

MONEY LAUNDERING – THE IMPACT IN THE INDIAN ECONOMY

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ABSTRACT

Money laundering is the illegal process of making large amounts of money generated by a criminal activity, may it be a terrorist funding or drug trafficking, making it appear to have sprang from a legitimate source. It is considered as a dirty money and the launders by all their efforts would project such transactions to be genuine and clear. This is predominantly committed uniformly by both the white collar and other miscreants. Online platforms and other crypto currencies are being used as the mode for movement of the funds by the criminals in a way by which it never gets detected. In India, emergence of the Hawala transactions which are treated as the core part of laundering, has been witnessed to be capturing its momentum in the last thirty years time. Top business officials, politicians and other bureaucrats, in combination or individually are found to be very active in carrying out the hawala deals and contributing highly towards creating a parallel economy. Over and above the mentioned teams, the agents of these transactions a taking a crucial role in ensuring that such transactions never misses the track. Hence, in many ways the money laundering activities are aiming towards generating the black and illegal money abnormally. Many business segments got affected adversely due to such dirty transactions and are invariably creating a threat to the sustainability of a descent economy. Many scams and cases booked in India in the past substantiates the depth of the penetration of laundering in the economy. Though there are so many regulations enacted in the country to counter such criminal efforts, the results of such laws in the system need a closer look.

KEY WORDS:

Dirty Money, Black Money, Terrorist Financing, Cash Smuggling, Round-tripping, Real estate transparency index, Basel Index Report, Bank Frauds, Cyber Laundering

INTRODUCTION

Money laundering is the illegal process of making large amounts of money generated by a criminal activity, may it be a terrorist funding or drug trafficking, making it appear to have sprang from a legitimate source. The money generated in this way is considered as dirty and money launders put in the efforts to project the same as a clean fund. Money laundering is found to be committed alike by the white collar and street-level criminals. Emergence of crypto currencies and online banking have been considered as paths by the criminals to move the funds without being detected. The best efforts are being put in at the International level to prevent the money laundering activities. In the past, the financial transactions related to organized crime was considered as money laundering but in the current scenario, the definition of money laundering is extended to all the financial transactions which even generates a value or an asset subsequent to an illegal act. Tax evasion, or Fraudulent financial reporting which are by default illegal in nature may fall in the above category. The money launderers make each stage of the money laundering extremely complex to make it strenuous for the system to detect. **Placement**, being the first stage whereby the dirty money illegally acquired are moved away from its sources, diverting it into a legal financial system. In the second stage, the illegal money are moved into the legal systems by using offshore techniques, with a hard core intention to conceal the original source and ownership of the funds, which is referred as **Layering**. In the final stage of **Integration**, the illegal money is absorbed into the economy, through various transactions appearing to be from legitimate sources to project a plausible explanation regarding the base.

The Money Laundering takes several forms which include:

- **Structuring**, which is otherwise referred as smurfing and in this method the huge cash is broken into smaller segments which invariably gets deposited into multiple accounts to overcome the suspicion any laundering actions.
- **Bulk Cash Smuggling** which involves moving the cash physically to a different jurisdiction and deposit the same in a financial institution which maintains a very high level of secrecy.
- **Trade based laundering**, whereby the invoices are under or overvalued to conceal the money movements.
- **Creating Charitable Trusts or Shell companies** on behalf of an Individual or another organization, the identity of them never gets disclosed.
- **Round-tripping**, a technique whereby the funds being deposited in an offshore foreign corporation, where there will be much lesser rigorous enforcements related to money laundering and are subsequently being shipped back to the country where such funds initially originated, as foreign direct investment and avail the tax exemptions.
- **Black salaries**, a method whereby a corporation deliberately will have employees not included in their rolls and even without any written contracts and annual remunerations paid by way of cash. The corporations may even use dirty money created to settle the dues to such employees.

