

ANTI-MONEY LAUNDERING POLICY AND ITS EFFECTS ON BANK PERFORMANCE IN NIGERIA

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Abstract

This study seeks to review the role of anti-money laundering policy in Nigerian banking sector with its attendance effects on performance. Three banks in Lagos State (South Western Nigeria) were used for the study. The correlation result indicates the existence of a strong positive relationship between banks performance and adoption of sound money laundering policy with a value of 0.881. The coefficient of determination also show a value of 0.775, which implies that anti-money laundering policy actually explain and account for about 77.5% of the nature of banks performance in the economy. This result is due to the fact that banks do not need to serve as a channel for illicit monetary activities before they can post a meaningful performance in the industry. Hence, money laundering has negative consequences on the economy which include loss of revenue to the government, worsens criminal rate in the society, and threatens the political stability and internal security of a nation. **Key words:** Performance, Economy, Money Laundering, NBFIs.

The effect of money laundering on economic development are difficult to enumerate but it is clear that such activity damages the financial-sector institutions that are critical to economic growth, reduces productivity in the economy's real sector by diverting resources and encouraging crime and corruption, which slow economic growth and distort external economic sector. Money laundering impairs the development of financial institutions for two reasons. Firstly, it erodes financial institutions themselves because there is often a correlation between money laundering and fraudulent activities undertaken by employees. At higher volumes of money-laundering activity, entire financial institutions in developing countries are vulnerable to corruption by criminal elements seeking to gain further influence over their money-laundering channels. Secondly, customer trust is fundamental to the growth of sound financial institutions, and the perceived risk to depositors and investors from institutional fraud and corruption is an obstacle to such trust especially in developing countries.

However, aside protecting such institutions from the negative effects of money laundering itself, the adoption of anti-money-laundering policies by banks supervisors

and regulators, as well as by banks, non-banks financial institutions often strengthen the required good-governance practices that are important to the development of these economically critical institutions. Indeed, several of the basic anti money-laundering policies such as know-your-customer rules and strong internal controls are also fundamental, longstanding principles of prudential banking operation, supervision, and regulation.

Although money laundering does not require the use of formal financial institutions, reviews of money-laundering arrangement consistently indicate that banks and non-bank financial institutions (NBFIs), such as insurance companies, are favoured means of laundering illicit funds both internationally and within developing countries. The reason for this preference lies in the efficiency of the financial institutions which can serve as a low-cost vehicle for relocating illicit money for the launders.

From an economic development standpoint, the adoption of anti-money-laundering policies by government financial supervisors and regulators, as well as by banks and NBFIs, often reinforce good governance practices that are important to the development of these economically

critical institutions. As a result of the need to arrest this surge, the “G7” in 1989 convened the Financial Action Task Force (FATF) a team saddle with the responsibility of examining money laundering techniques, review actions taken so far and setting out measures needed to deter and defeat the menace. In the end, the committee came up with 48 recommendations on modalities to combat financial crime. It was this that gave birth to local enforcement in Nigeria with the emergence of various legislations such as the National Drug Law Enforcement Agency Act (1989); Money Laundering Act No. 7 (2003); Advance Fee Fraud Act (2004); The Economic & Financial Crimes Commission Act (2004). All agencies were charged with the responsibility of fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria.

With all this concerted efforts put in place to check the activities of money laundering in Nigeria, the increasing integration of the world’s financial system through technology has reduced the barriers to free flow of capital and provide avenue to hide ill-gotten wealth with great difficulties involved in tracing the real owners of such fund outside regulation.

Literature Review

Conceptualizing money laundering has gain the attention of many scholars and agency overtime. The draft Article 1 of the European Communities Directive (1990) defines money laundering as the conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime.

Ohanyere (2003) view money laundering as the procedure by which the proceeds of illegal acts are converted into apparently legal activities, thus concealing their criminal origin. In a simple language it involves cleansing (laundering) dirty money in order to cover its dirty or illegitimate origin. It is an essential transformation process for the proceeds of crimes such as armed robbery, prostitution, gambling, arm deals, fraud, sales of hard drugs and any other act which the law and society prohibit.

Hence, money laundering is the integration of illicit funds into the main stream of legitimate finance in order to

conceal the criminal sources and nature of such funds and ultimately making the funds look clean. It is the smuggling in of funds with criminal intention into the channel of the legitimate financial system.

