is considered to have the potential to prevent money laundering inside the financial institutions by managing

identities more securely and authenticating transactions and preventing theft and cyber-attacks. It may also greatly benefit the AML in other fields as it can fully change customer onboarding and fully secure and automate Know Your Customer (KYC). However, maintaining and storing in a secure manner the information which is needed for KYC is one of the examples where technology may threaten data privacy. Blockchain is considered by many to have a better consensus of trust and transfer interoperable agreement for both the AML and CTF credentials of individuals from around the world. The system can also create auditable AML conforming to regulations in real time by utilizing cryptocurrency audit trails.

Technology can be used to resolve the complexities of money laundering, but improving technology without strengthening cultural issues will not prevent it. There may also be issues with collective greed, and technology advances such as artificial intelligence and the quantum revolution could result in changes of how laundered money is managed. Money laundering has not yet been heavily affected by cryptocurrencies, but it has not transformed the AML as some had expected. The use of technology to resolve why laundering occurs has many problems and might just transfer the problem elsewhere. Even though the many challenges of using technology to fight money laundering are many, some of those problems are possible to deal with because others have already been addressed in other technological advances.

8.1. Blockchain Technology

In the context of combating the money laundering problem, blockchain technology can increase transparency, make it possible to trace transactions between international financial institutions and several banks. As part of the digital transformation of society, financial technologies are rapidly developing and improving as a new kind and new generation products. The main factor in the development of financial technologies is the implementation

and improvement of financial interactivity in the cryptocurrency environment.

Because of the development of new payment systems and a high growth in the number of cryptocurrency transactions, new challenges for law enforcement agencies have emerged and new criminal traditions have been discovered regarding the use of big data and blockchain technology. Due to the efficiency of the blockchain, any transferred amount, from low to high, is divided into small amounts and moved between ten and several dozen resources. Massive money laundering systems involve not only funds that need to be moved to a destination country but also gold, other precious metals, or diamonds. To effectively counter these risks, it is necessary to use advanced technologies. The best tool for crime and money laundering is cryptocurrency because criminals can easily trade in cryptocurrency and then receive a large amount of funds from intermediary accounts in the traditional financial sector. Blockchain technology presents new innovative solutions for transaction processing that are subject to stringent principles.

9. Case Studies and Examples

Real Cases

Unlike criminal abuses, real case examples of money laundering are relatively abundant. Some prominent ones are included below and should be read in conjunction with the relevant theory sections above to give a flavor of the range of criminal activity with which money can be connected. Perhaps nothing illustrates the complexity of defining money laundering policy as the HSBC money laundering case. In 2012, a congressional investigation into HSBC revealed that the bank laundered hundreds of millions of dollars for drug traffickers, terrorists, and sanctioned countries.

The Senate's report lists a few examples: 1) from 2006 and 2010, HSBC's Mexico unit moved \$7 billion into the bank's U.S. operations, many of the funds likely originating from illegal drug

sales; 2) HSBC has a particular round of transactions with Yemen of \$132 million, 7,000 crosses of which bear a related shipment identification. "A large number of these entries involve the transfer of physical goods to and from 9 different parties." "Many of the associated transfers have no apparent connections to Yemen."; 3) "HSBC's U.S. division cleared 28,000 financial transactions totaling about \$19.4 billion for its commercial account holders in Iran in just one 11-month period." Post 9/11, the US has aggressively pursued terrorist funding operations, as one of the prime targets for 9/11 was the World Trade Center in New York. While the value of the HSBC fine was huge at \$1.92 billion and needed a statement from HSBC to clarify that it would cover this, the board used the opportunity to state that it "sincerely apologizes to the American people, and recognizes that it has a significant responsibility to pursue reforms that will help it meet its obligations to the public." Thus, the attempt to use the fine as a method of washing away the dirt of the money laundering failure does not stack up - the favorable reference to Paul Schaeffer and its recognition by the court is presumed to be the aspect of the statement that they are forced to "come clean" with the court rather than any serious conviction of amends.

9.1. HSBC Money Laundering Case

9.1. HSBC Money Laundering Case

HSBC Holdings plc is one of the largest corporations in the world. It operates more than 7,500 offices in over 60 countries worldwide, serves more than an estimated 39 million customers, and has assets in the region of USD 2.5 trillion.

In 2014, HSBC reported a massive full-year pre-tax profit of USD 22.6 billion and made an estimated 5% reduction of two-thirds of their workforce. Over 1,000 persons employed in the UK retail banking division lost their jobs in 2014. The UK banking division of HSBC slashed 5,000 jobs by the end of 2017.

The revenue and profits for the financial year ended 31 December 2016 experienced a substantial decrease compared to the previous year. The profit before tax attributable to ordinary shareholders dropped by 62.3% compared to the previous year. This is claimed to reflect legal analysis and investigation initiated by the United States authorities relating to the desecration of Anti-Money Laundering (AML) and Bank Secrecy Act (BSA) laws by HSBC Holdings and HSBC Bank USA during Abe's tenure as Country-Head for business in the USA.

