

Measures against Money Laundering and Terrorist Financing: An Analytical Overview of Legal Aspects.

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Abstract :

Money Laundering is the movement of criminally-derived funds for the purpose of concealing the true source, ownership, or use of the funds. The laundering is a necessity for any profit generating criminal activity. The basic objective of this paper is to give an overview and discuss the development of the Bangladeshi and international initiatives against money laundering and terrorist financing. It examines the anti-money laundering and counter terrorist financing dealings as well as the functions of both national and international regulatory and professional bodies. Despite the huge efforts and frequent co-operation by the governments, law enforcement agencies, professional bodies and financial institutions (local and international), money laundering and terrorist financing still now remain a threat. It is found that it is really difficult for a financial institution to detect terrorist money laundering and prove the earnings of crimes without the help of international regulations, without co-ordination and professional ethics. This paper also examines the development of different measures against money laundering and provides some suggestions that comes up to financial security and provides assistance to policy makers in the formulation, evaluation and implementation of effective mechanisms against Money Laundering and Terrorist Financing.

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1. Introduction:

Money laundering is crucial to different types of organized crime. Though the scale and scope of organized crimes have deteriorated but money laundering still remains a local and an international affair. Cash-based business, specifically bars, currency exchange houses, stock brokerage houses, casinos, automobile dealership, restaurants, underwriters, travel agencies. Car dealers, Insurance companies and construction firms can launder much of their earnings of racketeering, gambling and drug dealing. Moreover, bankers, lawyers, accountants, tax officials and other persons may be indirect money launderer¹ if they allow their business to launder the proceeds of a crime. A number of large and transnational characterized local laundering demands move to another level. Criminals move money between banks, different financial instruments and in and out of tangible assets such as business or property. Criminals also use "Shell Companies"² to launder money. The laundering will then take place within the global financial system.

The modern financial systems permit criminals instantly to transfer millions of dollars through personal computers and Internet connections.

The scope of modern global financial system is widening day by day with the help of information and communication technology (ICT) and it holds potential benefits and opportunities for

¹ If an accountant recommends a tax evasion scheme, he will be treated as an indirect money launderer.

² Entities that have no physical presence or staff and exist purely to create invoices and to receive money for nonexistence services.

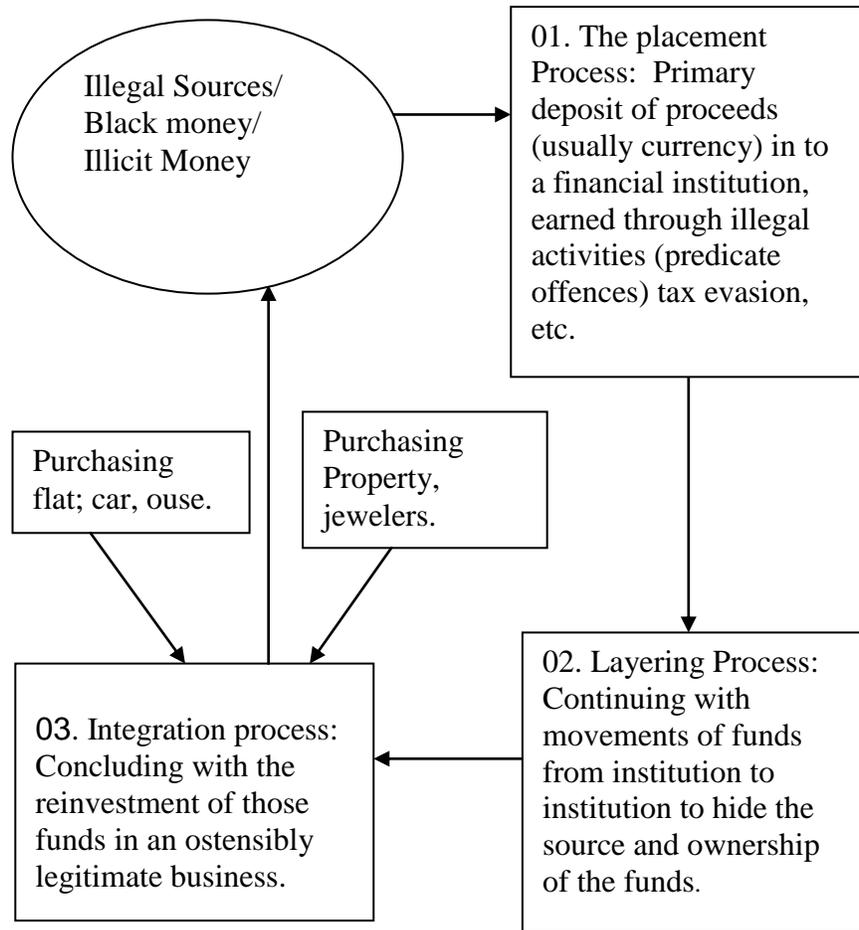
countries. But these opportunities for countries also have their own threats. “Terrorist financing” or “Financial crimes” include among these threats and this information economy related crime is seen as an increasing source of distress within the financial community. The earnings from these crimes are masked to give it a legal form and this process is called “money laundering”. The use of private banking facilities, offshore banking, wires systems, shell corporations and trade financing all have the ability to mask illegal activities. It is the process used by criminals to shift, conceal and legitimize their income of crime.

