



## Legal Strategies of money Laundering Prevention Emphasizing Financial – Economical policies

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### ABSTRACT

Money Laundering is changing or dealing a possession with the aim of hiding the illicit source of it. In other word we can say money Laundering is an action to show licit the illicit incomes from organization illegal activities. Money is an outgrowth crime that is there was another or other crimes before resulted to money laundering. So every anti money laundering action should include the pre money laundering prevention, too. The strategies of recognizing and following of money laundering in developed financial markets, passed this illicit activity to and eveloped financial markets. If money laundry don't be stoped, it makes the financial system Decayed. And each finantial innovation valueless. One of problems in Iran to fighting with Laundering is unawareness form problem and its harm full effects by people. This crime is not as horror as other crimes for them so the society isn't so sensitive against. But there are many interndcetonl activities in this field to pre vent every government from it.

### Keyword:

*Money laundering prevention, the fight against money laundering, financial and economic policies*

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## INTRODUCTION

It's for some decades that all countries are facing with a problem named money laundering. It's impossible to estimate the mass of money laundering, but it's found that 300 – 500 billion U.S dollars is laundering as crime every year. (Scott, 1995) Money laundering is a way to show the crime licit and legal. In other words the dirty money is changed to clean money by crime and injects to economy (Sabouri Deylami 1395) So, it Money Laundering is an illegal action by criminals to conceal the illicit sourced of money. They are destructive for social and economical system of country too. One of the features for this kind of crime is the organization that performs as non governmental organization but regular and guaranteed. "In money laundering there are two kinds of organizations. The first is related to the crime grouped and the other goes back to money laundering feature itself, because it's done organized in financial and banking system or the trades (Jazayeri, 1388).

Due to much attention of matter, the international society noticed to this crime and has made the governments forced to fight with money laundering. These commitments are: the customers identity, document recording, recognizing the dubitable transaction and etc. These strategies are developed by cession of special transactions the special banks, observation financial institutions on costumers financial activities and using. The cash money.

This study is a kind of documentary and library studies and it's gathered by referring to library and references such as books, journals, presses and articles.

### Definition of Money Laundering

Generally money laundering is the changing of source, identity sort, beneficial sides and the final purpose to dirty money from illicit trades like drug, organized crime, terrorism and etc.

Based on Europe approval in March 1990, Money laundering is defined "changing or transferring a possession, aware criminal and felonious source activity, to hide or mis leading the source of possession or helping to someone criminal to escape the law" (commission of the European communities 1990) in other section the definition is "concealing or deviation of place, source, purpose, manner, related law, or the real owner of a possession aware the felonious source" (United States Convention 1988) This is extracted from the provided definition is, 1<sup>st</sup> statement, article 3 Vienna agreement, Dec. 19. 1998.

The purpose of the study about money laundering is to protect the communities rights that are endangered by crime. For the mentioned purpose the problem should be viewed from different points we are defining money laundering from two points here:

#### A. From lawyers point of view

From Roven Brosvert and Gvham March money laundering is due to concealing the illicit source of money by deceive". (Raven Basort Disous salt March, Veron, Graham, 1986)

Jack believes a money laundering is drug traffic source of money and other criminal activities like terrorism activities (Busar 1375).

Mir Mohammad Sadeghi is defined a money laundering is concealing the illicit source of money and

substituting is as licit money so the finding the real source is impossible or difficult". (Mir Mohammad Sadeghi, 1382)

From validi money Laundering is "To do chain of strategies to conceal the illegal source of income from metanational crime and pretending to legal and licit finance". (Validi, 1386)

#### B- From organizes and International communities

United Nations Drug Traffic controlling office writes about money laundering "Money laundering is a process that the lander shows the illicit money, licit. (Hadian, 1382).

Based on the new function of European communities about money laundering crime money laundering is defined on Article 1 (1990) "changing or conveying (transferring) the finance aware the crimes in source to conceal or source deviation or helping to criminals to free him from crime or the real action like source, place, transfer move, rights of possession" (Pahlavanzadeh, 1388).

#### C. Definition of Money laundering is rule of some countries

According to punishment (criminal) law of Germany money laundering crime is "concealing or destroy the real source of illicit money or entering it to licit economy and finance cycle. Money illicit laundering includes crimes like killing, robbery, stick – up, hostage, printing fecgnel clollar, cheque, Ewocard (Dob ties, 1383).

According to the first rule of the 19,1993 Law of Spain money laundering is the all criminal activities related to Narcotic drugs and psychotropic substances, illegal terrorist and armed groups and all the organized crimes. When there is income from this source and one or some people aware of this transfer this money are included in this rule. (Donato, 1999).