It will be recollected that on the 17th September 2012 at about 03:00 am, Indiana time, a document was faxed to some of the United States House of Representatives showing clearly that the bank was laundering money on a mass scale. It was later revealed that the bank's incumbent Group Chief Executive of the HSBC Holdings Plc, Sir John Bond, paid a British record fine of GBP 17 million imposed on his bank by the British authorities for drug money laundering. The evidence that Vickers Barker, the third Chief Executive, sent a similar amount of drug tranche to Finance Director Mark Tucker was disregarded. This underscores the point that the smuggling of prohibited drugs has continued on a transnational basis with financial lubrication.

For example, between April 1997 and October 2008, Wachovia, one of the largest stores of drug money in the world, processed nearly USD 400 billion through Mexican exchange houses without checking the identity or activities of those who had cups on its door. Indeed, Wachovia violated the Counter Drugs laws of the United States. Wachovia, now part of Wells Fargo, was fined a token of USD 110 million, representing less than 2.7% of revenue in 2010.

10. Preventing and Combating Money Laundering

Various measures exist to prevent and combat money laundering. As there is no general profile of money laundering or any consistent pattern of criminal activity, it should be borne in mind that the practical implementation of the

following preventative programs should be subject to a certain degree of flexibility, allowing account to be taken of relevant national and international circumstances. A tailored risk assessment should form the basis for preventive programs. The programs recommended should be clearly defined, risk-based, and proportionate to the size of the institution and the type of products and services supplied by it. The three main elements involved in any regime are preventive measures directly aimed at would-be criminals, regulatory controls and enforcement resources.

One criterion for effective control of money laundering is that a regime separates the bad from the good without unnecessarily denying access to legitimate banking or other financial services. Real money laundering prevention is carried out mainly through front line staff who know their customers and can spot unusual or suspicious activity patterns, provided they are given appropriate awareness training and equipped with the relevant procedures and protective arrangements. For financial institutions, it is business essential to have in place a fully effective compliance program comprising policies, procedures, and systems to prevent a breach of law in the countries in which they operate, to protect customers and other stakeholders, and to safeguard the integrity and stability of the institutions themselves. Detailed guidance on the establishment of in-house money laundering compliance programs is given by a number of countries, and particularly those in receipt of FATF mutual evaluation reports.

10.1. Risk Assessment and Compliance Programs

The new international and domestic regimes can be used by each country to initiate a money laundering and terrorist financing national strategy to protect the integrity of the domestic financial systems. This is in order to protect the financial systems from money laundering, terrorist financing and their resulting connections, including other serious crime, and

to build and protect, as necessary, the international financial systems. The Financial Action Task Force (FATF) specified fundamental and general principles related to risk assessment. Regulation no. 7(1) of the Financial Services Rule specifies that a financial service provider should establish a compliance program appropriate to the type, size and complexity of the business of the financial services provider to ensure that it complies with the AML and CFT Act, this rule, the regulations, guidelines and notices published under this Act.

New Zealand's legal obligation is to prevent and combat the crime of money laundering and any individual who 'knowingly' commits a violation is liable to a \$30,000 fine for every local legal entity for violation and a \$3 million loan. Money laundering compliance programs can have specific elements required. The following section will cover some of this basic framework. One set of these is known as the "Four Pillars" of any compliance program known specifically to the US risk. The USA money laundering and fighting-terror financing regime has four "pillars" of an anti-money holding and terrorist financing contract that explicitly establishes expectations and performance obligations. Financial institutions were informed by the contract how they get to know their consumers and manage transactions according to their relationships and history. AML-focused regulation can include prescriptive measures such as customer acknowledgement and record-keeping.

11. Conclusion and Future Directions

This body of essay concludes that money laundering is a crime under numerous legislative regimes, and its relationship with the principal felony can be ascertained through the determination of its characteristics. With regard to the determination of the future trends of money laundering or the essence of the crime, the recent theoretical developments and insights were confined to the shift of the understanding of money laundering from organized crime-based approach to the theory

of perpetual predication. The essay suggests that any future attempt or policy addressing money laundering should be based on the recognition of the nature of the criminal process and offences. In particular, money laundering should be understood as an unreasonable hierarchy in the criminal process. Reasoning above would persuade us to change the emphasis from identifying the proceeds and crime prevention to identifying the corruption of financial system and underground services. Financial crimes, thus, have primarily two faces to them – the first is that of the crime proceeds, the second is that of an abuse of the financial system.

Challenges and tasks for the legislatures and policy makers, therefore, are to secure on one hand the integrity of the financial system and the rule of law and on the other hand to protect the individuals' and states' own financial interests, i.e. money collected through levies and taxes. In terms of these, the role of commercial banks to increase compliance measures has come to the fore in recent years, which has allowed the decentralization of legitimization efforts. This seems to be directed, ideally, toward the potential identification of the narrow personality of the offenders and, practically, of allowing once a suspicious activity report (SAR) has been filed, the information to be used in the financing of terrorism and potentially used in confiscation of the funds underlying the report. The reinforcing of the anti-money laundering regulatory and legislative machinery on national and international levels can be seen as one of the criteria.

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