The purpose of money laundering is to render it almost impossible for evidence to be obtained which allow a court to establish the derivation of the money (Rider, 1992).

Black money is put through on a cash transaction cycle or laundered and turned in to white money. The money launderers then use their earnings for future legal or illicit transactions without any criminal or civil fear. However the money laundering process “will inevitably involve resort to transactions, real or imagined, which will be designed to confuse the onlooker and confound the inquirer” (Rider, 2006). Misrepresentation is thus the key to the laundering process which involves three stages as designated by the Drug Enforcement Administration namely placement, layering and integration. In the placement stage, money is deposited in a financial institution through a front operation that provides a fake legitimate source for the money. Next, layering involves a transfer of illegitimate income through international wire transfers across different accounts. Finally, integration is accomplished by reintroducing the funds in legitimate economic activities.

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Figure: The three phases of money laundering are portrayed in the following diagram



Source: Money laundering prevention guide book, Anti-Money Laundering Department-Bangladesh Bank (Revised).

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The money laundering schemes can be more complex or more basic, may involve any number of intermediaries and utilize both traditional and non-traditional payment systems, offshore financial centers (OFC's) and overseas companies, non-financial sectors and international trade system (Financial Action Task Force.2006).³ The seriousness of money laundering is reflected in the aggregate volume of funds laundered which has been estimated by the International Monetary Fund (IMF) to be around 2-5 percent of global gross domestic product which is between US \$600 million and US \$1.5 trillion. In 1987 the UN estimated drug trafficking world wide at \$300 billion, much of which would be laundered. Other estimates have been made that \$300-\$500 billion of dirty money is placed into world financial systems each year or roughly 2 percent of Global GDP. Money laundering is regarded as the world's third largest industry after international oil trade and foreign exchange (Robinson, 1995).

Money laundering tremendously harms the overall economy of a nation. Agarwal and Aman Agarwal, state that \$500 billion to \$1 trillion are laundered through banks worldwide each year (Rahaman, 2005). Money laundering exposes banks, non-bank financial institutions to legal risk, reputation risk, operational risk & fund risk. There are some factors, which nurture this crime e.g. culture of secrecy prevails in banking system by using code, numbered account etc. secrecy jurisdiction where there is no anti-money laundering; competition among banks giving opportunity to clients to open multiple accounts, International transfer of money

³ The Financial Action Task Force on Money Laundering is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering.

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etc. Studies by Quirk, et al (1997) have argued that money laundering threatens economic and financial systems in countries.

The problems in the financial sectors lack of effective anti-money laundering Act and its implementation and ease in transfer of funds from our country to abroad make Bangladesh easy for money laundering. But Bangladesh has not yet been identified as a place of money laundering, upon capturing of consignment of the illegal arms, detects terrorist financing of militants in recent times; it is now a matter of serious concern whether the criminals have taken it as a route of organized crimes. But it has been reported that Bangladesh Bank, the country's central bank, has found that four commercial banks have made illegal loans to three local businessmen and their companies through illegal process amounting to 3.3bn Taka (\$57m) (BBC, 2002). The total sums involved in money laundering in the Bangladesh are not known. Recently, the use of Internet to launder money in and out of the Bangladesh also poses increasing threat though there is no data on the level of cyber money laundering.

Terrorist financing is a more tough matter because a portion of that fund might have come from legal sources, which is then mixed with their illegal proceeds, thus make more difficult to detect. The terrorism related laundering process is sometimes known as “reverse money laundering” which refers to the use of “clean” money for “dirty” ends (Graham *et.al*, 2003). Therefore, it is really difficult for a financial institution to detect terrorist money laundering and prove the earnings of crime unless the help of international regulations, co-ordination and practices of professional ethics. For this reason, domestic, international and private initiatives have been established to combat money laundering and terrorist financing. There is not enough research work in this field, Bangladesh perspective, to this end, this study

hopes to fill this gap. This paper discusses both national and international legislation and examines the activity of regulatory and professional bodies.

2. Literature Review: The origins of money laundering can be traced back to as early as 1930s in organized criminal activities (Bosworth *et.al*, 1994). Strictly speaking, money laundering is the age old process but lately this activities get momentum and became a worldwide crisis debated generally. In response of this growing concern, an increasing number of authorities at international level contribute to the world wide effort against money laundering and terrorist financing. The UN was the first international organization that initiated the combating of money laundering globally. Successively, the Financial Action Task Force (FATF) recognized as an international standard determinant for anti-money laundering efforts to implement and supervise effective anti-money laundering programs. In 1990 the FATF adopted its 40 recommendations were quickly followed at EU and all over the world by the first anti-money laundering directive on June 1991. After the terrorist attacks of 9/11, the FATF adopted 8 special recommendations on terrorist financing.

The main strand of the literature on money laundering is concerned with the legal framework that includes legislation and regulatory issues and can be traced back to the US “War on Drugs” in the 1980s (Gill and Taylor, 2004). It is the repercussions of this war that subsequently led to the formation of the FATF in 1989. According to the FATF (2006b) annual report, many illegal activities are associated with corrupt practices and lack of transparency, which will subsequently give rise to weak governance. This in turns results in poor and ineffective implementation of anti-money laundering programs (Santha and Nair, 2007).

