



CONCEPTUAL FRAMEWORK OF MONEY LAUNDERING IN INDIA

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ABSTRACT

The financial system in India has been plagued by money laundering for decades. Forgery of instruments, accounting irregularities, and recording of inflated asset values were common types of bank fraud in the past. The banking industry has been hit with new types of money laundering that are very sophisticated and involve massive sums of money as a result of technological advancements and tougher risk management. are involved in the laundering of funds as well. A tax preparer who advises on tax evasion is, therefore, a money launderer. The purpose of this article is to discuss the repercussions these recent cases, such as the Punjab National Bank case involving Nirav Modi, have had on the economy and the measures that may be taken to avoid such events from happening again. It explains the steps the Indian government has made to lessen the economic impact of money laundering.

Keywords: money laundering, cases, banking sector, economy

Introduction

Large sums of unlawful money may be laundered by converting them into smaller quantities of legal currency. For all intents and purposes, the funds involved in money laundering seem to have originated somewhere respectable. There was once some form of unlawful activity that yielded the funds. This is how the criminals conceal their dirty money. The American Mafia is credited with coining the phrase "money laundering." Large sums of money earned by these organizations by licit means like extortion, gambling, etc. Hawala transactions are considered to be a kind of "money laundering" in India. An intermediary is used in this sort of deal to bring together the two main participants in the trade. The popularity of hawala transactions skyrocketed in the early 1990s.

The goal of money laundering is to hide the true origin of ill-gotten gains. It's the practice of making it seem like huge sums of money gained via illegal means (such drug trafficking or terrorist activities) were really earned through respectable means. By helping criminals conceal and legitimate earnings from unlawful activity, money laundering enables criminal activity to flourish. Recent estimates put the annual value of money laundering at about \$1 trillion globally. Criminals are able to finance a wide variety of further illegal operations using the proceeds of these crimes. Money laundering also fosters dishonest practices, warps economic judgment, exacerbates societal evils, and endangers the stability of financial systems. U.S. Treasury definition of money laundering: "the act of making unlawfully earned profits (i.e., "dirty money") look legitimate (i.e., "clean"). Placement, layering, and integrating are the usual stages. As a first step, the illicit money is sneaked into the legal banking system. The funds are then redirected, usually by wiring or moving between many accounts, to further muddy the waters. The next step is further transactions inside the financial system until the "bad money" is disguised as "clean." Money laundering, in its



simplest form, is the practice of "washing" money that has been obtained dishonestly, such as via extortion, drug trafficking, gun running, etc. By using complex positioning, stacking, and washing techniques, the dirty money is disguised as clean. Investment or other movement of money moving from racketeering, drug trades, or other unlawful sources into legitimate channels so that its original source cannot be identified is described to as "laundering" in Black's Law of Lexicon. People from different areas of life, even those who are behaving completely lawfully, may be money launderers. However, in most countries, anybody who assists a criminal in laundering the profits of his crime is also considered a money launderer. Everyone from bankers to attorneys to accountants to auto salesmen who knows their firm is being used to launder criminal funds is complicit in the crime. Those who have acquired wealth via illegal means are also money launderers. Therefore, a certified public accountant who advocates for tax avoidance is complicit in the laundering of funds.

What does money laundering involve?

When someone or some business launders money, they use convoluted methods to make their illicit monies seem like legitimate ones. The process of converting and moving the funds to an institution recognized by law goes through many stages.

The typical procedure for laundering money is as follows:

1. Initial placement

Moving dirty money into a respectable financial institution is the first step in the money laundering process. Here, money is introduced to the financial system in a manipulative fashion, making it impossible to identify any fraudulent activity. Even if this is done with big sums of money, the deposits are made in stages to avoid raising red flags.

2. Layering

At this point, all traces of illegal behavior are wiped clean via a series of convoluted financial dealings. As part of the layering process, money may be sent to a bank or other financial institution in a country with more lax secrecy regulations. In this way, the true origin of the money might be hidden. Criminals may use a number of front firms to commit fraud.

3. Integration

At this point, the money may be used without breaking the law since it has been properly recorded. As a result, fraudsters have easy access to the laundered money that has re-entered the financial system.

Regulations Regarding Money Laundering in India

The Indian government has enacted a slew of rules and regulations to safeguard the industry and combat money laundering. Money-laundering laws are included in a number of different statutes:

- **Prevention of Money Laundering Act, 2002** is passed to curb the practice of money laundering and to ensure that any assets obtained through such activity are seized. Anyone found guilty under this law is subject to a term of incarceration. In addition, it authorizes the



confiscation and seizure of assets belonging to those who have participated in money laundering.