MONEY LAUNDERING IN INDIA

India witnessed the Hawala transactions, which are segments of money laundering, capturing its momentum during 1990s. The members of political organisations, business tycoons and other bureaucrats were found to have been indulging actively in hawala activities and escorted for a parallel remittance system in the country. The roles played by the transactional ambassadors were key to the performance and completion of the entire process, in which they will be taking the part as the central elements who receives the money at one location and will be delivering the amount to the beneficiary at a different location through their counterparts. These steps outmaneuver the transfers through formalized channels and all other documents, presupposed if any. Thus hawala transactions were contributing towards transmutation of

money from its legal and white form to illegal and black form. Though Section 6 and Section 10 of Foreign Exchange Management Act (1999) highlights the importance and role of Reserve Bank of India which requires the people who deal on foreign exchange transactions should invariably be registered with RBI, but this is seldom applicable to Hawala Traders. The most prominent element which makes hawala transactions most attractive is the commission rates involved which are found to much lower than the regular bank transfer charges and moreover the customers can escape from the tax liability which will arise otherwise.

TERRORIST FINANCING IN INDIA

Terrorist financing, another dominant ingredient of the hawala activities, is quite more damaging in India. Terrorist financing surround the ways and means used to finance the terrorist activities. Trafficking in weapons, drugs or people are investigated to be the routes for sourcing the funds by the terrorist groups. The main sources as witnessed in the country are “diaspora” and “domestic”. Diaspora highlights the involvement of fundamental co-religious groups and their part in organized crimes. The term domestic includes the segment of people who are notorious in contributing towards Kashmiri militants coterie operating in India. The unique feature of such terrorist financing as observed in India is that the processes involved are typically linear in nature whereas the conventional money laundering is dominantly customary and circular in nature whereby the funds, in due course, ends up with the source from where it got generated. There are many cases which are the apogees of the hawala deals which visibly convey the evil effects of the same in India

Hasan Ali Khan Case:

Hasan Ali, an Indian businessman, having connections and involvement in International arms dealing transactions, was found to have \$2.67 billion with the swiss bank accounts, upon a raid performed by the Income Tax and Enforcement Directorate officials in 2007. ED authorities as well unearthed, crores of un accounted money from his residence and

subsequently found him to be a dominant hawala operator in India. Hasan Ali Khan was carry on with these transactions since 1982 as an ambassador to many politician and businessmen by shipping their funds to countries like Mauritius and Madagascar where the tax rates are literarily low and again bring the amount back to India as Investments into shell companies. Supreme Court of India invoked charges of terror under Anti-Terror Law, Unlawful Activities Prevention Act and under the provisions of Indian Penal Code. The IT department after the raid assessed that Khan had his total income of over \$14.66 billion for the periods 2001-02 to 2007-08 and demanded \$4.53 billion as taxes. This assessment became the base for the Enforcement Directorate to probe further regarding the sources of his income.

Jain Hawala Diary case:

In the history of Independent India, this case considered to be one of the biggest scams, where involvement of 115 top politicians, businessmen, professionals from the film industry and bureaucrats of Kashmir were witnessed. In this case, the funds of over \$18 million were funneled into the stream of Hizbul Mujahideen, a terrorist organization in Kashmir. This was exposed during the year 1993.

Hawala Case in National Capital

On 11th February 2019, the Income Tax department probed another biggest hawala deal in New Delhi. The amount involved was estimated to be \$2.67 billion, after conducting series of raids by the Delhi Investigation unit of the Income Tax department in different regions of Delhi and seized many documents, agreements, Memorandum of Understandings, cash settlement details of disputed immovable properties.

Hawala – Infrastructure Firms Case

The Income Tax authorities, subsequent to conducting raid in 42 premises located in major cities like, Delhi, Mumbai, Hyderabad, Erode, Pune, Agra and Goa could notice the involvement of major infrastructure firms in India in the various Hawala deals, the financial

magnitude of the same was over \$0.45 billion. The incriminating evidences against these firms were dug up by the IT authorities, on the basis of which the entire chain of the processes involved in the laundering activities. These funds were meant for public infrastructure projects, were misappropriated by making false invoices by these companies.

Cyber Laundering

Another noteworthy technique emerged in India is Cyber Laundering, which is carried out by with the aid of digital cash which is electronic form and a substitute of cash. These digital cash will involve number of series with some intrinsic value associated. Lack of obscurity is in common observed as the trait of the players of the sport. Wire transfer methods prevailing provide faster, risk free channels to move money between the countries which in the fullness of time made the tasks of the investigators almost difficult as tracking such cash swings become futile.

