



AN OVERVIEW ON
*ANTI-MONEY LAUNDERING, COMBATING FINANCING
OF TERRORISM AND TBML.*



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CONCEPT OF AML AND CFT



The term “Money Laundering” is originated from the coin operated Laundromats used by an American Mafia and mobster named Alphonse Gabriel Capone (January 17, 1899 – January 25, 1947) who actually washed the cash proceeds (notes/bills) from his illicit business with soap and water, so that they appear old and torn. He then exchanged the laundered old notes/bills from Federal Reserve Bank and collected new one with Fed Receipt to make his illicit proceed Legitimate.



DEFINITION & RELATED DISCUSSION

Money Laundering(ML): As per Palermo convention and MLPA-2012 the definition of Money Laundering is more descriptive. In brief, Money Laundering is the process of disguising the proceeds of criminal activities and their illicit origin in order to use the funds to perform legal or illegal activities, In a word Money Laundering is the process of making 'Dirty' money look 'clean'.

Combating Financing of Terrorism(CFT)/Terrorist Financing (TF): As per ATA 2009, sec-7, Using money, service or any other property, whether from legitimate or illegitimate source, to carry out terrorist activity or it will be used for any purposes by any terrorist person or entity, is treated as the offence of terrorist financing.

Methods of CFT/TF: Cash smuggling, structuring, wire transfer, Purchase of monetary instrument, Hundi/ hawla system, funds raised for terrorist group.



DEFINITION & RELATED DISCUSSION

‘ According to Money Laundering Prevention act-2012 **Money laundering**’ means –

i. **knowingly** moving, converting, or transferring proceeds of crime or property involved in an offence for the following purposes:-

(1) concealing or disguising the illicit nature, source, location, ownership or control of the proceeds of crime; or

(2) assisting any person involved in the commission of the predicate offence to evade the legal consequences of such offence;

ii) smuggling money or property earned through legal or illegal means to a foreign country;

iii) **knowingly** transferring or remitting the proceeds of crime to a foreign country or remitting or bringing them into Bangladesh from a foreign country with the intention of hiding or disguising its illegal source; or

iv) **concluding or attempting to conclude financial transactions in such a manner so as to reporting requirement under this Act may be avoided;**

v) converting or moving or transferring property with the intention to instigate or assist for committing a predicate offence;

vi) acquiring, possessing or using any property, knowing that such property is the proceeds of a predicate offence;

vii) performing such activities so as to the illegal source of the proceeds of crime may be concealed or disguised;

viii) participating in, associating with, conspiring, attempting, abetting, instigating or counselling to commit any offences mentioned above’.



DEFINITION & RELATED DISCUSSION

According to **Palermo convention** the definition of Money Laundering is as follows-

The conversion or transfer of property **knowing** it is derived from a criminal offense ,for the purpose of concealing or disguising its illicit origin or of assisting any person who is involved in the commission of the crime to evade the legal consequence of his or her actions.

The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to or ownership of the property **knowing** that it is derived from a criminal offense.

The acquisition, possession or use of property , **knowing** at the time of its receipt that it is derived from a criminal offense or from a participation in crime.



DEFINITION & RELATED DISCUSSION

Knowledge = Willful Blindness

- Used in proving knowledge (of the illicit origin of the property) in many jurisdiction.
- Deliberate Avoidance of knowledge of the facts.
- Purposeful Indifference.

Safe Harbor Provision (MLPA-2012)

No suit or prosecution or administrative measures or any other legal proceedings shall lie against the Government or any officer or staff of the Government or BFIU or the officer or staff of BFIU or the officer or staff of the Investigating authority or any reporting organization or its Board of Directors or any of its officer or staff for anything which is done in Good Faith under this act or rules made thereunder for which any person is or likely to be affected.



DIFFERENCE BETWEEN ML & TF:

Though ML and TF are mentioned in the same breath but they are separate crime and the most basic difference between TF and ML involves the origin of the fund.

- TF uses funds for illegal terrorist purposes but the money may not derive from illicit proceed.
- The funds used in TF may be legal or illegal or both.
- The persons, raising the funds for TF are not the beneficiary of the fund, rather the fund benefits the terrorist activity or helps to satisfy the ill motive of the terrorists.

On the other hand-

- ML always involves the proceed of illegal activities.
- The purpose of laundering is to enable illicit money to be used legally.
- The launderer are usually the ultimate beneficiary of their laundered fund.





