

MONEY LAUNDERING SCAMS IN INDIA: ITS IMPACT AND GOVERNMENT REGULATIONS TO CONTROL

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ABSTRACT

In today's era, money laundering is the burning issue. It happens in almost every country in the world. Basically all countries in the world are more or less forced to cooperate in the global fight against money laundering. Money launderers continuously looking for new routes for laundering their funds. Launderers tend to move their networks to countries and financial systems with weak or ineffective countermeasures. This activity has a serious impact on a nation's economy. This paper analysis the activities through which money laundering have been done in India, the significant cases that had been filed in previous years. Although practicing activity in Indian economy and what appropriate actions has been laid down to control all financing activities. However, research is based on observations and analysis of case studies.

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.

REVIEW OF LITERATURE

Chandan Mitra (1999) , discussed the history of corruption in the subcontinent, from the times of Kautilya to the Mughal era, the East India Company days and post-Independence India, discussing how dissatisfaction has become institutionalized .He delves into detail, the alleged Bofors kickbacks, the fodder and Bank securities scam and 'hawala' Money laundering.

Connecting these to covert government practices of using corruption as an instrument of State policy. And describing the proliferation and legitimization of petty corruption in everyday life, he presents an enthralling account of the blatant 'hafta', 'chai-pani', 'cut' and 'black' system of bribery that are prevalent today. M. Michelle Gallant (2005), discussed the upcoming assault on criminal finances, a dramatic transformation is taking place. Increasingly states are choosing to implement their assault through civil proceedings. Rather than rely on traditional criminal legal processes, states are relying on civil proceedings. This revolution fuses crime control policy and civil legal processes. This work critically examines this fusion. Some investigate this transformation from the perspective of criminal law. This work broadens the inquiry. Janet Ulph (2006), focused on the lack of liberty is no longer considered effective in preventing crime and punishing offenders. The money laundering legislation can be seen as a wider initiative by the Government to eliminate all incentives to commit unlawful activity. Rajkumar S. Adukia (2007), analyzed the application of the prevention of money laundering and the Indian Initiative in money laundering, Record Keeping and Reporting, Identity of Clients, Notification and Guidelines issued by various authorities, International Organizations involved in the fight against Money Laundering and Anti money laundering Authorities ;

OBJECTIVES OF STUDY

1. To analyze the various Money laundering scams in India.
2. To study the various government protective measures to stop money laundering practices in India.

ANALYSIS OF THE STUDY

Case Analyses

- **Navy War Room Leak Scandal** took place in 2006 in Defense sector by defense personnel worth Rs 18,000 crores. In this scam, arms Dealers senior defense officials working in the Navy War Room located inside Prime Minister's Secretariat in India & obtained sensitive data pertaining to military purchases & ongoing defense acquisitions for securing lucrative multibillion-dollar contracts relating to Scorpene Submarines deal of the Indian Navy worth US\$6 billion. A higher authority personnel fled to UK in 2006. Red corner Interpol notice was issued for him. Even after 8 years of arduous legal battle in UK Courts, Indian got failed in his extradition. One of them was granted bail in this case in 2008 by Delhi High Court.
- **2G Scam** took place in 2008. It was an Indian telecommunications scam and political scandal in which politicians and government officials under the Indian National Congress (Congress) coalition government undercharged mobile telephone companies for frequency allocation licenses, which they used to create 2G spectrum subscriptions for cell phones. The Government chose NM Rothschild & Sons to design a first-of-its-kind e-auction mechanism in the world, a US\$2.27 billion landmark deal, in which they got at least Rs 30.5 crore in commission. The difference between the money collected and that mandated to be collected was estimated by the Comptroller and Auditor General of India at Rs 1.76 trillion(US\$26 billion), based on 2010 3G and BWA spectrum-auction prices. Under this scam, Scammers have been in Tihar jail for 15 months and 5 months respectively. They have been charge framed.
- **Common Wealth Games Scandal** occurred in 2010 of worth Rs 70,000 crore in New Delhi. It is estimated that out of Rs 70000 crore spent on the Games, only half of the said amount was spent on Indian sportspersons. The Central Vigilance Commission, involved in probing the alleged corruption in various Common Wealth Games-related projects, has found discrepancies in tenders – like payment to non-existent parties, willful delays in

execution of contracts, over-inflated price and bungling in purchase of equipment through tendering and misappropriation of funds.

- **Mumbai International Airport Ltd (MIAL) Scam (2014)**- The Sahar police investigate a worth Rs 5,887crore scam that allegedly took place during the construction of the Chhatrapati Shivaji International Airport. The police have registered an FIR against joint secretary in the Ministry of Civil Aviation, chairman & managing director of GVK Power and Infrastructure Limited, managing director of Mumbai International Airport Private Limited (MIAL), Deputy Commissioner of Police (DCP), Assistant Commissioner of Police (Airport Div), senior police inspector and police inspector for cheating and forgery. The project was deliberately delayed by 3 years to pass 5000 crores undue benefit to GVK (conglomerate).

