
Analyzing Anti Money Laundering Laws in Pakistan and Comparison of the AML Laws of Pakistan with FATF Standards

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Abstract

This study sheds light on the widespread concern about money laundering and its far-reaching implications by exploring the nuances of Pakistan's anti-money laundering (AML) regulations and their compliance with FATF criteria. The practice of turning illegal cash into lawful assets, or money laundering, is a widespread problem that requires strong legal frameworks and international collaboration to effectively mitigate. Pakistan has implemented significant legal changes, including the Anti-Money Laundering (Second Amendment) Act of 2019 and the Anti-Money Laundering Act of 2010, in recognition of the seriousness of money laundering. The Securities and Exchange Commission of Pakistan and the State Bank of Pakistan were among the regulatory agencies affected by these reforms, which also broadened the definition of violations. Pakistan adopted an action plan in response to FATF concerns, showcasing advancements in the examination and punishment of terrorism funding. The research is significant because it urges national and international agencies to take proactive actions in support of anti-money laundering efforts. The study aims to compare Pakistani AML regulations with FATF standards and analyze them, highlighting the significance of financial stability methods. From the Anti-Narcotics Act of 1997 to the Anti-Money Laundering Act of 2010, Pakistan's AML legislation have demonstrated a progressive stance. Effectiveness, however, depends on public-private collaborations, enforcement strategies, and technology advancements. Examples from the real world, such as the Omni Group and the Panama Papers, highlight the need for substantial changes to financial legislation and political responsibility. This study adds significant knowledge to international efforts to combat money laundering by highlighting the significance of cooperation, technological adaptability, and extensive financial and legal reforms for successful mitigation.

Introduction

Money laundering is the mode through which the dirty money is shifted to other areas in order to avoid the payment of taxes. Likewise changing the illegal money into legal one is also money laundering. Hence it is to clean dirty money by putting it into a legal system. Money laundering is a big offence in many countries including Pakistan. There are many ways to do money laundering. For example; online transfer, cash transfer, credit or visa card payments, building assets in other countries. In addition to this, black marketing and drug marketing methods can also be used for money laundering. It is important to note that money laundering was started from USA. In the old days there were many people in US who earned money through illegal activities like gambling, snatching and robberies. After accumulation of wealth they wanted to legalize their money or wanted to clean their dirty money. For this purpose they started to use various methods, some of which worked for them. So to make their illegal currency legal, they started various businesses and tried to invest their money in buying and selling. For instance, they started laundry business due to which it came close to the meaning of money laundering. The first money launderers were originally the street gangs in the United States. It was in 1980, that the term money laundering was appropriately coined for them. The drug trafficking was started in USA and it reached to the peak. The black money earned by the drug trafficking came to the peak which compelled US government to make some laws against money laundering.

Money laundering has become a global concern due to its association with criminal activities and its impact on the integrity of financial systems. Governments and international organizations recognize the need to combat money laundering and terrorist financing to maintain economic stability and security. Consequently, Anti-Money Laundering (AML) laws have been enacted worldwide to address this issue. This chapter aims to provide an overview of AML laws, their objectives, and their significance in preventing money laundering. Money laundering involves the process of transforming illicitly obtained funds into legitimate assets, making it difficult to trace their origin. This process typically consists of three stages: placement, layering, and integration. Placement refers to the introduction of illicit funds into the financial system, layering involves complex transactions to obscure the audit trail, and integration finalizes the laundered funds as legitimate assets. AML laws encompass various components that work in conjunction to combat money laundering effectively. These include customer due diligence (CDD), suspicious activity reporting (SAR), record-keeping requirements, and internal controls. CDD involves verifying the identity of customers, assessing their risk profiles, and monitoring their transactions. SAR enables financial institutions to report suspicious activities to the relevant authorities. Record-keeping requirements ensure the retention of transaction records for a specified period. Internal controls encompass policies, procedures, and

systems that help institutions comply with AML laws. Given the global nature of money laundering, international cooperation is crucial for the effectiveness of AML efforts. Countries exchange information and collaborate through mutual legal assistance treaties, extradition agreements, and information sharing networks. Additionally, the FATF conducts mutual evaluations to assess countries' compliance with AML standards, facilitating peer pressure and fostering a culture of compliance. While AML laws have made significant progress in combating money laundering, challenges persist. Technological advancements have increased the complexity of financial transactions and introduced new avenues for criminals to exploit. Virtual currencies, decentralized finance, and offshore jurisdictions present emerging challenges for AML efforts. Regulators and financial institutions must continually adapt their strategies to address these evolving threats effectively.