Stages of Money Laundering

Placement: The initial entrance of illegally earned funds into the financial system through opening a deposit a/c, through the purchase of a high value goods or by physical cross border transportation.

Example: A drug dealer earned tk 20 crore through one of the **predicated offences** and placed tk 12 crore by opening 30 bank a/cs in 30 banks, Deposited tk 5 crore in the NBFIs, bought 5 life insurance policy for tk 2 crore and bought profitable share for tk 1 crore by 5 BO a/cs.

Layering: A series of transaction or movement of funds within financial system or purchase of tradable properties to make a complex net so that the actual origin or source or the trail of fund can not be found out easily.

Example: In this stage the drug dealer used to make numerous transaction of his deposited money and used to buy different banking products within the bank and transferred the fund within different banks repeatedly to make a complex money trail.

Integration: Integration allows clean money to re-enter mainstream economy. It involves investment of the fund into the legitimate economy through making immovable properties, Precious metals, stones or antiques, art works, luxurious commodities, setting up a business etc. to give the fund a legitimate shape.

Example: The drug dealer gradually withdraws the amount and formed a company named **ABC Apparels** and opened a new a/c in a renowned Private commercial bank.



WHY DO CRIMINALS LAUNDER MONEY

- Hide illicit wealth
- Hide Money Trail
- Disguise the ownership and control.
- Become legitimate
- Avoid seizure and prosecution
- Evade taxes
- Increase profits





WHY DO LAUNDERERS USE BANKS/FIS

- Important Gateway.
- Wide network.
- Quick, cordial service.
- Variety of product and services.
- Opportunity of commingling.
- Easily Used for collecting charity, donation.
- Used for Loan based and Trade based Money laundering.
- Easy excess for every single people.
- Target oriented job pattern.



METHODS OF MONEY LAUNDERING

- Commingling the fund using banking channel.
- Electronic transfer of funds using Fedwire (*Federal Reserve Wire Transfer Network*) , SWIFT (*Society For Worldwide Interbank Financial Telecommunication*) and CHIPS (*Clearing House Interbank Payment System*) or bulk transfer of fund.
- Corresponding Banking.
- Concentration accounts.
- Private Banking.
- Politically Exposed Persons (Domestic and foreign).
- Structuring and Micro structuring.
- Use of Plastic money (Debit or Credit card)
- Insurance companies.
- Securities broker-dealers.
- Casinos
- Dealers of high value items.
- Travel Agencies
- Real asset through escrow account.
- Trade based Money Laundering
- Through MFS and internet banking.
- Trusts
- Shell and Shelf companies.
- Informal Value Transfer System (Hundi/ Hawala etc)



PROCESS OF COMMITTING ML (SUMMERY)

- Use of banks and financial institutions.
- Committing Predicated Offences
- Trade Based Money Laundering.
- Loan based Money Laundering.
- Hundi/Hawala.
- Smuggling.
- The use of front, shell,shelf company.
- Commingling of illegal money with legal money.
- Physical Transportation of Money.
- Physical Transportation of goods through the trade system.
- Cross Border transfer of currency.
- Direct Cash Holding.
- Fraudulent Documentation of Goods and services.
- Creating Non performing loans.
- Maintaining Accounts in the name of another Person/ Beneficial owner.
- Direct investment in immovable, precious properties etc.





PREDICATED OFFENCES

- (1) Corruption and bribery;
- (2) Counterfeiting currency;
- (3) Counterfeiting deeds and documents;
- (4) Extortion;
- (5) Fraud;
- (6) Forgery;
- (7) Illegal trade of firearms;
- (8) Illegal trade in narcotic drugs, psychotropic substances and substances causing intoxication;
- (9) Illegal trade in stolen and other goods;
- (10) Kidnapping, illegal restrain and hostage taking;
- (11) Murder, grievous physical injury;
- (12) Trafficking of women and children;
- (13) Black marketing;





PREDICATED OFFENCES

14. Smuggling of domestic and foreign currency;
15. Theft or robbery or dacoity or piracy or hijacking of aircraft;
16. Human trafficking;
17. Dowry;
18. Smuggling and offences related to customs and excise duties;
19. Tax related offences;
20. Infringement of intellectual property rights;
21. Terrorism or financing in terrorist activities;
22. Adulteration or the manufacture of goods through infringement of title;
23. Offences relating to the environment;
24. Sexual exploitation;
25. Insider trading and market manipulation
26. Organized crime, and participation in organized criminal groups;
27. Racketeering;

And any other offence declared as predicate offence by Bangladesh Bank, with the approval of the Government, by notification in the official Gazette, for the purpose of this Act.