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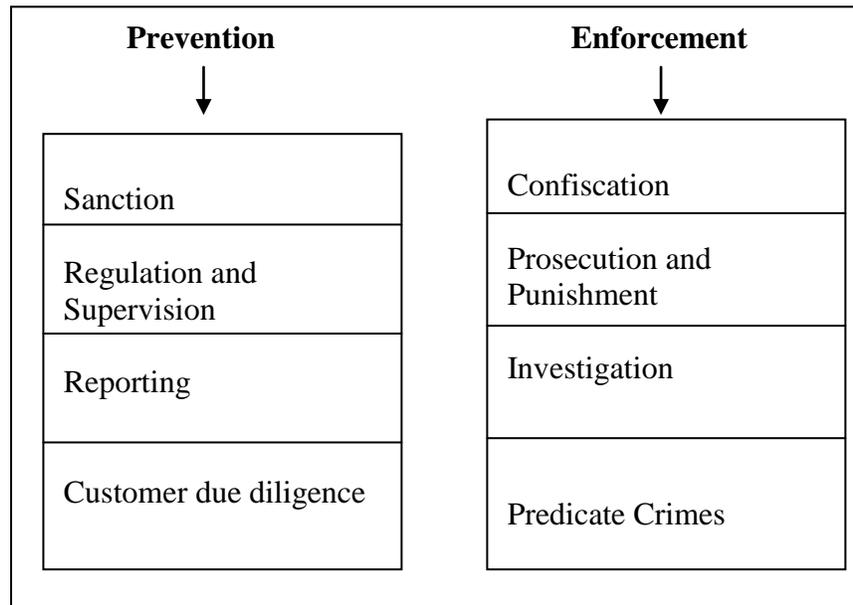
The second anti-money laundering directive was adopted on 4 December, 2001 extending the scope from drug related offences to all serious offences⁴ and to sectors other than the financial sectors, such as accountants, notaries and lawyers under some conditions. On 30 June, 2004 European Parliamentary Financial Services Forum published its proposal for a third anti-money laundering directive aims at transposing the revised FATF 40 recommendations of June 2003⁵.

The ICT (Information Communication and Technology) has introduced new ways for banks to offer products and services through new delivery channels. However, the products and services, which include electronic banking and the introduction of e-money technologies, have made money-laundering activities even more prevalent (Masciandro, 1998, 1999; Philippsohn, 2001). Moreover, the FATF (2001) report on money laundering Typologies identifies online banking Internet as major money laundering vehicle. Philippsohn (2001) and Vargas & Backhouse (2003) argued that legislation and regulation implemented to combat money laundering activities needs to deal with the use of new technology. As such a sound financial system to monitor and control transactional activities compounded with strong anti-money laundering regimes are vital to curb money laundering activities (Santha and Nair, 2007). A typical method of anti-money laundering regime is as under.

⁴ Although the definition of “serious offence” still allowed some margin for maneuver to member states, which were not in favor of the “all crimes approach”.

⁵ The 40 recommendations were revised for a first time in 1996.

Figure: the anti-money laundering Regime.



Besides the FATF, other international organizations such as the UN, the IMF and World Bank ⁶ and the Basel committee on Banking Supervision ⁷ have been more recently involved in this direction. In addition the Wolfs berg group, Egmont group, Interpol, GPAML⁸ etc. has published some standards on specific

⁶ The IMF and World Bank conduct together with the FATF a money laundering assessment program.

⁷ The Basel Committee on banking supervision has published recommendations on Customer Due Diligence for Banks and consolidated KYC Risk Management.

⁸ The Global Program against Money laundering was established in 1997 in response to criminalize money laundering proceeds and to identify the proceeds of crime.

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fields of activities such as private banking and corresponding banking.

‘Money laundering’ as an expression is one of fairly recent origin. The original sighting was in newspapers reporting the Watergate scandal in the United States in 1973. The expression first appeared in a judicial or legal context in 1982 in America in the case *US v \$4,255,625.39* (1982) 551 F Supp.314 (Steel, 2003). Since then, the term has been widely accepted and is in popular usage throughout the world. Another version is that the term "money laundering" is said to originate from Mafia ownership of Laundromats in the United States.

Gangsters there were earning huge sums in cash from extortion, prostitution, gambling and bootleg liquor. They needed to show a legitimate source for these monies. One of the ways in which they were able to do this was by purchasing outwardly legitimate businesses and to mix their illicit earnings with the legitimate earnings they received from these businesses. These gangsters choose Laundromats because they were cash businesses and this was an undoubted advantage to people like Al Capone who purchased them. A criminal smuggles out money abroad for dealing in arms and ammunition, drug trafficking, financing terrorist activities. Evasion of taxations, evasion of exchange Regulations, disguise or remove proceeds of theft, fraud, bribe, making blackmail payments and paying ransom for kidnapers. (Khan,2003).

A relatively new issue is going on in our country too regarding the combating of financial crimes, especially money laundering. There are also international concerns in this aspect. The international community demonstrated its resolve to confront money laundering by showing a strong commitment to work collectively to address

the problem while seeking to isolate those countries and jurisdictions that lack this commitment.

Bangladesh Government has been actively trying to combat money laundering activities in the country, especially in the banking sector.