Pakistan introduced a series of legislative amendments and regulatory measures to strengthen its AML framework. These included the Anti-Money Laundering Act, 2010, the Anti-Money Laundering (Second Amendment) Act, 2019, and the regulations issued by the Securities and Exchange Commission of Pakistan (SECP), the State Bank of Pakistan (SBP), and other relevant regulatory bodies. Pakistan embarked on a comprehensive action plan to address the concerns highlighted by the FATF. This plan involved enhancing the legal framework, improving enforcement mechanisms, and demonstrating significant progress in key areas such as terror financing investigations and prosecutions. Pakistan's authorities actively collaborated with the FATF and underwent rigorous evaluations to assess compliance with FATF recommendations.

SIGNIFICANCE OF THE STUDY

The following research will contribute towards paying more attention to the national and international authority concerned of that can be used for the development of anti-money laundering activities to the stable economy assets and organization. The study of Richard James. (2018) has provided with the arguments that the relevant institutions has not seriously been developing such strategies that can protect the financial status from facing trouble through Money laundering (Richard). The article of Roohul Amin (2017) has also provided the assessment for the importance of developing counter-money laundering activities that can secure the economic status of the countries. Therefore, the research will be highly beneficial for diverting the attention of the legislative bodies towards the creation of such policies that can control and safeguard the economy from money laundering.

OBJECTIVES

The research objectives that will be achieved in the following research are provided as under;

- To analyse anti money laundering laws in Pakistan.
- To compare the AML laws of Pakistan with FATF standards

LITERATURE REVIEW

Counter money laundering Measures

The counter-money laundering measures are the strategies that are designed for controlling and safeguarding the financial status of common people from getting harmed against money laundering activities. According to Kanan Subemmanian(2016)the strategies used for counter-money laundering are for dealing with the protection of stable economy and gaining better responses for safeguarding the finance of common people. According to the analysis of Richard William the protection of economy is one of the best strategies that can be used for assuring the safety of stable economy and safeguarding the policies in this regard. It has been observed as per the theory of waseem Ahmad, that it is effective for the creative and political safety of the social concepts so that can be used for establishing the financial well being and safety of the people (Quraishi, 2017). Moreover, it has been observed that the theory has its functional aspects that emphasise on the aspects of the country economic status. It has been designed for the protection national economy and good image of country and regulations against money laundering for better support.

Causes and effects of money laundering

According to the analysis of JOHN MADINGER (2016), Money laundering is an illegal act or crimes which involves transferring of money to other places with the aim to avoid tax payments The referred author believe that in the act of money laundering the illicit money is converted into legal assets and the unlawful money is cleaned in the system (Madinger, 2011). As discussed in the study of Ernesto Savona (1999) there are variety of laws and regulations that are present for the safety and security of finance but the main cause is weak governance that allow such Acts to be done unlawfully. According to Marks Goldfield , the major cause of money laundering is bribery and noticed that the finance management that has to keep a check on money laundering Usually takes bribes from the people thus allowing them transfer their money on airports (Jan Jafferries, 2004).