EFFECTS OF ML AND CFT

Economic Impacts of ML

- Govt. revenue decrease.
- Unequal distribution of wealth and income takes place
- Actual and promising entrepreneurship destroys
- Govt. Institutions, sectors, law enforcement agencies fall into risk including different sanctions.
- Destruction of private investment climate.
- The country will be treated as a tax heavens and international community will squeeze their grants, aids programs and dismiss the bilateral and multilateral business, development agreements .
- International business will be collapsed.
- In a word Money Laundering is a crime which is destructive to yourself, to your organization, to your society and to your nation.



EFFECTS OF ML AND CFT (CONTD.)

Social Impacts of ML

- Law & order situation becomes uncontrollable.
- Increase medical expense
- Addiction in drug increase
- Corruption prevails on health, education and utilities.
- Society undergoes the control of criminals
- Decrease in ethical standard of the society
- Countries image will be challenged
- Massive Corruption, bribery and terrorism break out in the society
- Collapse of Social structure and discipline.
- Inhabitants shall lead a unsecured life.





INDICATORS FOR SUSPICIOUS TRANSACTION

- ❖ Products and services are not related to the stated Business.
- ❖ Showing more interest in cash transaction
- ❖ Structuring
- ❖ Different transaction at a time in different areas.
- ❖ More transaction from and to hilly and border areas.
- ❖ Sudden Cash remittance from risky countries.
- ❖ Forged and instruments from different unknown persons are deposited for settlement.
- ❖ Paying No interest to provide the source, reason of transaction
- ❖ Sudden recovery of NPLs
- ❖ Buying insurance products with high premium, not related to the business.
- ❖ Showing interest in transaction with third parties rather than in person.
- ❖ Paying interest to trade with risky country and jurisdictions
- ❖ Found the information of over and under invoicing. Unrelated goods and the goods are mismatched with the goods shipped.



PREVENTING ML & TFS

RESPONSIBILITY OF BANK AS RO

- Following the customer onboarding procedures as per BFIU circular no-26 ,section-2
- Considers a customer, nature of business, product or service, country and geographical position to Perform a **Risk based approach** as per “ML/TF Risk assessment guidelines for Banking sector.”
- Customer Due Diligence(CDD)
 - KYC
 - TP
- Simplified Due Diligence (SDD)
- Enhanced Due Diligence(EDD)
 - PEPS, IPs
- CTR
- SAR
- STR
 - Screen
 - Ask
 - Find
 - Evaluate





RESPONSIBILITY OF BANK AS RO (CONTINUE)

As per sec-25 of MLPA

- Maintaining a correct and complete information of the customer when on board.
 - Maintaining information or record of closed a/c should be preserved at least 5 years from the date of closure.
 - The information of the customer and closed a/c should be provided to BFIU from time to time or on demand.
 - Report to BFIU If any doubtful transaction or attempt is observed as a Suspicious Transaction Report (STR).
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- **For preventing TFS** the RO shall maintain the listed individuals and entities in electronic form
 - Regularly run a check at the website (<http://www.un.org/sc/committees/index.shtm>) of UN for updated list.
 - Run a regular check on the given parameters, including transactional review to verify.
 - In case of a match found, the RO shall immediately stop payment or transaction of fund, financial assets or economic resource.
 - Report to the BFIU within the next working day with full particulars.



LEGAL & REGULATORY OBLIGATIONS

For Bankers

- Failing to comply the instruction of BB or to provide with the requested information timely subject to fine **10 thousand to 5 Lac MLPA**, sec.16(3), sec.23(5),
- Failing to comply with the freezing or suspension order of BB is the subject of fine not less than the balance held in the A/c, max twice of it.
- Providing False information subjects to fine **20 thousand to 5 Lac MLPA**, sec.23(4),
- Not to submit STR/SAR timely on own accord- **fine 25 lac or cancellation of license / registration. MLPA**, sec.25(2), 16(3).
- Divulging information **(Tipping off)**- Imprisonment and/or fine. **MLPA sec.6(3)**.
- Intentionally avoiding STR/SAR may lead to the abetment of offence - Imprisonment and/or fine. **MLPA sec.4,12**