- **FEMA and FERA** have imposed stringent regulations on the hawala market to stop it from being used for criminal purposes. Instead, then depending exclusively on laws and regulations for prevention, FEMA is concentrating on enhancing monitoring and preventative measures.
- **Indian Customs Act, 1962** contributes greatly to the fight against money laundering by, among other things, making it possible to go to jail for committing violations of the Customs Act such as smuggling, unlawful imports and exports, and wrongly declaring exports.
- The Indian Banks Association (IBA) has been in the forefront of developing a self-regulatory code to fight money laundering in the banking sector because of the extreme vulnerability of banking channels to such operations. Anti-money-laundering (AML) procedures are required to be in place at the majority of these institutions in order to identify and prevent any illegal financial transactions from taking place.
- **The Income Tax Act, 1961** offers a structure for punishing tax evasion as a means of fighting money laundering.

Laws against money laundering in India

There are a number of statutes in Indian law that were enacted to control and reduce the problem of money laundering. The most recent amendment was made possible by the Finance Act, 2019 (Finance Act), which was enacted to give effect to the Central Government's budgetary projections for the 2019–2020 fiscal year. Provisions to strengthen the 2002 Anti-Money Laundering Act were included in Part XIII of the Finance Act (PMLA).

The Finance Act has made a number of important changes to the PMLA, including:

- If a person is determined to have engaged in or tried to engage in the concealment, possession, acquisition, or use of the profits of crime, they will be guilty of money laundering under the PMLA's newly added explanation to Section 3. The new language makes it clear that any action taken in relation to criminal funds will continue so long as someone is directly or indirectly benefiting from them. This new development increases the bite power of regulatory agencies and broadens the scope of a person's connection with the "proceeds of crime" when laundering money.
- In cases where a reporting entity determines that a client's conduct in relation to a particular transaction fall within the ambit of Section 12AA of the PMLA's "suspicious activity" provisions, the reporting entity is required to increase the frequency and intensity of its monitoring of the client's business relationship, including increased scrutiny of such transactions.
- The newly added explanation to Section 44(1)(d) makes it clear that any orders imposed in relation to the associated scheduled crime would not affect any inquiry or trial under the PMLA. 1 As such, having both sets of charges heard by the same court should not be interpreted as a "joint trial." An earlier legal issue was that if the accused were to be



acquitted on related scheduled crime charges, the prosecution under the charges of the PMLA would also fail. With this clarification, however, the authority and jurisdiction of special courts in cases involving violations of the PMLA are no longer in question.

- The Enforcement Directorate (ED), India's specialist financial investigative agency, has been granted new authority to combat economic crimes. As a result of the modification, the ED may now undertake search and seizure operations without a scheduled crime, perform heightened scrutiny and arrests without warrants, and regard money laundering as a cognizable and non-bailable offence (all thanks to the Finance Act).

Famous money laundering cases in India

Here are a few of the most high-profile incidents of money laundering that have recently emerged from India:

ABG Shipyard fraud case

Some Indian banks lost an estimated Rs. 22,842 crores due to a scam perpetrated by ABG Shipyard Ltd. of Gujarat. State Bank of India (SBI) and ICICI Bank were among the almost 28 institutions that were duped by the company's network of transactions.

A forensic investigation led by Ernst & Young and performed by SBI in January 2019 revealed that the money laundering occurred over a period of five years, from April 2012 to July 2017.

According to the Central Bureau of Investigation's (CBI's) findings, ABG Shipyard Ltd. fraudulently exploited loan proceeds from several financial institutions for unintended objectives. Using the loan monies fraudulently, the corporation invested in several international subsidiaries, bought assets using the names of associated companies, and transferred money to other related parties.

Punjab National Bank – Nirav Modi case

The Punjab National Bank fraud, led by notorious diamond merchants Nirav Modi and Mehul Choksi, was one of the most prominent incidents of money laundering to come out of India. This scheme resulted in a loss of almost \$2 billion for the bank.

At least 50 workers at the Punjab National Bank's Fort, Mumbai, branch were involved in the illicit administration of these money. The diamond tycoons allegedly obtained massive sums of international credit via the fraudulent use of at least 1200 bank guarantees given by these employees.

Nirav Modi is now detained in Wandsworth Prison awaiting his extradition trial, while Choksi has relocated to Cuba despite the best efforts of Indian authorities to extradite both of them. The Enforcement Directorate was given cause for optimism when it recovered jewels valued at around USD 147 million that had been stolen from several overseas companies held by Nirav Modi and Mehul Choksi.



ICICI Bank – Videocon laundering case

The ED is now investigating former ICICI Bank CEO and MD Chanda Kochhar and her husband, Deepak Kochhar, for their roles in business dealings involving the Videocon Group and Nonpower Renewables Pvt. Ltd.

In 2016, Arvind Gupta, an investor in ICICI Bank and Videocon Group, pointed out questionable transactions between the two corporations, revealing a money laundering scenario. He ultimately sent a letter to the Prime Minister and the Governor of the Reserve Bank of India (RBI) demanding that they look into allegations of conflict of interest. A second whistleblower did not come out with identical allegations against Chanda Kochhar until 2018.

