



**Peer Reviewed Referred  
and UGC Listed Journal**



**AN INTERNATIONAL MULTIDISCIPLINARY  
HALF YEARLY RESEARCH JOURNAL**

# **GENIUS**

**Volume - VI, Issue - II, FEBRUARY - JULY - 2018**

**ISSN - 2279 - 0489**

**Impact Factor - 4.954 ([www.sjifactor.com](http://www.sjifactor.com))**

**PART - I**

**AJANTA PRAKASHAN**



ISSN 2279 - 0489  
AN INTERNATIONAL MULTIDISCIPLINARY  
HALF YEARLY RESEARCH JOURNAL

# GENIUS

Volume - VI

Issue - II

PART - I

February - July - 2018

**Peer Reviewed Referred  
and UGC Listed Journal**

Journal No. 47100



ज्ञान-विज्ञान विमुक्तये

**IMPACT FACTOR / INDEXING  
2017 - 4.954**

**[www.sjifactor.com](http://www.sjifactor.com)**

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M.Sc (Math's), M.B.A. (Mkt), M.B.A (H.R),  
M.Drama (Acting), M.Drama (Prod & Dirt), M.Ed.

❖ **PUBLISHED BY** ❖



**Ajanta Prakashan**  
Aurangabad. (M.S.)



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Owner, printer & publisher Vinay S. Hatole has printed this journal at Ajanta Computer and Printers, Jaisingpura, University Gate, Aurangabad, also Published the same at Aurangabad.

**Printed by**

Ajanta Computer, Near University Gate, Jaisingpura, Aurangabad. (M.S.)

**Published by :**

Ajanta Prakashan, Near University Gate, Jaisingpura, Aurangabad. (M.S.)

Cell No. : 9579260877, 9822620877, Ph.No. : (0240) 2400877, 6969427.

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**GENIUS - ISSN 2279 - 0489 - Impact Factor - 4.954 (www.sjifactor.com)**





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## Money Laundering under Banking

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### Abstract

This article examines definitions of "money laundering" and the conceptual and actual role its regulation plays in dealing with various sectors of the economy, as well as the procedural aspects of the same. Then it goes on to discuss the three steps involved into money laundering. If laundering is prevented, incentives to become major criminals are diminished. It identifies and critiques three aspects of harm arising from laundering: facilitating crime groups' expansion, corroding financial institutions, and extent. It gives some infamous instances when this menace was unearthed. Then it deals with the various legislations in force to curb this process. It concludes that much detected laundering involves the same out-of-place judgments the police use, but though the proportion of routine and suspicious activity reports that yield arrests may be low, they do generate some important enforcement actions. The impact of anti-laundering efforts on enforcement resources, organized crime markets, or drug consumption levels remains modestly understood at present.

### Introduction

Money Laundering refers to the conversion or "Laundering" of money which is illegally obtained, so as to make it appear to originate from a legitimate source. Money Laundering is being employed by launderers worldwide to conceal criminal activity associated with it such as drug / arms trafficking, terrorism and extortion. But in simple terms it is the Conversion of Black money into white money.

Money laundering is the criminal practice of filtering ill-gotten gains or "dirty" money through a series of transactions, so that the funds are "cleaned" to look like proceeds from legal activities. Money laundering is driven by criminal activities and conceals the true source, ownership, or use of funds. The International Monetary Fund has stated that the aggregate size of money laundering in the world could be somewhere between 2 and 5 percent of the world's gross domestic product. Money Laundering has a close nexus with organized crime. Money Launderers amass enormous profits through drug trafficking,



international frauds, arms dealing etc. Cash transactions are predominantly used for Money Laundering as they facilitate the concealment of the true ownership and origin of money. Criminal activities such as drug trafficking acquire an air of anonymity through cash transactions. 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. One important aspect of money laundering is the tendency and need for perpetrators to operate cross border schemes for the purpose of concealment and/or to take advantage of the uneven developments in the national anti-money laundering regimes. Banks and financial institutions are vulnerable from the Money Laundering point of view since criminal proceeds can enter banks in the form of large cash deposits. Bank officials therefore need to exercise constant vigilance in opening of accounts with large cash deposits and in checking suspicious transactions.