BRIEF HISTORY OF AML LAWS IN PAKISTAN

Pakistan's first proper AML law was made in 1997 in the form of the Anti-Narcotics Act (ANA). The ANA for the first time criminalized the action of money laundering related to drug trafficking and provided for the forfeiture of assets obtained through drug-related crimes. After that the ANA was amended in 2000 to expand its coverage to include money laundering related to all serious crimes. Next, in 2007, the government of Pakistan established the Financial Monitoring Unit (FMU) under the Anti-Money Laundering Ordinance (AMLO) to implement and enforce AML regulations. The

AMLO required banks and other financial institutions to establish internal AML policies and procedures and report suspicious transactions to the FMU. Furthermore in 2010, the government of Pakistan enacted the Anti-Money Laundering Act (AMLA) to strengthen its AML regime further. The AMLA expanded the scope of AML regulations to include a wider range of predicate offenses and increased penalties for violations. Also the AMLA required designated non-financial businesses and professions, such as real estate agents and lawyers, to implement AML measures and report suspicious transactions.

Effectiveness of AML laws in Pakistan

The effectiveness of AML laws hinges on the enforcement mechanisms in place. Pakistan has taken significant steps to enhance the enforcement of AML measures, including the establishment of specialized investigation and prosecution units. These units collaborate with other law enforcement agencies to investigate and prosecute money laundering cases. The AML laws in Pakistan prescribe severe penalties for money laundering offenses. Offenders can face imprisonment, fines, and confiscation of illicitly gained assets. The judicial system plays a crucial role in ensuring that these penalties are enforced appropriately, promoting a deterrent effect on potential money launderers (Munir Ahmad Zia, 2021).

Recognizing the importance of collaboration between the public and private sectors, Pakistan has embraced the concept of public-private partnerships (PPPs) in combating money laundering. The government engages with financial institutions, businesses, and professional organizations to exchange information, develop best practices, and enhance the effectiveness of AML measures. PPPs foster a culture of compliance and encourage stakeholders to share intelligence and expertise. Through collaborative efforts, Pakistan aims to create a robust framework that safeguards its financial system and protects it from illicit financial activities. As technology continues to evolve, it presents both opportunities and challenges in the fight against money laundering. Pakistan has recognized the importance of leveraging technology to strengthen AML efforts. The implementation of sophisticated software solutions, data analytics, and artificial intelligence can help financial institutions identify suspicious transactions, detect patterns, and mitigate risks effectively. Additionally, the emergence of virtual currencies and decentralized finance has posed new challenges in combating money laundering. Pakistan has been proactive in addressing these challenges by regulating digital assets and introducing guidelines for virtual asset service providers (VASPs) to ensure compliance with AML measures (Khan.).

CASE STUDY

Panama Papers Case

One of the most high-profile money laundering cases in Pakistan is the Panama Papers case. It came to light in 2016 when leaked documents from

the Panamanian law firm Mossack Fonseca revealed offshore companies owned by several Pakistani politicians and business tycoons, including the then Prime Minister, Nawaz Sharif's family. The documents showed properties and assets owned by the Sharif family abroad, leading to accusations of money laundering and corruption. The case led to a Joint Investigation Team (JIT) being formed by the Supreme Court of Pakistan to investigate the allegations. In 2017, Nawaz Sharif was disqualified from holding public office, and he and his family faced legal proceedings. Money laundering is a pervasive issue that affects economies and societies globally. Pakistan, like many other countries, has faced its share of high-profile money laundering cases that have shaken the foundations of its political and financial systems. In 2016, leaked documents from the Panamanian law firm Mossack Fonseca unveiled offshore companies owned by Pakistani politicians, bureaucrats, and business magnates. Of particular note was the revelation that the family of then Prime Minister Nawaz Sharif owned luxury apartments in London. These findings triggered allegations of money laundering and corruption, leading to the establishment of a Joint Investigation Team (JIT) by the Supreme Court. The JIT's meticulous investigation culminated in a detailed report that scrutinized financial records, gathered testimonies, and conducted forensic analysis. Subsequently, in 2017, Nawaz Sharif was disqualified from holding public office due to discrepancies in his financial records. The Panama Papers case underscored the power of investigative journalism and initiated discussions about the need for accountability and transparency in political leadership (Alecci, 2018).