Money Laundering through Real Estates

Investment in Land is another prime channel to launder the dirty cash. The earnings through corruption are largely diverted into the land and various structures put up on the land. In India, one will be able to witness an unstructured growth in this real estate sector which at the end of the day has affected the economic life and raised enormous environmental issues in the cities. The lion's share of the politicians unexposed funds have been routed into this real estate sector. The real estate segments are used in money laundering mainly due to the facts that cash purchases are quite possible and entertained as well while the true ownership of the property can be concealed.

According to Enforcement Directorate, under the department of Revenue, Ministry of Finance, Government of India, 48% of the money laundering are associated with the financial institutions, which constitutes almost half of the total cases. Out of the rest, 35% belong to the real estate segments, 7% relates to the illicit trading of gold and silver and all other sectors

account for 10%. The authority also highlights that the data until 2017, reflects that the Banking frauds and corruption account for 43% of all cases, where as 31% is on account of corruption. As per the directorate, the financial institutions use shell companies to launder the dirty funds and even in the real estate segment, money flows are happening through financial institutions using the shell companies.

The following table illustrates the type and the level of fraud in the real estate segment:

Table 1: Fraud in Real Estate/Construction Segment in India

Type of Fraud	Level of Fraud
Real estate billing	Low
Bid Rigging, market collusion	High
Corruption	High
False vendors, Forging Payment applications	Low
Change order manipulation	Medium
Robbery of Materials	Low
Fabricated Demonstration	Medium
Money Laundering	High

Source: Grant Thornton (2017). Fraud trends in realty. The Hindu Business Line (November 23, 2017), Online available at <https://www.thehindubusinessline.com/news/education/Fraud-trends-inrealty/article20694587>

Similar to the hawala and terrorist financing related cases, the real estate segment of India also spotted certain instances that struck the economy negatively.

Rangmahal Co-operative Group Housing Scheme Scam:

This scam involves an amount of \$0.53 billion in which the housing plots were illegally allocated to the people at subsidized prices in North West Delhi, by forging the document by misrepresenting as executives of Delhi Development Authorities. The members of Rangmahal group along with certain public servants, put together 11 people were carrying out the scam. The Central Bureau of Investigation, filed charge sheets against the gang in the year 2005.

Karnataka Wakf Board Land Scam:

This scam emerged during 2012, in which the Karnataka Wakf Board illegally distributed the 27000 acres of land for a meagre amount, lower than the market value. The loss assessed in this case was around \$26.67 billion, which was brought to the notice of the Karnataka Chief Minister by Anwar Manippady, the Chairman of the Minorities Commission.

The real estate segments were not monitored under the provisions of the Prevention of Money Laundering Act 2002 in India earlier. But the Indian governance systems took so many initiatives to expose the issues related to the segment and to apply controls to overcome the deviations. On account the initiatives to achieve transparencies with respect to the transactions, India could improve its position in the ranking given by the Global Real Estate Transparency Index. The biannual survey conducted by the body bestows ranks by covering 99 countries and 163 cities in the world, based upon their level of transparencies related to the real estate deals, on the basis of 210 different indicators. The following table illustrates the position of India in the last 10 years.

Table 2: TRANSPARENCY INDEX

Year	Rank
2012	48
2014	40
2016	36
2018	35
2020	34

Source: Global Real Estate Transparency Index

It is evident from the table that the India has achieved a consistent improvement in terms the real estate transactional transparency on account of their efforts, as the country reached 34th position in 2019-20, compared to the 48th position during 2011-12.

According to Government of India, the country is losing approximately USD \$18 billion every year on account of various money laundering activities. As of year 2018, around 884 business enterprises in India are on high alert on account of their involvement into money laundering

which amounts to around INR 50 billion. These organisations are under probe as per the provision of the Prevention of Money Laundering Act 2002. According to AML Basel Index which assesses the risk of money laundering and terrorist financing and gives ranking to the countries on the basis of the different assessment indicators, India is recognized as one of the countries which is vulnerable to money laundering activities in the present day framework. The following table illustrates the vulnerability of India to money laundering in the last 9 years from 2012 to 2020, as ranked by Basel Index report:

Table 3

Year	Rank	Score	No of Countries
2012	52	6.05	144
2013	70	5.95	149
2014	75	5.85	151
2015	79	5.77	152
2016	78	5.69	149
2017	88	5.58	146
2018	68	5.28	112
2019	51	5.60	125
2020	70	5.15	141

Source: Basel AML Index

Low scores indicates, the low risk with respect to the money laundering. The scores are between 1 to 10. As the score increases, it indicates high risk on account of money laundering. It is evident from the above report that India's vulnerability almost consistent in the past 9 years.