According to the rule of 415 in France, the activities related to drug's traffic and organized felonies "the people who import or export or place money or finances to deal between France and other countries and aware the illicit source of it" will be punished to 2-10 years prison and their possession will be (Shiva Micael pour, 1386).

#### The concept of Prevention

It has two meanings: Stop something from happening and aware from something. In criminology we mean the first one. Stopping a crime from happening.

Gosen, a French criminologist has four criteria for prevention "A preventing action to guarantee the prevention of crime or criminal action, that is the effective functions against criminal actions as a definite function". (Tanzi, 1966)

When the goal is prevention of crime, the act is called prevention that is done before crime not after. So the crime prevention can't be violent. Violence needs crime. In prevention there is no crime yet.

Gosen believes that up to 4 conditions "Prevention is a collection of criminal managements minus punishment management the can limit the eventuality of crime by making it impossible difficult or probable. (Hemati, 1385).

So can be said by prevention of money laundering, it's possible to prevent the organized crime that it prevents the other organized crimes in turn. Because by preventing the first step the culprits won't get benefit of crime and getting disappointed from doing crime by someone who has the potential of doing the organized crime.

### The methods of money laundering crime prevention

Early can be said that except some proposals about this crime the just organized act for this crime was the suggestions of financial work group. For money laundering prevention. To decrease the harms from new payment technology these works are suggested:

Limitation of acts and capacity of credit cards, connecting the new payment technology to financial institutions and bank account, necessity of having standard process of information recording and saving them in system to check by law, document them and stop them in the case of need, and creation of international standards to scales and process, create a system to institutes to know and recognize the clients more humdruming the standards, expand the new IT capacity to help the suspended accounts and client admirations, limitation of allowed services and the dens of account, limitation of active accounts to face to face (Traditiona) services and prevention of electronic service providing by illicit financial institutes.

At last the observation should be done by both internet bank authorization provider judicature and the حوزه های قضایی that have internet bank client. Still the lows of Iran's prevention of money laundering (articles 2, 6, 000) are not enough to campaign with this crime. It's expected from the legislator to prevent more that before from this crime considering the previous crimes and documents of money laundering in Iran.

Considering the loss money laundering its seems that preventing this crime would be beneficial and useful for society and prevents much loss. This crime has specialized features and so prevention needs special tactics as mentioned below:

#### Balance of Bank secretariation:

Using bank system is a usual way of doing money laundering crimes, from the otherside the secretariation of banks is a barrier to explore the crime, this rule should be conventioned internationally to prevent the crime in a way that not the relay of people to bank be broken nor the crime of money laundry be done. To this need, all of financial in Iran, based on law article of 5, including bance, financial institutions, insurances, central insurance, lending institutions and carity organs and mayoralty offices have to assist the money laundering. In the 7<sup>th</sup> article of this law providing information, reports and documents related to money laundering law is foreseen to committee of money laundering campaign. But as said before the balance of bank secretariation is to fight with crime, the cause of this balance and disclosing the information by government agent to this advantage is forbidden and based of 8<sup>th</sup> article of money laundering campaign law, the criminal would be punished because of exposing government secrets sanctioned in 1353-11-29.

#### Sanction of promoting law:

The first step to money laundering fight is to foresee a suitable structure to fight with this financial crime. (U.S.A sanctioned the money laundering control law in 1986). After legislation the legal acts would be done based on it. In the included organizations, recognizing the client, recording and maintaining the records. Reporting doubtful exchanges are considerable variables in countries. In studied countries law, punishments like financial requisition and fine and prison are seen. Financial chastising the criminals (instead of legal acts) are used to discover and recognition of money

laundering ways are considered in some legal domains. The governments should amend the money laundry laws to fight and campaign with money laundering to special policy. There should be exact statics to provide and supply the anti money laundering laws. (Saburi Deylami and Shafiei, 1389, 10).

In most countries the laws are formulated to central banks traditional and foreign exchange banks by using technical methods of International financial system. To this aim, some rules should be conditioned to keep away all banks and financial system from money laundering.

#### Tax Establishment:

The main corresponding financial relationship between government and citizen is tax system, on the other hand one of methods for money laundering is preventing recognition. Of someone who controls properties that may be recognized in tax research following to flee the tax payment. The system of tax payment is نسبی, in a way that the bank system, insurance companies and exchange centers of money papers that should report to tax agents the payment of loss and benefit of equities, tend to fight with money laundering by having an internal control system without high expenses.

Tax running is kind of money laundering. So most of money launderers try to join "Tax Paradis" and invest there. You have to know running away from tax is not the same with tax unpayment. Unpayment is a kind of legal freedom from tax but tax runaway is illegal fleeing from tax. Here we have to consider one of the best ways of money laundering is paying the tax from crime gained property. Because paying tax diminishes the source of money so the tax system should be designed and done carefully to prevent this kind of problems.