For Criminals

- **Imprisonment** for 4-12 years
- **Fine** Twice of the value of the property involved or tk 10 lac whichever is greater.
- **Forfeit** the property of the convicted person in fev. Of the state.
- **The entity** will be fined as Twice of the value of the property involved or tk 20 lac whichever is greater.
- **Cancellation** of The registration of the entity





LEGAL AND INSTITUTIONAL FRAMEWORK

Legal framework

- ML prevention Act,2012 (Amended in 2015)
- ML Prevention Rules,2013 and 2019
- Anti Terrorism Act,2009
- Anti Terrorism Rule-2013
- Extradition Act,1974
- Mutual Legal Assistance in Criminal Matters Act,2012 and 2013.

Institutional framework

- *National coordination committee*
- *UNSCR implementation committee*
- *Working committee*
- *Regulators*
- *Reporting Entities*
- *BFIU*
- *Law Enforcement agencies*
- *Special court/ Judiciary system*

International Organizations, standards and obligations

- **UN conventions**
 - UN convention against illicit traffic in Narcotic Drugs and psychotropic substances (1988) (The Vienna Convention)
 - UN convention against transnational Organized crime (2000) (The Palermo Convention)etc.
- UNSCR 1267,1373,1718,1737
- FATF and their 40 Recommendations
- 9 FSRBs
- **The Egmont group of FIUs** (Formed with FIUs in 1995 at Egmont-Arenberg Palace in Brussels)
- **The Wolfsburg group** (Formed with 13 global banks in 2000 at Wolfsburg Castle in Switzerland)
- **The US Department of the Treasury Office of Foreign Asset Control (OFAC)**



RELATED TERMS ,PARTIES AND ENTITIES

- ❖ **FATF (Financial Action Task force)**
- ❖ **BFIU (Bangladesh Financial Intelligence Unit)**
- ❖ **UNSCR (United Nation Security Council resolutions)**
- ❖ **OFAC (Office of Foreign Asset Control)**
- ❖ **DNFBPs (Designated Non Financial Business and Professionals)**
- ❖ **Tipping off**
- ❖ **Shell Company**
- ❖ **Shelf Company**
- ❖ **Front Company**
- ❖ **Escrow Account**
- ❖ **Hundi/Hawala**
- ❖ **HS code (Hermonised Commodity Description and Coding System)**
- ❖ **FINTECH**
- ❖ **REGTECH**
- ❖ **Sanction**
- ❖ **Embargo**





TRADE BASED MONEY LAUNDERING



RUPALI BANK LIMITED

Assures Better Service



TBML AS A TECHNIQUE OF IFF



As per Transparency International Illicit Flow of Fund (IFF) defines as “The movement of money that is illegally acquired, transferred or spent across borders”



As per Global Financial Integrity- “Cross country movement of money or capital, illicitly earned, transferred , and/or utilized”



As per OECD- “A set of methods and practices aimed at transferring financial capital out of a country in contravention of national or international laws”

Illicit financial flows are illegal movements of money or capital from one country to another. Very close to Smuggling as per law.





TRADE BASED MONEY LAUNDERING

What ?

Trade based money laundering is a process of disguising the proceeds of crime.

How?

Moving value through the use of trade transaction.

Why?

In an attempt to legitimize their illicit origins

How to achieve?

Through the misinterpretation of

-Price

-Quantity

-Quality of imports or exports.



TECHNIQUES OF TBML

- ❖ **Over and under invoicing of Goods and services.**
- ❖ **Multiple Invoicing of Goods and Services.**
- ❖ **Over and Under shipment of Goods and Services.**
- ❖ **Falsely Described goods and Services.**
- ❖ **Ghost Shipping.**
- ❖ **Shell Companies.**
- ❖ **Black Marketing.**
- ❖ **Transfer Pricing.**





PARTIES INVOLVED

- Exporter/Importer
- Indenter
- Shipping Company agent
- Freight Forwarder
- Customs Authority
- Buying Agent
- Issuing Bank
- Advising Bank
- Confirming Bank
- Negotiating Bank