Historical Background of Money Laundering

Money laundering has over the years evolved from the commission of other crimes. For example, right from time robbers had always tried to conceal their acts and disguise their loots so that they could retain their respect in the society because robbery was an anti-social behaviour which is condemnable and punishable by law. The period of the 1920s and 1930s was tagged the era of “gangsterism” in the United States of America with the emergence of criminals groups which claim exclusive jurisdiction over some areas and districts for the purpose of perpetrating their criminal activities.

This practice became a fore-runner to modern day organized crime. These groups had powerful and influential leaders who channel their criminal gains secretly into the regular financial system. The injection of such fund into the normal financial transactions and business arrangements was obviously money laundering.

Gangsterism developed into Mafia and with the formation of such deep-rooted criminal organizations like the Chinese Triad, Columbian Cartels, Sicilian Mafia and the Russian Criminal Organizations, organized crime assumed international dimension. This is because the growth of organized crimes produced wealth that needed to be laundered and invested, sometimes across international boundaries.

Cases of money laundering which gave weight to the above historical foundation abound. For example in 1932, Meyer Lansky (affectionately called “The Mob’s Accountant”) one of the founding fathers of organized crime and patron saint of money launderers opened an off-shore account with a Swiss Bank. This account was used to hide the profits of Governor Huey Long of Louisiana in the United States of America. There after, Lansky & Co. were allowed to open up slot machine houses in New Orleans. Money criminally obtained, was smuggled out from the United States to a bank in Switzerland and loans were granted by the bank in Switzerland to this gang of criminals thereby permitting the return of legal money to the United State. This practice, which signaled the beginning of modern money laundering, was given further impetus by the operation of secret banking practices in countries which permitted them.

The carting away of war loots by some German officials to secret bank accounts in Switzerland at the end of World War II brought to lime light the use of secret banking concept for money laundering. Also, the BCCI Drug Money Scandal which involved Panama, U.S. Luxembourg and London's secret banking network as well as the money laundering activities of the off-shore banks in Cayman Island etc. lend credence to the view that secret banking greatly facilitates money laundering. In fact, the banking system had been the veritable vehicle that acted as a catalyst for money laundering. It is not surprising, therefore that any attempt to proffer solutions to the menace of money laundering without a serious focus on financial institutions globally is bound to be a fruitless exercise.

Money laundering as an expression is one of fairly recent origin. The original sighting was in newspaper reporting the Watergate Scandal in the United States in 1973. The expression first appeared in a judicial context in 1982 in America and it has been widely accepted and is in popular usage throughout the world.

The Nigerian economy did not care about the colour of monies brought in until 1989 when she could not meet up with the recommendations of FATF and was consequently listed among the Non Cooperative Countries and Territories (NCCT) and perceived to be a "Money Laundering Heaven". This discouraged other countries from having business relationship with any country on the list. However, in the bid to shrug off this uncomplimentary position, several agencies and laws were established such as the National Drug Law Enforcement Agency (NDLEA), Money Laundering Decree (1995) (Money Laundering Act LFN 1999). Advance Fee Fraud and Other Fraud Related Offences Decree (1995) Repealed in 2006

However, money laundering techniques have become so complex and sophisticated that the operators are always steps ahead of law makers and enforcement agents. They take full advantage of the boom in communication technology such as the internet while their techniques range from the purchase and resale of any luxury item for example, car, jewel etc. to passing "dirty" money through a complex web of domestic and international legitimate business. However, the commonest type of money laundering that banks encounter on a daily basis takes the form of accumulated cash transactions which are normally deposited in the banking system or exchanged for items of value such as travelers' cheques, money and/or postal orders, bank drafts, gold, diamond etc.

Salinger (2005) opined that money laundering takes several different forms although most methods can be

categorized into one of a few types such as bank methods, smurfing, currency exchanges, and double-invoicing."

The Money Laundering Process

Money laundering is not a solitary act but a process that is accomplished through three basic steps can be taken at the same time in the course of a single transaction, but can also appear in well separable forms.

Placement ⇒ Layering ⇒ Integration

There are also common factors regarding the wide range of methods used by

Money launderers when they attempt to launder their criminal proceeds.

Three common factors identified in laundering operations are:

- The need to conceal the origin and true ownership of the proceeds
- The need to maintain control of the proceeds
- The need to change the form of the proceeds in order to shrink the huge volumes of cash generated by the initial criminal activity.