Mrs. Kochhar was questioned regarding Rs. 1,875 crores in loans that ICICI Bank made directly to Videocon Group in return for unlawful remuneration from her husband's enterprises. Along with the arrests of Deepak and Chanda Kochhar in September 2020, the ED was able to seize around Rs. 78 crores worth of their assets. In 2021, the High Court of Bombay released both of these persons on bail.

Yes Bank – DHFL money laundering

Rana Kapoor, the founder and former CEO of Yes Bank, was engaged in a money laundering scandal. It is said that during his time at the bank he gave Dewan Housing Finance Limited (DHFL) a number of loan facilities from which he reaped large financial rewards.

Over Rs. 900 crores in ill-gotten gains came his way courtesy of DHFL's original backer. There were loan transfers made in the name of Rana Kapoor's daughters to a firm that they controlled entirely. In addition, the promoter of the Avantha group sold him a home in Delhi at a bargain price.

Mr. Kapoor sanctioned a number of questionable loans for DHFL, as was later discovered by investigators. In 2020, the ED would seize almost Rs. 2,203 crores in assets, including Mr. Kapoor's private holdings. Multiple members of his family and he have been arrested at various points in the inquiry. While the Avantha Group's promoter, Gautam Thapar, and his wife were released on bail, the couple remained in jail until that year.

INX Media case

In 2007, INX media was charged for breaking the Foreign Exchange Management Act by the Enforcement Directorate (ED). There were allegations that during the time of the UPA administration, INX Media got foreign investments of Rs 307 crore from businesses domiciled in Mauritius. The Foreign Investment Promotion Board was cited, and prominent government officials were arrested. The hearings demonstrated how bureaucratic authority is often abused to boost profits and embellish balance sheets. This case made it difficult for other Indian businesses to welcome FDIs, since they had to adhere to stringent standards.



Preventative measures:

- Rules for Foreign Direct Investment (FDI) are strict, and investors must reveal their intentions and all relevant documentation.
- To prevent the illicit appropriation of funds, it is essential that all bureaucratic executives and the businesses they own be subjected to periodic audits.

Kingfisher Airlines case

The liquor baron Vijay Mallya was charged with money laundering by India's Enforcement Directorate because he reportedly laundered roughly 900 crore (US\$130 million) that he borrowed to his airline overseas. He reportedly used a loan of almost Rs 9,000 crore from several Indian banks to purchase a controlling interest. Since March of 2016, when he fled India, he has been in self-imposed exile in Britain. Additionally, he was labeled a "proclaimed criminal by PMLA court," and his name appeared in the Panama Paradise Papers and Panama Papers for leaking confidential papers about offshore investments.

Solutions that might be implemented to prevent such occurrences in the future:

- Persons with dual citizenship should be monitored.
- System should be streamlined and strengthened thereby checking domestic laws.

Commonwealth Games Scam

The year 2010 saw the start of this fraud. This fraud involves a staggering 70,000 billion Indian rupees. Reports indicate that only around half of the money set out for the Commonwealth Games really makes it to the athletes and the tournament itself. It took too long to pay the employees who had really done the job, and there were questionable transfers of money to people who didn't exist. Overcharging was done for equipment and other costs, and money was stolen or spent improperly.

Former Delhi chief minister Sheila Dixit and her then-ambassador to India, Suresh Kalmadi, were both complicit in this scheme.

Indian Coal Allocation Scam

In 2012, a same fraud occurred. It totals a whopping 185,591,000,000 Indian Rupees. A long-running case at CBI. In the early 1990s, the government decided to grant coal blocks to private companies that were not included in the production plans of Coal India Ltd or Singareni Collieries Company Limited (SCCL). However, the Comptroller and Auditor General of India found that since they were allocated instead than auctioned, a loss of INR 185,591 crores occurred.

All 214 coal blocks awarded by the Supreme Court of India since 1993 have been revoked. This requires a reorganization of the current allocation of these spaces.



Group Financial Scandal

In 2013, this controversy occurred. This happened when the Ponzi scam run by Shradha Group (a collection of 200 separate businesses) finally came crashing down. Many individual investors contributed to the total. The prospect of greater profits in a very short amount of time sparked widespread interest in this technique. It brought in over 2500,000,000 Indian Rupees. There were probably approximately 1.7 million people who put money into this fraud. The corporation saw a net outflow of funds in January, as opposed to an inflow.

The Supreme Court of India has ordered that the Central Bureau of Probe take up their investigation into this and other Ponzi scams(CBI).

Conclusion

Today, money laundering is monitored by a number of national and international agencies. But as financial systems grow more complicated owing to technological advancements, fraudsters have found ever more convoluted avenues to engage in money laundering. Strategies should be drafted by developing nations to minimize money laundering via Offshore Financial Centres (OFCs), which has a long-term negative impact on economic growth.

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