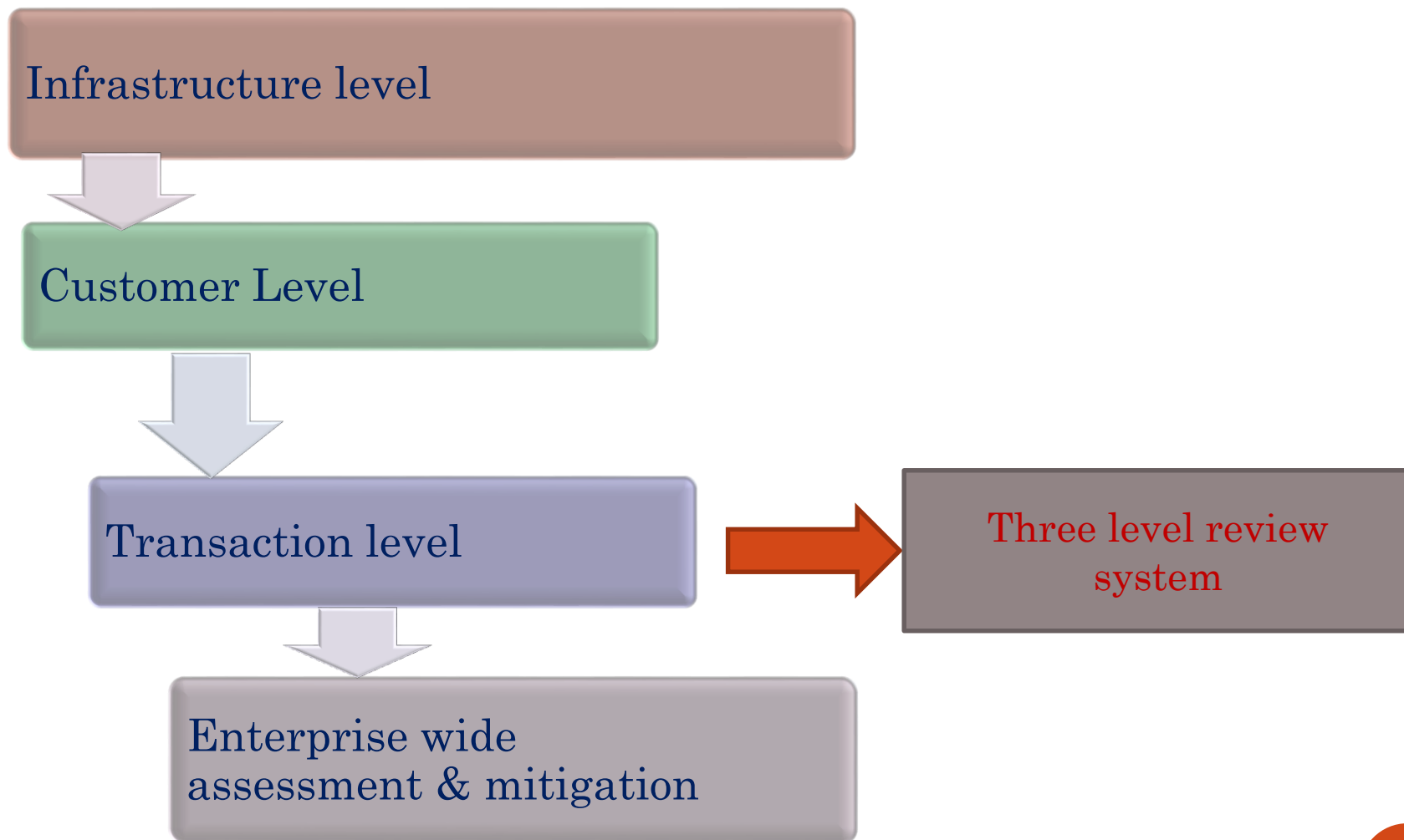
VULNERABLE SECTORS AND BUSINESSES

- High Value-low volume and Low value-High Volume sector and products.
- Goods with wide pricing margin.
- Goods with extended trade cycles.
- Goods which are difficult for customs authorities to examine.
- Rapid growth of newly formed companies into existing market.
- Business with unnecessary complex supply chain and multiple transshipment.
- Companies simultaneously involved in more than one unrelated sector.





TBML RISK ASSESSMENT & MITIGATION TECHNIQUES





3 LEVEL REVIEW SYSTEM OF TBML

Three level review system

Level-1

Transaction processors.
i.e Maker, checker,
authorizer, reviewer,
verifier

Level-2

OFFICIALS

i.e Trade Compliance
officer, Head of Trade
or designee

Level-3

Senior Officials

i.e

CAMLCO/DCAMLCO
or designee





Thank You All.

***For
Patience hearing.***



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Assures Better Service