Omni Group Money Laundering Case

The Omni Group money laundering case, which came to light in 2018, revolves around allegations against Anwar Majeed, a close associate of former President Asif Ali Zardari. The Federal Investigation Agency (FIA) uncovered suspicious transactions involving numerous bank accounts linked to the Omni Group. The group allegedly utilized fake bank accounts to funnel billions of rupees, highlighting the scale of financial corruption and money laundering. Beyond its financial implications, the Omni Group case underscores the intricate interplay between political connections and financial wrongdoing. The case raises concerns about conducting impartial investigations when powerful individuals are implicated. This case reinforces the importance of comprehensive reforms that address not only money laundering but also the systemic issues that perpetuate it (Jawad, 2018).

Abdul Qadir Gilani's Money Laundering Case

Abdul Qadir Gilani, the son of former Prime Minister Yousaf Raza Gilani, was embroiled in a money laundering case that made headlines. In 2012, the Financial Monitoring Unit of the State Bank of Pakistan flagged transactions from his bank accounts, suspecting money laundering. The case revolved around alleged transactions of millions of rupees through fake bank

accounts. The Federal Investigation Agency (FIA) investigated the matter and arrested several individuals. The case highlighted the need for thorough investigations and enhanced monitoring of financial transactions to detect potential money laundering activities. It also raised questions about the role of political connections and their impact on legal proceedings (Ali, 2014).

Swiss Money Laundering Case

The Swiss money laundering case involving Asif Ali Zardari, the former President of Pakistan, is another significant example. In the late 1990s, allegations of money laundering and corruption were raised against Zardari and his spouse, Benazir Bhutto. The case involved transferring funds to Swiss bank accounts, suspected to be ill-gotten wealth. The case faced complexities due to issues of jurisdiction, legal immunity, and political interference. While the case faced legal hurdles and political controversies, it underscored the challenges of investigating high-profile individuals and recovering alleged laundered assets. It also contributed to discussions about the need for comprehensive reforms in the country's legal and financial systems to effectively combat money laundering (Dawn, 2012).

Fake Accounts Case

The Fake Accounts case, uncovered in 2018, exposed a web of fake bank accounts allegedly used for money laundering and embezzlement. The case centered on transactions involving billions of rupees and implicated prominent politicians, bureaucrats, and businessmen. The Federal Investigation Agency (FIA) and the National Accountability Bureau (NAB) jointly investigated the case. The case highlighted the magnitude of money laundering operations and the collusion between various sectors. It also underscored the importance of improved financial regulations and cooperation between investigative agencies to effectively tackle such cases (Hussain Dada, 2018).

These prominent money laundering cases in Pakistan offer insights into the multifaceted nature of financial corruption, the challenges in investigating and prosecuting such cases, and the broader implications for governance, transparency, and the rule of law. As Pakistan grapples with these cases, it becomes evident that effective reforms in financial regulations, judicial processes, and political accountability are essential for combatting money laundering and upholding the integrity of the country's financial system. These cases also serve as reminders of the global nature of money laundering and the importance of international cooperation in tackling this pervasive issue.

Penalties and Sanctions of AML Violations In Pakistan

AML violations in Pakistan are taken very seriously and can result in severe penalties and sanctions. The penalties and sanctions for AML violations in Pakistan are outlined in the Anti-Money Laundering Act (AMLA) and the

Anti-Money Laundering Ordinance (AMLO) (Hopton, 2009). Some of the key penalties and sanctions for AML violations in Pakistan are as follows:

Criminal Penalties

Individuals or entities found guilty of money laundering in Pakistan can face imprisonment for up to ten years and fines of up to PKR 5 million. In addition to imprisonment and fines, convicted individuals can also face forfeiture of the proceeds of the crime.

Civil Penalties

Individuals or entities found guilty of violating AML regulations can face civil penalties in the form of fines, suspension or revocation of licenses, or prohibition from conducting business in the financial sector.

Administrative Sanctions

In addition to criminal and civil penalties, financial institutions and other designated entities can face administrative sanctions for AML violations. These sanctions can include fines, revocation of licenses, or other regulatory actions.