### **Research Methodology**

- 1) **Research objective:** - To provide legal obligation and guidelines for preventing measures of money laundering
- 2) **Data collection:** - Data collected in this research topic are secondary data
- 3) **Type of research:** - The research is exploratory.

### **Causes Of Money Laundering**

1. Absence of legislation
2. Evasion of tax
3. Increase in profits
4. To make black money appear white money
5. Limited risks of exposure

#### **1. Absence of legislation against money laundering:**

Absence of legislation against money laundering gives a free hand to criminals. Sometimes, governments itself is involved they do this to win political rivals, to please their allies and to strengthen their rule. Also, CBR (Central Board of Revenue) has never bothered to unearth laundered money, rather always joined hands with the money launderers.

#### **2. Evasion of tax:**

Tax evaders launder money so that they can lie about where money and assets came from to evade tax. And sometimes they simply operate outside that part of the economy where records are kept.



### 3. Increase profits

When people have incentive for more profit in any particular area, such as in production and trading of drugs, arms, and across the borders trade, they start taking risk to earn higher profits.

### 4. To Appear black money legitimate

In money laundering, black money usually becomes legitimate after a series of process. And less risk is involved of being caught. This doesn't happen in other economic crimes. So, in order to appear their money more legitimate they go for money laundering.

### 5. Limited risks

The availability of multiple opportunities for personal enrichment without the risk of being exposed is another cause of money laundering. Such economic environments are much more conducive to make black money.

## Case Law

Enquiries conducted revealed Cases of Money Laundering A classic example of money laundering is the case of:

### M/s Chinubhai Patel & Co.

Intelligence received by the Directorate of Revenue Intelligence (DRI) indicated that the South Indian Bank Ltd., Nariman Point Branch, Mumbai (erstwhile Bombay) was involved in a massive money laundering operation. One of the accounts was in the name of M/s Chinubhai Patel & Co. said to be existing at 27, Vaishali Shopping Center, JVPD, Bombay - 49, with the South Indian Bank Ltd., Nariman Point Branch, Bombay, that the account was opened in February 1994 and the party was introduced by the Bank Manager Mr. Kasturi Rangan. The Bank Manager did not follow the instructions of the Reserve Bank of India (RBI), and the account was opened without obtaining the photograph of the account holder. Verification of the address revealed that the firm M/s Chinubhai Patel & Co., did not exist at that address. This account was utilized for remittance of \$12 million to Hong Kong in favor of M/s R.P. Imports and Exports, Hong Kong. The remittances were made on the basis of fraudulent documents. It was further discovered that four more fictitious accounts were created with the same bank. Through these accounts a total amount of US \$80 million, was transferred from India to Hong Kong. Investigations conducted so far by the Directorate of Revenue Intelligence have revealed that certain persons, including Rajesh Mehta and Prakash, had opened bank accounts solely for the purpose of depositing cash and then transferring the said funds in foreign exchange to countries like Hong Kong, Singapore and Dubai.



## Preventive Measures

In India Prevention of Money-Laundering Act, 2002(PMLA) has been passed which came into effect since 1st of July 2005.

### Object

To prevent money- laundering, seize the property with authority, involved in money laundering

### Administration

Directorate of Enforcement of the Department of Revenue, Ministry of Finance  
Various Rules came into effect from July 2005

- Rules detailing Powers of Director FIU & ED
- Rules detailing the method of attachment of property, period of retention etc.
- Rules detailing the receipt & management of confiscated assets
- Rules relating to legal obligations of reporting entities

### Offence and punishment

As per Section 3 of the Act, Offence of money laundering cover those persons or entities who directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property, such person or entity shall be guilty of offence of money-laundering.

### Section 4 of the Act prescribes punishment for money-laundering

with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which may extend to five lakh rupees and for the offences mentioned in paragraph 2 of Part A of the Schedule, the punishment shall be up to ten years.

## Customer Due Diligence

Customer Acceptance –

### 1. Ensure acceptance of only legitimate and bona fide customers

- Issue of mechanism to verify ID
- Non -Issue of Multiple IDs
- Issue of list of suspects/criminals/unwanted elements
- Awareness and training of staff

### 2. Customer Identification

Ensure that the customers are properly identified to understand the risks they may pose.