Bangladesh did not criminalize money laundering until 2002; and banking regulation had been weak and sporadic up to 2002. Corruption among officials is believed to be high. Bangladesh is a party to the 1988 UN Drug Convention, and is a member of the Asia/Pacific Group on Money Laundering.⁹ Bangladesh is actively helping by working to achieve the purpose of the APG that is to ensure the adoption, implementation and enforcement of internationally accepted anti-money laundering standards as set out in the 40 Recommendations of the Financial Action Task Force (FATF). However, Bangladesh enacted Anti-Money Laundering Act 2003 for prevention of money laundering crimes. After one year of its (Anti-Money Laundering Act 2003) implementation, there is an increase in foreign remittance up to 20-25 percent as compared to previous year (Moudud, 2004).

3. Objectives of the study: The study is planned to achieve the following objectives:

⁹ Other members of APG are Australia, Chinese Taipei, Fiji Islands, Hong Kong, China, Japan, India, Malaysia, New Zealand, Pakistan, Republic of Indonesia, Republic of Korea, and Republic of the Philippines, Samoa, Singapore, Sri Lanka, Thailand, United States of America, and Vanuatu.

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- i.** To provide the present scenario of Bangladesh and international measures against money laundering and discuss the development of anti-money laundering measures.
- ii.** To examine the national and international anti-money laundering legislation and the activities of regulatory and professional bodies.
- iii.** To detect common goals of national and international dealings against money laundering and evaluate the activities of regulatory bodies.

4. Scope and limitations of the study: This study examines the development of different Bangladeshi measures, International and Private measures to fight against Financial Crimes and Money Laundering. One of the limitations of the study is the lack of quality data measuring the pervasiveness of money laundering patterns over the specific period. There are no mechanisms to detect actually how much money is successfully laundered and therefore left out of accounts completely.

But, whatever the exact scope, money laundering is a gigantic problem prevalent to any financial system. That's why; it is really difficult to apply the quantitative techniques in this research areas.

5. Methodology of the Study: The study is based on only secondary data. The data were collected from various publications of the Bangladesh Bank, Acts and Ordinance of the People's Republic of Bangladesh; different reports; research papers and from the various journals. Some information has been collected through personal interview method: interviewed with Bankers and Lawyers, keeping in mind that Bangladesh Authority will get a proper guideline in formulating a strategic plan and policies to prevent Money laundering as well as financial crimes that will

eventually help in preventing other serious crimes and establishing Good Governance.

6. Findings and Analysis

6.1. Bangladesh domestic measures against money laundering and terrorist financing: The anti-money laundering structural design in Bangladesh involves the criminal law and the regulatory law.

The three main parties in the Bangladesh legislative and regulatory frame work for combating money laundering are:

1. Primary legislation, which defines criminal offences and makes the money laundering regulations (criminal).
2. Financial services authority which makes regulatory (non-criminal) rules to counter money laundering (Bangladesh Bank)
3. Joint money laundering group (Anti-Corruption Commission, Financial Intelligence Unit and Task-Force) which controls and issues extensive guidance for the same purpose.

Under the circumstances a new department was opened in Bangladesh Bank (BB) to stop the illegal flow of money along the banking routes. In a hurried manner the Anti-money Laundering (AML) Act-2002 was enacted. In 2003 this act was amended. At present BB is investigating only the Banking sector to find out the crimes committed by the money criminals. Once upon time, it was so much easier for clients to open accounts, deposit money in banks and look it debit.

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“What was their source or how they came” it was none of banker’s business, But worldwide observation after 9/11, 2001 the awareness created in our country after the introduction of anti-money laundering measures has changed the entire scenario. The enactment of AML-2002 Bangladesh Bank’s prompt response to establish AML department and Task Force created a good platform to fight against terrorist financing in the country but the problem lies in the enforcement. Michel Camdessus, Managing Director of the International Monetary Fund, said in remarks to the Financial Action Task Force that two or five percent global GDP would probably be a consensus range. According to this estimate the proportionate laundered amount in our country would be around 7.218 billion US Dollar (on the basis of gdp-2007)¹⁰. A study shows that forty percent of our overseas remittances (which are around \$2 billion) are sent through informal channel and another study says, a large proportion of foreign exchange sent through informal channel supports illegal trade in goods, gold and drugs into Bangladesh (Khan,M.K. 2003).

8 December 2005, the Bangladesh Government has planned to tighten anti-money laundering measure by amending the anti-money laundering Act-2002&2003. The measure for reducing money laundering include: introduction of post shipment inspection, submission of bank draft to import duties and introduction SWIFT messaging system between commercial banks and customer authorities in ports. In 2005, December 22 Bangladesh Bank issues new transaction Reporting Requirement to commercial banks. The new guide lines require bank to report any transaction above US \$7,700, and come in to effect from 1 January, 2006. These are efforts to combat Financial Crimes only. Bangladesh enacted money laundering prevention ordinance

¹⁰ In the year 2007 the GDP of Bangladesh is total \$360.9 billion (source: www.fixedandmobile.com)

(MLPO) on 29 April, 2008 (Ordinance no.12) which applies to all forms of money laundering. The ordinance defines “money laundering “as:

- ❖ To transfer; to conversion and remit to and from abroad with a view to conceal or disguise the sources of money or wealth earned through ‘predicate offence’ and trafficking of money or wealth abroad earned legally or illegally,
- ❖ Performing or try to perform any financial transaction in such a way that it is not needed to report under this ordinance, and
- ❖ To do or help to do such an activity that will conceal the illegal sources of money or wealth (Translated from Bengali version of MLPO-2008).