Comparison of AML Laws in Pakistan with FATF Standards

Legal Framework

According to the FATF standards, countries must have a robust legal framework to combat money laundering and terrorist financing. Pakistan's AML laws, primarily the AMLA, provide a comprehensive legal framework to address these issues. The AMLA defines money laundering offenses, establishes reporting obligations for suspicious transactions, and outlines the powers and responsibilities of relevant authorities, such as the State Bank of Pakistan (SBP) and the Federal Investigation Agency (Force, 2013).

Criminalization of Money Laundering

The FATF recommends that countries criminalize money laundering and establish penalties for offenders. Pakistan's AMLA criminalizes money laundering offenses and provides for stringent penalties, including imprisonment and fines. However, certain challenges exist in effectively prosecuting money laundering cases due to limited resources and capacity constraints within law enforcement agencies (Force, 2013).

Customer Due Diligence (CDD) and Record Keeping

The FATF emphasizes the importance of implementing robust customer due diligence procedures and maintaining accurate records of transactions. Pakistan's AMLA requires financial institutions to conduct CDD measures, such as verifying the identity of customers and monitoring their transactions. Additionally, the AMLA mandates the maintenance of transaction records for a specified period. However, there is room for improvement in the implementation and enforcement of these requirements, particularly in non-banking sectors.

Research Methodology

The nature of the current research which include the data about the nature of money laundering , its root causes ,its effects and some solution points to

make an attempt to answer the question of what is money laundering, what are its consequences and how can it be eradicated from the world. As the current research is qualitative in nature so descriptive method would be applied here. For conducting this research, the primary and secondary sources of data will be used. Different books, legal journals, statutory laws/Acts, analysis of the judicial decisions of the superior courts, legal dictionaries, research papers, reports and conventions of the different United Nations agencies and human rights organizations, and the internet sources shall be mainly reviewed for this research.

Conclusion

In conclusion, the analysis of anti-money laundering (AML) laws in Pakistan and their comparison with FATF standards reveals the global concern surrounding money laundering and its implications for financial systems. Money laundering, rooted in the transformation of illicit funds into legitimate assets, poses significant challenges that necessitate robust legal frameworks and international cooperation. Pakistan, recognizing the severity of money laundering, enacted key legislative amendments such as the Anti-Money Laundering Act, 2010, and the Anti-Money Laundering (Second Amendment) Act, 2019. These changes expanded the scope of predicate offenses, increased penalties, and involved regulatory bodies like the Securities and Exchange Commission of Pakistan (SECP) and the State Bank of Pakistan (SBP). In response to concerns raised by the Financial Action Task Force (FATF), Pakistan implemented a comprehensive action plan, demonstrating progress in terror financing investigations and prosecutions. The study's significance lies in its contribution to the development of anti-money laundering activities and policies for national and international authorities. By examining the legislative landscape and comparing it with international standards, the research underscores the need for strategies that protect financial stability and prevent money laundering. Objectives such as analyzing AML laws in Pakistan and comparing them with FATF standards guided the research. Counter-money laundering measures are crucial for maintaining a stable economy. The literature review highlighted the causes and effects of money laundering, emphasizing weak governance, bribery, and financial mismanagement. Examining the history of AML laws in Pakistan, from the Anti-Narcotics Act in 1997 to the Anti-Money Laundering Act in 2010, revealed a progressive approach to addressing money laundering. Effectiveness, however, relies on enforcement mechanisms, collaboration through public-private partnerships, and leveraging technology to combat evolving threats. Penalties and sanctions outlined in the AMLA and AMLO emphasize the seriousness with which Pakistan addresses AML violations. The comparison with FATF standards highlights Pakistan's legal framework, criminalization of money laundering, and areas for improvement in customer due diligence and record-

keeping. The research contributes valuable insights to the ongoing efforts against money laundering, emphasizing the importance of international collaboration, technological adaptation, and comprehensive reforms in legal and financial systems. By addressing these aspects, Pakistan and other nations can strengthen their defenses against the multifaceted challenges posed by money laundering

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