#### Financial documentaries:

In industrial developed countries, beside the exploration of all bank exchanges, giving bill or factor is necessary too, but unfortunately in Iran the tools like travelcheques with high price instead of banknote, milliaryd cheques in bearer (each bank with just one sign behind) is known as bearer cheque) and nameless accompany papers in bearer are the tools of contraband and makes the money laundering and tax fleeing easier. This is when the countries with the laws of trade and direct taxes-exporting the bill from economical persons is necessary and there is punishments for outlaws. In this field we can refer to the 169<sup>th</sup> article of direct tax law. In this article the punishment of unpayment of tax is 10% of exchanged money. The 3<sup>rd</sup> article of this law even has difficult punishments to maintaining the bills. In this law not only you can't exchange without factor (bill), shopping without bill is being punished even. (Saburi Deylami and Shafaei 1389, 255).

#### Prohibition of providing bank system to clients who are not recognized:

based on this rule the financial organz must recognize the clients, if it's impossible, creating account and other bank services are prohibited for them so the account creation is possible by providing an ID card or passport or driving licence. The sign of account creator should be admitted by one of recognized clients of bank. If the account creator has other accounts in other banks there should be enough info. About the account. For legal person delivering documents like company register documents, company activity name and address of account creator is necessary (Danayi, 1389).

### Using transfer money exchanging system

Transfer is a substitute or parallel system for money sending. This system is used to being by traditional banking system in parallel. (p 22). Some constituent of transfer that differs it from other payment system are relay and expanded usage of links like family relations and region relation. (p, 22 and 23). Transfer works through relations. These relations create a network to exchange (jos and Harjit 1391).

### Criminal legislation for Money laundering:

It's necessary to have a suitable criminal law to control and fight money laundering. For this necessity all the sources of illegal activities should be found and the traditional rules like bank secretarilation be balanced.

### Membership in International Financial contract and using them:

Membership in international Financial contract and using them to fight with money laundering, makes the country secure against it. The most important thing here is the coworking of countries to control and fight with money laundering (the orient of fight is to prevent, control, discover and fight with money laundering) so the countries that they know can't control this problem lonely, and money laundering is an international and meta national problem then, try to decrease the loss by joining to regional convention or international convention or partnership in world wide.

### Decoding and Filtering Internet messages or Money launder websites:

Because Money launders and rich and powerful level of society mostly all of them are in exchange and deal with each other through it and Internet so it's the time to security and police organs enter to this realm and by legal methods can decode and filter the internet messages and websites of money launders.

### Conclusion:

There are some works in Iran to fight with money laundering, the first law was sanctioned in 1386, before it there were just some weak laws about it and the need of a rule to fight was clear.

Beside the positive effects of this law it has some deficits. Such as the kind of punishment in 9<sup>th</sup> clause that is really slight. Because the money launders and upto financial benefits and the punishment must stop them. But the punishment in 9<sup>th</sup> clause is just financial fine, ¼ of benefit is there fine, its economical for criminal. Hope to amend it in future.

The money laundering congress has different regulations to fight this crime but it doesn't seem enough. This regulation considers the train of clerks but its better to all people get informed about financial crimes by special policy.

Iran's economy is a suitable runway to money laundering since irregular economical system, multilateral offices, uncontrolled financial circulation by central bank, ruling and incumbency of government, uncontrolled the transfer of money and negation of codified rules and law.

Some tools to fight with money laundering are: sanction and performing of anti money laundering laws, making an unsafe atmosphere for money launders, international contract membership, and cooperation with international

rules, amending the economic structure of country, controlling foreign exchange, intervention from governmental economy, creating powerful organs to fight with money laundering, reorganizing the anonymous accounts, providing statistic reports, performing Islamic banking operation, amending banking and finance institutes system. As banks are the most important shelter of money laundering, they are the most dangerous traps for them.

The best way of fighting with contraband and financial crimes is preventing money laundering, it's a hidden ailment that makes the economy ill.

### Suggestions:

- A) Controlling kinds of financial property like, equities and participant papers, specially by reviewing the mechanism of money paper stock executive.
- B) Controlling the activities of banks and financial institutes to prevent dirty money investment and changing them to other finance tools.
- C) Efficiency of tax organ of country to recognize the tax retreat realm, and controlling the huge exchanges of real estate like lands, durable goods, gold and jewels, antiques, rugs and the same things.
- D) Sensitize the national economy to activities to legitimate to money (internal or external) and accepting them in official finance system.
- E) Having financial, observational, taxation discipline
- F) Amending cheyue statute (law)
- G) Recognizing the owners of sources in starting transaction
- H) Efficiency of taxation and economical code
- I) Systematizing foreign transactions and foreign company agency

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