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## 1. INTRODUCTION

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*“After foreign exchange and the oil industry, the laundering of dirty money is the world’s third-largest business.”*

*-Jeffrey Robinson, The Laundrymen*

“Money Laundering” first came into existence at the beginning of the 20th Century. However, this practice of concealing, hiding or disguising illegal income can be traced back to the 13th Century B.C, when waterways were originally used as international trade routes. With time the practice of money laundering got highlighted and it has become a very risky, time-consuming and a highly expensive process. Holding illegal income in bank accounts or through other financial instruments leads to tax liability which if not paid, can ultimately lead to legal consequences.

Alphonse “Al” Capone or Scarface, probably the most famous mob gangsters, earned an estimated \$100,000,000 of illegally gained proceeds annually, which he laundered through a series of businesses. However, his subsequent incarceration in the 1930s was not as a result of money laundering or his criminal activities such as bootlegging, prostitution and gambling, but in fact was as a result of being found guilty of a \$1,000,000 tax evasion. His imprisonment in Alcatraz ultimately brought an end to his Chicago based criminal operations.

### 1.1 What is Money Laundering?

Money laundering is the process of concealing the source of money obtained by illicit means such as gambling, corruption, extortion, drug trafficking, human trafficking, etc., Money is moved around the financial system again and again in such manner that its origin gets hidden. It is the process of making dirty money clean.

In other words, it is ‘Any actual or attempted act aimed at concealing or camouflaging the nature of illegally or illegitimately earned property to make it look as proceeds from legal sources’. Criminal organizations utilize this process to enable them to exploit further criminal opportunities in a systematic and large scale manner.

Estimates suggest that the size of the problem is over \$500 billion annually. Money laundering is a very serious issue, although often thought as a victimless crime. Without it, international organized crime would not be able to function.

## 1.2 Prevention of Money Laundering Act, 2002

The Prevention of Money Laundering Act (PMLA) 2002 defines the offence of Money Laundering as follows,

‘Engaging directly or indirectly in a transaction that involves property, that is proceeds of crime (or) derived from proceeds of crime (or) knowingly receiving, possessing, concealing, disguising, transpiring, converting, disposing off within the territories of India, removing from or bringing into the territory of India the property that is proceeds of crime’

Offence of money laundering is clearly defined under The Prevention of Money Laundering Act (PMLA) 2002.

- ✓ It will be considered an offence of money laundering if involvement is found in a transaction involving income that is either proceeds of crime or derived from proceeds of crime.
- ✓ Also, any activity involving proceeds of crime or income derived from proceeds of crime such as receiving, possessing, concealing, disguising, transpiring, converting, etc., will be considered as the offence of money laundering.
- ✓ It is clearly mentioned in the act that any such activity, as mentioned in the act, that involves income from criminal business or activity will be considered offence of money laundering.
- ✓ It also mentions that hiding or disposing off or evading proceeds of crime from or bringing into the territory of India will also be considered offence of money laundering.

### 1.2.1 Proceeds of Crime

Proceeds of crime means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property. The Prevention of Money Laundering Act, 2002 has brought many crimes under Money Laundering such as,

- ✓ Waging a war against the state
- ✓ Drug trafficking
- ✓ Kidnapping
- ✓ Extortion
- ✓ Murder
- ✓ Corruption
- ✓ Immoral traffic of women and children

### **1.3 Global Phenomenon**

The methods of concealment and money laundering have become increasingly sophisticated and attract attention globally. Some of the reasons why money laundering has attracted global attention are,

- ✓ Successfully laundering money means that criminal activity actually does pay off. This means more fraud, more corporate embezzling, more drugs on the streets, more drug-related crime.
- ✓ Money laundering is the fuel to expand criminal enterprise.
- ✓ Legitimate small businesses can't compete with money-laundering front businesses that can afford to sell a product for cheaper and even in loss as their motive is to clean money and not to make profits.
- ✓ Risks for financial systems and institutions; Huge amounts of illicit money in the financial system erodes integrity.
- ✓ The connection between money laundering and terrorism may be a bit more complex, but it plays a crucial role in the sustainability of terrorist organizations.

#### **1.3.1 How is Money Laundering a Global Threat?**

Money-laundering has acquired a global character that not only threatens security, but also compromises the transparency, stability and efficiency of financial systems. Methods and techniques used by criminals have become more complex and sophisticated. Criminals go to great lengths to protect themselves and their criminal businesses. As a result of these actions, the prosperity and security of many are put at risk by today's criminal and terrorist threats. Due to involvement of various criminal and terrorist organizations in this activity and globalization in trade and commerce, money laundering poses a global threat. It can have a range of macroeconomic consequences on countries with inefficient measures to control money laundering such as,

- ✓ Threat to the stability financial systems and institutions
- ✓ Unpredictable changes in money demand and supply
- ✓ Contamination of legal financial transactions
- ✓ Reduces tax revenue as it becomes difficult for the government to collect revenue
- ✓ Volatility in international capital flows and currency markets due to cross border transfers

### **1.4 Tainted Money or Dirty Money**

Tainted or Dirty money is money that someone earns in an unfair, illegal, or dishonest way. It is phrase used to refer to the kind of income generated from illegal means explained as

“proceeds of crime” in PML Act, 2002. Similarly, Clean money means which has a legitimate source. This is the reason why criminals use various methods to launder money and convert it into clean money so as to save themselves from legal consequences.