6.1.1. Money Laundering Offences: Money laundering is an offence in Bangladesh. In April 2008; Bangladesh enacted the money laundering Prevention Ordinance, which applies to all forms of money laundering Offences that’s related with definition of money laundering by MLPO-2008. The main offences that may have an impact on the financial sector are as follows: (a) Corruption and bribery, (b) Currency duplication, (c) Documents and evidence falsification, (d) mugging, (e) Cheat, (f) Illegal arms smuggling, (g) Illegal drugs business, (h) Business of stolen and other illegal goods, (i) Abuse, detained illegally and blackmails, (j) Murder and grievance, (k) Female and infant or baby Trafficking, (l) Smuggling and home or foreign currency trafficking, (m) Dacoity and robbery, (n) Trafficking in humans and illegal emigrant, (o) Dowry and (p) any other predicate offences declared by the Bangladesh Bank with permission of Bangladesh Government by circulating gazettes to serve the purposes of said ordinance(Translated from Bengali version of MLPO-2008).

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6.1.2. Rules and Regulations: Detection and Prevention of Money Laundering: Bangladesh enacted the money laundering Prevention Ordinance -2008. Money laundering is a non-bailable criminal offence. The penalty can be up to seven years imprisonment and fine (section-4, MLPO). Special courts established under the criminal law Amendment Act, 1958 have the jurisdiction to try cases of money laundering. Such courts can take cognizance of offences only at the behest of a written complaint made by the Anti- corruption Commission (ACC).]The MLPO authorizes ACC to investigate all offences related to money laundering and take appropriate actions to address any problems.

6.1.3. Financial Services Authority: The MLPO authorizes the Bangladesh Bank to supervise the activities of banks and combat money laundering in the financial institutions. The regulatory objective of the AML department of BB is to prevent criminals and terrorist from trying to use the financial system to carry out financial crime and to make it easier to catch and punish those who abuse the financial system.

The MLPO gives BB broad responsibility ¹¹ for prevention of money laundering and wide ranging powers to take adequate measures to combat money laundering facilitate its detection, monitor its incidence, and enforce rules and to act as the prosecuting agency for breaches of the ordinance.

6.1.4. Submission of cash transaction Report: Each bank will analyze the transaction of their branches and submit cash

¹¹ To conduct enquiry about the crime of money laundering, observe and supervise the activities of banks, invite statements from the banks, give training to the employee of the banks and finally perform other works in fulfillment of the objective of the Ordinance.

transaction¹² Report (CTR) to BB for the cash deposits or cash withdrawals of BDT 700000.00 or above in any account in a day (AML-Circular no.-13, Issued by BB.2007). For the safeguard of the Banking Industry from money laundering such instruction were issued.

6.1.5. Submission of Suspicious Transaction Report (Reporting Agencies or Financial Institutions): The MLPO requires Reporting Agencies¹³ to accurately identify customers and to report suspicious transactions to BB. It also requires Financial Institutions preserve customer information while an account is open and for five years from the date the account is closed. Financial Institutions must supply this information to the BB upon request and inform it upon of any suspicious transactions. The MLPO imposes penalties for money laundering and allows the BB to fine financial institutions for failure to retain or report the required data on suspicious transactions (Section-25, MLPO-2008).

6.1.6. Financial Intelligence Unit (FIU): A FIU has established for receiving, analyzing, and disseminating reports of suspicious transactions to competent authorities and preventing the transfer and recovery of proceeds of offences established. In accordance with section-24 of MLPO, a financial intelligence Unit has been established, by an administrative order, within the anti-money laundering department of BB, in March-2007 and it allowed by-MLPO-2008. The FIU aims to combat financial crimes and retrieve assets and money kept overseas by splice suspects.

¹² Transaction with currencies, travelers' cheque, postal note, money order, bank draft, L/C, bill of exchange Promissory note etc.

¹³ Reporting Agencies includes bank, Financial Institutions, Insurance co. Money Changer, Money transferring co. and any other organizations got the permission from Bangladesh Bank to run their business.

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It focuses on receiving, analyzing, and disseminating information to detect suspicious transactions as well as to trace, seize and confiscate the respective assets. It requires banks to have a reporting chain for suspicious transactions to AML compliance officers who will turn report such transactions to the FIU. The FIU's effectiveness will be largely enhanced on acquiring membership of Bangladesh in the Egmont group¹⁴. Preparations are being made to apply in 2008; for membership in the Egmont group. The FIU will play a key role in facilitating information where there are MLA's between Bangladesh and any other state party.

6.1.7. Anti - Corruption Commission (ACC): Rule 18 of the ACC, confers power to the courts to order the freezing or attachment of the property of a person that is allegedly acquired by illegal means or is disproportionate to his or her legal source of income even before the commencement of trial on request from an investigating officer of the ACC (section 12). Under section 12 and 14 of the MLPO 2008, the courts may freeze or attached the property of a person accused of money laundering on application of ACC. Moreover properties obtained through illegal means during procurement procedures or by any abuse of power can be frozen or be attached by the courts under Rule 15A of the Emergency Power Rules 2007. Offences of money laundering will be investigated under ACC law 2004 (No. 5 of 2004) and the said offences will be treated as scheduled offences and judged under

¹⁴ It is an international group, established on 9 June 1995 that performs the main function of specializing government agencies responsible for overseeing money laundering activities. All the members of National Financial Intelligence Units (FIU) are the members of the Egmont Group.