- Background check of new customer
- Background check of existing clients
- Issue of List of suspects/criminals/unwanted elements
- Awareness and training of staff

### 3. Transactions Monitoring

Monitor customer accounts and transactions to prevent or detect illegal activities.

- Issue of Mechanism to verify financial details
- Transactions inconsistent with customers profile (business)
- Unexplained transfers between multiple accounts with no rationale
- Sudden activity in dormant accounts

### 4. Confidentiality and Privacy

An effective anti-money laundering program will help minimize exposure to transaction, compliance, and reputation risks. Such a program should include account opening controls and the monitoring and reporting of suspicious activity. The Reserve Bank of India's extensive Anti-Money Laundering (AML) guidelines has become effective from March 2006.

The AML norms such as "Know Your Customer" emphasize that banks must keep a record of their customers' backgrounds in order to reduce and control the risk of money laundering.

### Recommendations

The truth is that no individual nation has the power to stop money laundering alone. If one country is hostile to laundering, criminals simply look elsewhere for a place to clean their money. Therefore, Global cooperation is essential.

The most prominent international organization in this respect is probably the Financial Action Task Force (FATF), which has 33-member states and international organizations on its roster list as of 2005. The FATF issued the "40 Recommendations" for banks that have become the anti-money-laundering standard.

Recommendations : Some of these recommendations include:

- i. Identify and do background checks on depositors.
- ii. Report all suspicious activity. (For example, if a background check revealed that depositor A works in a steel factory, and he typically deposits \$2,000 every two weeks, a series of 10 \$9,000 deposits over the course of two weeks should raise a red flag.)
- iii. Build an internal taskforce to identify laundering clues.



- iv. Financial institutions should not keep anonymous accounts or accounts in obviously fictitious
- v. Financial institutions should, in relation to politically exposed persons, in addition to performing normal due diligence measures:
  - Have appropriate risk management systems to determine whether the customer is a politically exposed person.
  - Obtain senior management approval for establishing business relationships with such customers.
  - Take reasonable measures to establish the source of wealth and source of funds.
  - Conduct enhanced ongoing monitoring of the business relationship.
- vi. Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information
- vii. Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.
- viii. If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, directly by law or regulation, to report promptly its suspicions to the financial intelligence unit (FIU).

### **Organizations Fighting For Money Laundering**

Other global organizations fighting money laundering include the

- United Nations,
- The International Monetary Fund,
- The World Bank

### **Conclusion**

Money Laundering is a serious threat to financial system of all countries and it leads to destruction of the country's sovereignty and character. The combating of money laundering has assumed an urgent impetus at both national and international levels as a result of the scale that money laundering has begun to assume, especially with respect to the financing of terrorist acts. The efforts being made to combat money laundering are beginning to bear fruits in that it is now taking Centre stage in all jurisdictions. No one wants to be left behind mainly due to the consequences of such a situation – those lagging behind might find it difficult to transact and do business with the rest of the complying world. The negative



economic effects of money laundering on economic development are difficult to quantify, just as the extent of money laundering itself is difficult to estimate. Nonetheless, it is clear from available evidence that allowing money laundering activity to proceed unchallenged is not an optimal economic-development policy because it damages the financial institutions that are critical to economic growth, reduces productivity in the economy's real sector by diverting resources and encouraging crime and corruption, and can distort the economy's international trade and capital flows to the detriment of long-term economic development. Developing countries' strategies to establish offshore financial centers as vehicles for economic development are also impaired by significant money laundering activity through OFC channels. Effective

Anti-money-laundering policies, on the other hand, reinforce a variety of other good governance policies that help sustain economic development, particularly through the strengthening of the financial sector. Despite the positive developments, the criminals are constantly devising more elaborate and evasive means to circumvent anti money laundering efforts. We have to understand that it is problem not only for the government of the country but for the people at large. Public awareness is necessary as masses do not understand the problem itself. Our education system should be able to inculcate the ideologies that our future generation does not get involved in this process.