### **1.5 Washing of “Dirty” Money**

Money laundering is the process of converting cash and assets gained through illicit actions so as to use it legitimately and openly without drawing any attention of the authorities. The aim here is to "clean" what would otherwise be considered "dirty" money. Broadly the aim of laundering systems is,

- ✓ Converting proceeds of crime to a less suspicious form
- ✓ Concealing the illegal ownership or origin of the criminal earnings
- ✓ Creating a legitimate explanation for the source of assets

Money laundering is an essential element of organized crime. This money can be used in various ways - from buying houses to the purchase of more basic consumer or luxury goods. The success of the process of laundering primarily depends on the level of difficulty for authorities to establish a connection between the seemingly legal assets and the crime from which they were derived. Even though it is difficult to determine the exact size and scope of money laundering but that it is a multi-billion-dollar industry. There is also a "huge" international dimension to money laundering, where assets are channeled through a variety of organizations around the world, which makes it more difficult to track

Drug trafficking is one of the major sources of money laundering. It has been found that majority of money laundering cases reported involves narcotics offences. The next largest sources of dirty money are custom and excise offences, including smuggling and distribution of illegal imports. Several industries and sectors of the economy are vulnerable to money laundering, and many of these involve cash transactions. Casinos are also becoming popular for money laundering, in part because the large-scale exchange between cash and chips.

### **1.6 Money Laundering - Case Studies**

#### **1.6.1 Bank of New York: Benex Scandal**

Russian mafia routed vast amounts of illegal money through “Benex Worldwide” accounts at the Bank of New York, one of America’s oldest and most prestigious banks. This “capital flight” money (the economic term applied when money or assets rapidly flow out of a country) was then distributed and invested in various European companies. This scandal was a series of

complex transactions and routes through which laundering took place. Ultimately, all the money returned to Russia through various channels. Estimation suggests that between 1996 and 2002 around \$10 billion was laundered through the Bank of New York accounts. A massive police investigation and operation, numerous arrests were made and the scandal was exposed.

### **1.6.2 Bank of Credit and Commerce International**

The Bank of Credit and Commerce International (BCCI) was the seventh largest private bank in the world at its peak time. During the mid-1980s the bank was found to be involved in various fraudulent activities. Further investigations revealed that the bank was involved in and was used as a route for massive amounts of money laundering. Bank's process regarding customer acceptance and identification were not sound. Clients included Saddam Hussein, former military dictator of Panama Manuel Noriega, and Palestinian terrorist leader Abu Nidal. It has also been alleged that BCCI was used by CIA to fund the Afghan Mujahedeen during the Afghan-Soviet war in the 1980s.

### **1.6.3 The Vatican Bank Scandal**

The Vatican Bank, known officially as the Institute for Religious Works, was created during World War II to administer accounts held by religious orders, cardinals, bishops and priests. All of the bank's profits are intended for religion or charity. Prosecutors seized 23m euros (\$30m; £19m) from the bank's accounts with another smaller institution. The inquiry was launched after two suspicious transactions were reported to tax police in Rome.

The Bank of Italy's financial intelligence unit tipped off Italy's tax police last week, after two suspicious transactions were reported between the Vatican Bank and two different Italian banks. The tax police seized one deposit of 23m euros that the Vatican Bank had deposited with a small Italian bank called Credito Artigianato. The bulk of the money, euro20 million, was destined for JP Morgan in Frankfurt, with the remainder going to Banca Del Fucino.

### **1.6.4 HSBC Scam**

HSBC was held accountable for stunning failures of oversight, and worse, that led the bank to permit narcotics traffickers and others to launder millions of dollars through HSBC subsidiaries, and to facilitate hundreds of millions more in transactions with sanctioned countries. The record of dysfunction that prevailed at HSBC for many years was astonishing.

HSBC Group Chief Executive Stuart Gulliver said in a statement: "We accept responsibility for our past mistakes. We have said we are profoundly sorry for them, and we do so again, we have been taking concrete steps to put right what went wrong."

### **1.6.5 Riggs Bank in USA**

Riggs bank was a Washington DC-based commercial bank with branches located in the surrounding metropolitan area and offices around the world. A report revealed that the Riggs bank executives helped Augusto Pinochet, the former dictator of Chile, laundered millions of dollars. This money was looted from Chilean people through corruption by Pinochet government. Riggs bank illegally allowed Pinochet to retain access to this fortune by hiding his accounts from the US Federal Regulators.

### **1.6.6 European Union Bank of Antigua (1997)**

In 1995, the EUB launched its website claiming to be 1<sup>st</sup> internet-based bank with facilities for the customers to create and manage accounts online via the Internet. Bank explicitly advertised claiming to maintain secrecy and acting as haven for dirty money beyond the reach of law enforcement agencies. Customers could open numbered accounts in which identity of customers was held secret by the bank. In 1996, officials claimed to have a deposit base of US \$ 2.8 million. In 1997, the EUB collapsed and the bank officials disappeared along with the deposits.