Criminal Law Amendment Act 1958 (XL of 1958) by the special Judge.

6.1.8. Agreement of mutual legal assistance and bilateral agreements: State parties are required to disclose information related to the proceeds of offences to other state parties that may assist in initiating investigations, prosecution or judicial proceedings. The present MLPO-2008(section-26) provides such obligation or empowered to BB to sign memorandum of understanding or mutual agreements with regard to sharing information on financial crime. Section-26 of the MLPO allows the government, in some cases, BB to enter into such agreements with other state parties. Bangladesh has signed a couple of memorandum of understanding with Singapore and Malaysia in this regard.

A high-powered Task- Force ¹⁵ on repatriation of siphoned money has been set up in October 2007, headed by the Governor of BB, which will work to recover laundered assets through international co-operation.

Bangladesh is the member of APGML (Asia Pacific Group on Money Laundering), which is established in 1997, and it helps the country of Asia and pan-pacific region regarding the law of money laundering, its standard, effectiveness etc. This organization has been evaluating initiatives against money laundering taken by Bangladesh government. The special summit of APGL will be held

¹⁵ A high powered Task-Force on repatriation of siphoned money has been set up in October, 2007, headed by the Governor of BB, which will work to recover laundered assets through international cooperation. The Task-Force includes members from the chief Advisers Office, Foreign and Home ministries, Finance Division, the National Board of Revenue (NBR), the ACC and Office of the Attorney General.

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in Bangladesh at the outset of the year 2010 or in the ending stage of the year 2009, according to source of BB (Mannan, L. 2008). A delegated team of APGML has already visited Bangladesh from 18th August to 30th August, 2008 and discuss with BB, Ministry of Foreign Affairs, Home, Finance, Commerce, Commercial Banks, Insurance Company, Post Office, Courier Service, Air port, Land port and others Spy/Criminal Investigation team to curb Financial crimes (Tuhin, A.K. 2008). The eligibility to be the member of Egmont Group depends on the performance report / rating, evaluated / done by APGML.

Under the existing law BB may share information with domestic law enforcing agencies but not with other state parties or FIUs (Financial Intelligence Units) of foreign countries. The FIUs effectiveness will be largely enhanced on acquiring the membership of Bangladesh in the Egmond Group. Then Bangladesh government will get the capacity to trace, seize, confiscate and subsequently return assets that have been transferred abroad. So we need the enforcement of Money Laundering Prevention Ordinance-2008.

Financial institutions in both developed and developing countries are heavily affected by money laundering, however, developing countries like Bangladesh are vulnerable for such activities. As stated earlier, there are legal and infrastructural weaknesses in these countries. The financial institutions of these countries are affected in the following ways:

- ❖ These institutions may lose credibility in the clients, the cost of which is enormous.
- ❖ There are costs involved in the process of recording, verifying, detection and prevention of such activities.

- ❖ There are other costs involved in the compliance of laws by financial institutions.

6.2. International Measures against money laundering: Money laundering and terrorist financing are global common phenomenon. Transnational regulation produces rules concerning issues that each nation already regulates within its borders crime, securities fraud, money laundering, corruption, pollution, tax evasion. The advances in technology and transportation that helped globalization have made it more difficult to enforce international law.

Absolutely, International co-operation is needed to fight against money laundering problems and a number of international measures have been established to curb money laundering and terrorist financing. Concentrated international cooperation to combat money laundering began in the 1980s. Today, - the United Nations office for drug control and crime prevention (UNODCCP), the Financial Action Task Force (FATF), The Caribbean Financial Action Task Force (CAFTF), the Inter American Development Bank (IDB), the European Commission, the Council of Europe, the Asia Pacific Group on Money Laundering (APG), the Offshore Group of Banking Supervisors (OGBS), the Basel committee on Banking Supervisions, Interpol, Europol, The World Customs Organization (WCO), the Global Program against Money Laundering (APGML) and the Egmont Group of Financial Intelligent Units (FIUs) are involved to deal against money laundering. Some of the major initiatives are reviewed here.

6.2.1. United Nations (UN): UN Convention against illicit traffic in narcotic drugs and psychotropic substances is called the Vienna Convention. The Vienna Convention in 1998 is the first intergovernmental initiatives to endorse the criminalization of

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money laundering and provides for the identification tracing and confiscation of criminal proceeds. The convention forms the landmark in international Money Laundering control and binds more than 160 countries. On 28 September 2001, the United Nations Security Council adopted a resolution involving a multitude of measures concerning the financing of terrorism. Besides, the criminalization of money laundering, the participating countries are required to prohibit drug-trafficking related activities including the conversion or transfer of property, knowing that such property is derived from drug trafficking for the purpose of concealing or disguising the illegal origin of the wealth.

6.2.2. International Convention for the suppression of the Financing of Terrorism: The International Convention for the Suppression of the Financing of Terrorism 1990 forms the cornerstone of the struggle against terrorist financing and money laundering to criminalize the provision or collection of funds for terrorist activities. The purpose is to block the flow of terrorist funds without disrupting the circulation of capital and the continuation of business across global markets (Angela, 2007). This convention deals with matter of financing which permits the member countries to take all necessary measures in order to freeze, seize and detect the origin of funds.