PREVENTION AND GOVERNMENT MEASURES OF MONEY LAUNDERING

- In 1996 Ministry of Finance, Government of India, appointed an Inter-Ministerial Committee to look into all features of money laundering and to recommend appropriate legislation, if necessary. The Committee in its statement recommended enactment of an inclusive legislation to deal with this setback.
- A new Bill incorporating the proposal of the Parliamentary Standing Committee was introduced in the 13th Lok Sabha on the 29th October 1999. After the Bill was conceded by the Lok Sabha on the 2nd December 1999, the Bill was referred by the Chairman of the Rajya Sabha to a select committee of the Rajya Sabha on the 8th December 1999 for its assessment. The Select Committee presented its report on the 24th July 2000 and the present Act came to be enacted to in 2002.
- Prevention of Money laundering Act, 2002- Prevention of Money Laundering Bill 1998 was introduced in Parliament on 4th August, 1998. The Bill received the assent of the President and became Prevention of Money Laundering Act, 2002 on 17th January 2003. The Act has come into force with effect from 1st July 2005. It has been amended in 2005, 2009 and recently in 2012. The objective of the Act is to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto. An offence of money laundering is said to be committed when a person in any way deals with the proceeds of crime²². The prescribed punishment is 3-7 years rigorous imprisonment for an offence of money laundering with fine. In case of an offence mentioned under Part A27, imprisonment would extend up to 10 years.
- Anti-Money laundering Standards-RBI issued Master Circular on Know Your Customer (KYC) norms/ Anti-Money Laundering (AML) standards/ Combating of Financing of Terrorism (CFT)/ Obligation of banks under Prevention of Money Laundering Act, 2002 and Banks were advised to follow certain customer identification procedure for opening of accounts and monitoring transactions of a suspicious nature for the purpose of reporting it to appropriate authority. These KYC guidelines have been revisited in the context of the Recommendations made by the Financial Action Task Force (FATF) on Anti-Money Laundering (AML) standards and on Combating Financing of Terrorism (CFT). Banks have been advised to ensure that a proper policy framework on KYC and AML measures with the approval of the Board is formulated and put it place. The Objective of KYC Norms/ AML Measures/ CFT Guidelines is to prevent banks from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing activities. KYC procedures also enable banks to know/ understand their customers and their financial dealings better which in turn help them manage their risks prudently.

- Special courts, being set up to decide cases of money-laundering should be geared up to help achieve the objective of taking productive action against money laundering without any hindrance. It is important that cases are fast tracked, the culprits punished, and the proceeds confiscated without any delay. With the modifications and amendments suggested by the Committee, it is expected that the PMLA would substantially conform to the global standards and help in amplification and coordinate efforts of both national and international intelligence, investigation and enforcement agencies in fighting money laundering and terror financing.
- THE FINANCIAL INTELLIGENCE UNIT - INDIA (FIU-IND)-While the Prevention of Money Laundering Act (PMLA) 2002, forms the core framework for combating money laundering in the country, The Financial Intelligence Unit - India (FIUIND) is the nodal agency in India for managing the AML ecosystem and has significantly helped in coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and related crimes. These are specialized government agencies created to act as an interface between financial sector and law enforcement agencies for collecting, analyzing and disseminating information, particularly about suspicious financial transactions. In terms of the PMLA Rules, banks are required to report information relating to cash and suspicious transactions and all transactions involving receipts by non-profit organizations of value more than rupees ten lakh or its equivalent in foreign currency to the Director, FIUIND in respect of transactions. It receives prescribed information from various entities in financial sector under the Prevention of Money Laundering Act 2002 (PMLA) and in appropriate cases disseminates information to relevant intelligence/ law enforcement agencies which include Central Board of Direct Taxes, Central Board of Excise & Customs Enforcement Directorate, Narcotics Control Bureau, Central Bureau of Investigation, Intelligence agencies and regulators of financial sector. FIU-IND does not investigate cases.
- Role of Reserve Bank of India-RBI plays a significant role in AML activities. As the regulator of the banking industry, RBI has issued a series of guidelines to the banks on Know Your Customer(KYC) Standards and Anti Money Laundering(AML) measures, which require banks to put in place a comprehensive policy framework on customer identification procedures, customer profiling based on the risk perception and monitoring of transactions on an ongoing basis. The guidelines issued by the Reserve Bank of India take into account the recommendations made by the Financial Action Task Force (FATF) on AML Standards. These guidelines also incorporate aspects covered in the Basel Committee document on customer due diligence which is a reflection of the International Financial Community's resolve to assist law enforcement authorities in combating money laundering crimes.

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.

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