The Enforcement Directorate of India was succeeded in attaching various assets worth around Rs 34000 crores (\$4.53 billion) during the period April 2015 to October 2018, while the figures for the 10 years prior to 2015 reflected only Rs 9003 crores (\$1.2 billion), which were related to various laundering scams occurred in the country. Though at one side, all efforts are being put in by the regulatory bodies to unearth the evil effects such dirty money, it has been observed

that the enacted Act and the Rules could not check the rising scams with respect to the banking industry in the country. The following table illustrates the damages the Indian banks encountered due to financial frauds:

<i>Value of Bank Frauds in India</i>		
FY	INR in Billion	\$ Billion
2011-12	45.01	0.60
2012-13	85.91	1.15
2013-14	101.71	1.36
2014-15	194.55	2.59
2015-16	186.99	2.49
2016-17	239.34	3.19
2017-18	411.67	5.49
2018-19	715.00	9.53
2019-20	1850.00	24.67
2020-21	1384.00	18.45

Source: Statista Research Department, June 24, 2021 & RBI Reports

Table 5: VALUE OF BANK FRAUDS -SECTOR WISE					INR Billion	
Sector	2018-19		2019-20		2020-21	
	No of frauds	Amount	No of frauds	Amount	No of frauds	Amount
Public Sector Banks	3704	642.07	4410	1482.24	2903	819.01
Private Sector Banks	2149	58.09	3065	342.11	3710	463.35
Foreign Banks	762	9.55	1026	9.72	521	33.15
Financial Institutions	28	5.53	15	20.48	25	68.39

Small Finance Banks	115	0.08	147	0.11	114	0.30
Payment Banks	39	0.02	38	0.02	88	0.02
Local Area Banks	1	0.00	2	0.00	2	0.00
TOTAL	6798	715.34	8703	1854.68	7363	1384.22

Source: RBI Annual Reports

During the financial year 2019-20, the Reserve Bank of India reported, the banking frauds amounting to \$18.45 billion which was the highest figure during the prior 9 years. Though a reversal from the consistent upward trend till 2019-20, was observed during 2021, an urgent revisit to the preventive measures adopted by the Governance systems in India is the need of the hour. Most damaging scams which Independent India had beheld are illustrated herewith.

State Bank of Saurashtra Scam:

The bank got merged with State Bank of India during August 2008, had 423 branches spread over 15 states and Union Territory of Daman and Diu in India. Subsequent to the merger, the RBI authorities pulled out the scam of \$1 billion from Bhavnagar branch of the bank. The head cashier of the branch was found to have been involved actively in the misappropriation.

Army Ration Pilferage Scam

This scam sprang up in the year 2005 which involved a value of \$ 0.67 billion, in which the police uncovered the active roles of several army officers for diverting various items like Jackets, boots, dress materials and even Parachutes meant to be distributed to the soldiers posted in Siachen glacier, to the shops in local market for pocketing the revenue out of the sales. Upon further enquiries, the involvement of a Top General who retired from the service in 2006, was undoubtedly proved and was given rigorous imprisonment by a General Court martial.

Stamp Paper Scam

In 1994, Telgi acquired a stamp vendor licenses, utilizing his connections and forged numerous stamp papers and mixed these fake ones with the genuine papers. These stamps were sold at a massive profits in the markets. The money made on account of these sales were funneled into other businesses by Telgi. In 1996, Telgi navigated his connections and later bought the machines and used them to set up his own press and sold the fake stamp papers printed in other cities in India as well by luring people to join him in the chain. The value of the scam was around \$3 billion. Telgi was arrested in the year 2001 by the police and the case was subsequently taken over by Central Bureau of Investigation, India.