6.2.3. Council of Europe: The Council of Europe Convention on Money Laundering, Search, Seizure and Confiscation of the proceeds of Crime was signed on 8 November 1990 and ratified on 29 September 1992. It covers all measures against drug trafficking and its provisions on all crime as well as implementing its provisions.

6.2.4. European Union: For the free movement of goods, services and fund within the EU in 1993, the EU Council issued a council

directive on the prevention of the use of the financial system for the purpose of money laundering on 10 June 1991. This directive was based on the FATF 40 Recommendations on money laundering and was known as the first money-laundering Directive. On 4 December 2001 this was amended and amended Directive is known as 2nd Directive. The 3rd money-laundering Directive is intended to merge and update the 1st and 2nd directive and ensure that money laundering Rules will remain with the FATF revised 40 Recommendations.

6.2.5. Financial Action Task Force: The FATF was established on in 1989 by the heads of state of the G-7¹⁶ nations at the Organizations for Economic Cooperation and Development (OECD) and currently developed the membership in 31. The main objective of the FATF is the development and promotion of policies both at the national and international levels to combat money laundering and terrorist financing and to maintain the stability and integrity of the financial system. However, the FATF Recommendations are now recognized as the basic standard for enforcement of Law, the financial system and its regulation and international cooperation.

After the terrorist attacks in the USA in 2001, the FATF has expanded its scope to combat terrorist financing and has issued 8 special recommendations¹¹ to deny terrorist and their followers' access to the international financial system.

6.2.6. Egmont Group: It is an international group, established on 9 June 1995, which main function is specialized government agencies responsible for operating money-laundering activities.

¹⁶ The Group of Seven (G-7) nations is comprised of the world's seven leading industrial countries namely USA, UK, Japan, Italy, France, Germany and Canada.

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All the members of National Financial Intelligence Units (FIU) are the members of the Egmont Group. In 1996 the Egmont Group defined an FIU as:” a central, national agency responsible for receiving, analyzing, disseminating to the competent authorities, disclosure of financial information: (1) concerning suspected proceeds of crime or (2) required by national regulation in order to counter money laundering.” This group provides a forum for discussion and improving support to their national anti-money laundering programs. This group emphasis on the information and exchange of Financial intelligence among the member countries and took initiatives to published money laundering cases.

6.2.7. Interpol and Europol: Interpol assists member countries to co-operate and share information with each other in the investigation of money laundering and provides technical assistance and training on anti-money laundering methods (.Leong, 2007). In 1979 Interpol has passed a resolution-urging member to confiscate assets derived from crime. Europol established in 2001 as a counter- terrorist Unit, which works with other counterparts in the fight against money laundering and terrorist financing. These special counter terrorist units object to open and expand analysis files for suspected terrorist events.

6.2.8. World Custom Organization: The World class Custom Organization established in 1952 with the purpose of harmonizing information sharing as well as the prevention of transnational crime. It supervises the physical movement of money across international borders and has created a central database for money laundering cases.

6.2.9. Global Programme against Money Laundering: The global programme against Money Laundering (GPML) was established in 1997 in response to a mandate arising from the 1998

Convention under which member states were required to criminalized money- laundering related to the proceeds of illicit trafficking in drugs and to put legal frameworks in place to facilitate the identification, freezing, seizing and confiscation of the proceeds of crime.

6.2.10. Joint Committee on the National Crime Authority: This committee established on 2001, to take the following steps to control money laundering and terrorist financing. (1) Regulating the licensing of Internet Service Providers; (2) requesting proof of identity to open internet accounts; (3) incorporating system of process to improve their ability to detect and prevent any suspicious accounts and (4) obtaining technological assistance to upgrade their system (Santha. 2007).

6.3 Private measures against money laundering: Finally, private institutions also play a role in the enforcement of money laundering policies. Specifically, because many national and international policies concerning money laundering involve transaction via banks, these financial institutions take part in the effective enforcement of money laundering policies. With increasing obligation under the various anti money laundering and terrorist financing legal instruments, private financial institutions have been burdened with disclosure duties, the lifting of bank secrecy privileges, the freezing of client accounts, and even their survival is under pressure. In order to ensure their interest and better comply with the new obligations, private financial institutions have united and established guidelines for their member nations (Leong.2007).

6.3.1. Wolfsberg Group: The Wolfsberg Group consists of 12 global banks, which aim to develop financial services industry standards, Know Your Customers (KYC) policies, anti-money

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laundering and counter terrorist financing guidelines and standards. This group is trying to enhance the cooperation with law and government enforcement agencies to exchange the information promptly among the member countries, without breaching any privacy legislation.

6.3.2. Basel Committee: In 1988, the Basel Committee on Banking Supervision, consisting of bank and government representatives from eleven major industrialized nations, drafted the “Statement of Principle on Money Laundering” which specified ethical standards for banks. The Basel committee consists of about 30 technical working groups and task forces which basic objective is to formulate basic supervisory statement, standards and guidelines of best practices.

6.3.3. European Banking Federation (EBF): The European Banking Federation was set up in 1960 and represents the interest of over 4500 European Banks from 27 National Banking Associations. The EBF has published a report on Money Laundering Legislation: National measures, in 2002 that offers an inventory of national regulation on money laundering (www.fbe.be). The anti money laundering committee takes official positions on all money laundering and terrorist financing legislative measures, which have an impact on the banking industry.

6.3.4. The U.S. Patriot Act: The U.S. Patriot Act includes a separate section devoted to international money laundering and terrorism that seeks to strengthen both anti-money laundering and counter terrorism enforcement efforts. The Act has broadened the reach of relevant law enforcement activities and encourages cooperation among financial institutions, financial regulators and law enforcement (M.Deflem and K.Irwin, 2008).

6.3.5. The Asia Pacific Group on Money Laundering (APGML): In 1994, the FATF established an “Asia Secretariat” to work toward development of a regional anti money laundering body in the Asia-Pacific region. The APGML was formally established in February 1997 at the fourth Asia-Pacific money laundering Symposium in Bangkok, Thailand. The APGML plans to provide a focus for regional anti money laundering efforts and will work in close cooperation with the FATF and other FATF-style bodies.

Bangladesh is a member of APGML; this membership will help Bangladesh to be the member of Egmont Group.

6.3.6. Other Private and Regional measures against Money Laundering: Several regional bodies such as CFATF (Caribbean financial actions task force), the ESAAMLG (Eastern And Southern Africa Anti Money Laundering Group), the MONEYVAL committee of the council of Europe, (the select committee of the experts on the evaluation of anti-money laundering measures) and the OGBS (offshore group of banking supervisors) either exclusively or as a part of their work, perform similar tasks for their members as the FATF does for its own membership. The main purposes of these initiatives to fight against money laundering in various aspects through having done following:

- ❖ Detect money laundering process, situation and provide important remedies to curb money laundering.
- ❖ Co-coordinating the development of anti-money laundering Laws and Regulations.
- ❖ Negotiating bilateral and multilateral efforts to cooperate and exchange information and evidence in support of money laundering.

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- ❖ Asset forfeiture investigation.
- ❖ Asses regional threats.
- ❖ Advising on specific policy and administrative changes.
- ❖ Providing increasingly coordinated technical assistance etc.
- ❖ Endorse the criminalization of money laundering.
- ❖ Identifying, tracing and confiscation of criminal proceeds.

7. Summary of the findings, Policy Implications and Conclusion

There is no doubt that money laundering and terrorist financing are the burning questions in Bangladesh as well as elsewhere in the world and a fit strategy must be developed to measure and overcome these problems. Any individual body can't deal effectively with these problems; a combined Open System Approach¹⁷ is essential. The following common factors are identified in the aforesaid measures:

- ❖ The Internet makes money laundering easier.
- ❖ Obscure Island Nations dominate the money laundering Industry;
- ❖ The legitimization of money laundering and terrorist financing offences;
- ❖ The confiscation of criminal earnings;
- ❖ International cooperation among financial authorities and Law enforcement agencies;
- ❖ Private imitativeness through training, workshop, seminar and organization.

¹⁷ Systems that dynamically interact with their environment. Hence system indicates that a set of interrelated parts arranged in a manner that produces a unified whole.

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All relevant staff of institutions affected is required to have initial and recurrent training in the reporting and customer identification requirements of the Regulations; the legislative position; and the companies' anti-money laundering policies and procedures. Moreover the following measures are necessary:

- a. To strengthen international co-operation on information exchange and law enforcement;
- b. To develop proper mechanisms for handling suspicious transaction reports;
- c. To go for a compliance culture among financial institutions; and to ensure that they put proper systems and procedures in place;
- d. To increase public awareness of the threat from money laundering;
- e. To have an increasing co-ordination between the multiple agencies (national and international) involved and to improve the limited intelligence sharing;
- f. To increase the limited human resources involved in the labor intensive and time consuming work of investigating suspected violations and terrorist financing;
- g. To set rules implementation on a world-wide basis of a consistent set of policies. (e.g. FATF 40+8 Recommendations);
- h. To focus on new technologies and increase countermeasures to combat their use for money laundering;
- i. To share forfeited proceeds with law enforcement agencies(a particular police grievance);
- j. To introduce measures that makes the movement of money more visible.
- k. To ensure the effective monitoring of cross-border currency movements.

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- l. To establish the internal reporting procedures for suspicious transactions, reporting officer in tracing and tracking illegal behavior in the digital economy.
- m. To provide technical assistance in the financial sector, initiate training and awareness program.

An increasing number of domestic and international factors contribute to the worldwide rise in money laundering and terrorist financing activities. As a result the Banking Industry is facing a number of new obligations and an increase in costs of implementation. Another very important point is trade off between preventing money laundering and attracting people in the financial mainstream. It is important to maintain a positive relationship between ACC and business community. Besides, another balance is needed between the investigator's rights and the people's human rights. There are huge efforts and cooperation from the government, law enforcement agencies and financial institutions, but money laundering and terrorist financing remain as a threat. The Laws and regulations that are formed to combat money laundering should be implemented. It is true that traditional initiatives against money laundering are not so effective to detect, identify or freeze terrorist financing. These dealings should be digitized. Strict regulation to control money laundering will only add burden rather than adding value on the financial industry, which might be the dilemma for the economic development. Further Research could focus on developing a strategic model, comparative analysis and factors influencing money laundering to detect and fight against money laundering.

Effective legal framework and law enforcement with professional ethics or corporate governance may help preventing money laundering activities.

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