ANTI-MONEY LAUNDERING INITIATIVES – IMPACTS

Enactment of Prevention of Money Laundering Act (2002) along with Prevention of Money Laundering (Maintenance of Records) Rules 2005 dominantly are addressing the money laundering activities in India. Moreover, special responsibilities with respect to monitoring the laundering frauds are vested with Reserve Bank of India, Securities and Exchange Board of India and Insurance Regulatory and Development authority of India, which as well issues directives and guidelines on Anti money laundering standards based upon the PMLA and Rules. The Act and the Rules are applicable to all individuals, company, firm, association of persons, body of the individuals whether incorporated or not, and any agency, office or branch owned or controlled by the above mentioned persons. As per the Act and Rules, any person who directly or indirectly attempts to indulge or knowingly assists or is actually involved in any activity connected with the proceeds of crime is guilty of offence of money laundering. Any concealment, possession, acquisition or use and projecting or claiming it as untainted property, of such proceeds of crime, in any manner is also an offence under the provisions of the Act.

Any property obtained directly or indirectly through a criminal activity relating to a scheduled offence constitutes proceeds of crime. The value of such property or its equivalent value held within the country or abroad are also considered to be proceeds of crime. Under PMLA, ‘property’ means any property or assets of every description, corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments, evidencing title or

interest in the property or the assets, wherever located and includes any kind of property used in the commission of an offence under PMLA.

There is a list of offences provided under a schedule in the PMLA which are referred as scheduled offences. The schedule consists of three parts specifying offences from thirty legislations. Some of the major legislations covered in the schedule include Indian Penal Code, 1860, Narcotic Drugs and Psychotropic Substances Act, 1985, Explosive Substances Act, 1908, Unlawful Activities (Prevention) Act, 1967, Arms Act, 1959, Wild Life (Protection) Act, 1972, Prevention of Corruption Act, 1988, the Companies Act, 2013 and the Customs Act, 1962. The Enforcement Directorate, under Ministry of Finance, is responsible for investigating the cases related to money laundering under Prevention of Money Laundering Act, 2002.

The punishment under the PMLA prescribes rigorous imprisonment for at least 3 (three) years which may extend up to 7 (seven) years and also a fine. In the event that the offence of money laundering related to the Narcotic Drugs and Psychotropic Substances Act, 1985, the rigorous imprisonment may extend up to 10 (ten) years. If an offence of money laundering is committed by a company, then every person in charge of and responsible for the conduct of the business of the company at the time of such contravention as well as the company, will be deemed to be guilty and will be liable to be proceeded against and punished accordingly. Other than the PMLA, the following other regulations and laws were also introduced in the system to check dirty funds arising in the country:

- Black Money (Undisclosed Foreign Income and assets) and Imposition of Tax act, 2015 was enacted with the aim to curb the black money and to bring to the lime light the undisclosed foreign assets and income:
- Multi-Agency Group was set in the year 2016 by the GOI in line with the order of High Court of Delhi upon understanding the involvement of Indian Nationals in Panama leaks.
- Special Investigation Team on Black Money was established in the year 2014, to investigate on the cases related to black money which are in unhealthy circulations.
- Government of India, cracked down 5.43 lakhs shell companies in the year 2018 which were the channels instrumental to the money laundering activities.

- A new section of 139AA was introduced in the Income Tax Act, 1961, during 2017, which mandated linking Aadhar Number to Permanent Account Number while filing the returns.
- Notification rules of Prevention of Money Laundering (Amendment) Act, 2005, makes it mandatory to provide the Aadhar number while opening new bank accounts anywhere in India

CONCLUSION

The Government of India, through various regulations have been taking concrete measures to bring down the risks due to the existence of dirty money to a minimum extent. Though these measures are helping the regulatory authorities to trace certain instances as explained above, in many areas a significant improvement in terms of the risk reduction have not been achieved yet compared to the yester years. This is evident by looking at the Basel Index Report and Reports of the Reserve Bank of India which still in the brightest way illustrates vulnerabilities faced on account of laundering activities by the country. It is always said any system will reap it success only when the same is conceived in its entirety and the corresponding responsibility to abide by the system is utmost felt by the people which ultimately can, over the span of the time, clean up the systems of the politics and the governance in the country. India as a country, together need to travel a long way to achieve the ambitious goal of economical transparencies.

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