Placement Stage involves placing or presenting the illicit money before banks or financial institutions or smuggled out of the country. The aims of the launderers are to remove the cash from the location of acquisition so as to avoid detection from the authorities and then transform it into other assets forms, e.g. Travelers' cheques, Postal order etc. This stage is also referred to as immersion which may also be achieved by a wide variety of means depending on the opportunities available or presented to the ingenuity of the criminal, his cohorts and their network. It is the most vulnerable stage in money laundering particularly if the fund involved is raw cash. Placement of huge sums of money in most cases, attracts attention, arouses suspicion and may lead to reporting to law enforcement agencies.

Layering stage involves the creation of complex web of transactions aimed at dissociating the illegal monies from their criminal origin. Such transactions not only prevent any audit trail being left but also conceal the source and ownership of fund. It is often referred to as dilution or heavy soaping since it involved transferring of money or funds to off-shore countries and once deposited in a foreign bank, the fund can be moved through accounts of "Shell" Corporations which exist solely for laundering purpose.

Integration stage of the process involves the introduction of the funds into the legitimate economic and financial

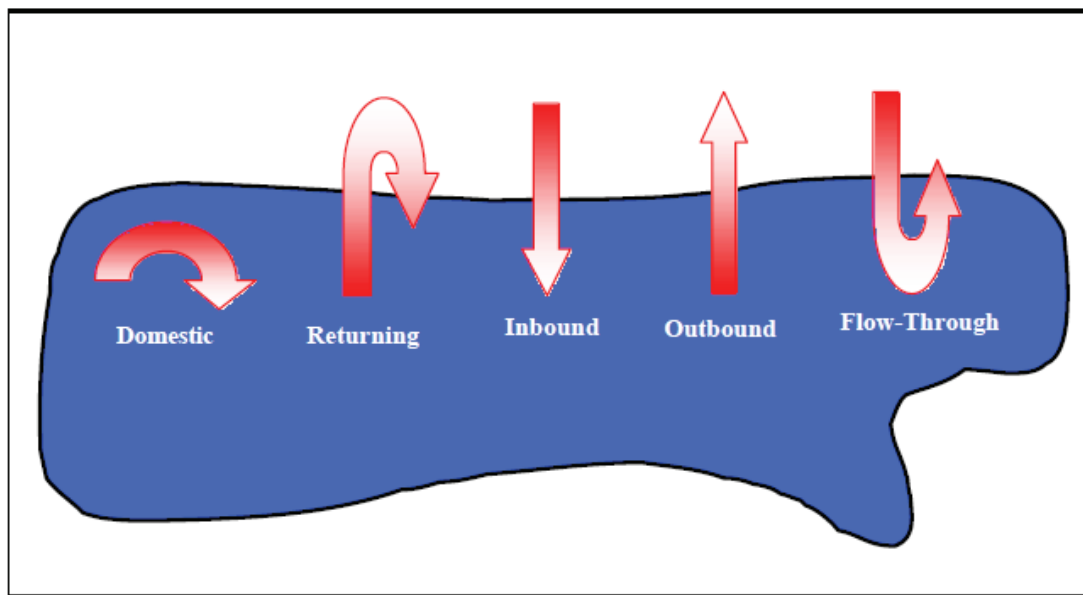
system. This stage provides apparent legitimacy to the criminality derived wealth as nobody would ever suspect its criminal origin. This stage is also referred to as “spinning”, “repatriation”, or “re-integration”.

A typical example is the recapitalization of an ailing public company with laundered money by buying off either all or a substantial proportion of its equity with a view to assume full control and ownership of such company. Another example is over-invoicing of imports which enables huge sums of money to be transferred abroad simply upon proof of complete but false documentation. This technique involves importing goods at deliberately

inflated prices by domestic companies owned by money launderers from off-shore companies which they also own. The difference between the inflated price and the actual price is then deposited off-shore and repatriated by choice.

Effect of Money Laundering

According to Brent (2002), when considering the effect of money laundering on developing economies like Nigeria, it is particularly useful to distinguish among five directions that the money-laundering flows may take with respect to such economies, as illustrated in **Fig 1** below.



Adapted from: Brent (2002) “The Negative Effects of Money Laundering on Economic Development”

- Domestic money-laundering flows in which illegal domestic funds are laundered within the developing country's economy and reinvested or otherwise spent within the economy.
- Returning laundered funds originate in the developing country, are laundered (in part or in full) abroad, and returned for integration.
- Inbound funds, for which the predicate crime occurred abroad, are either initially laundered (“placed”) abroad or within the developing country, and ultimately are integrated into the developing economy.
- Outbound funds, which typically constitute illicit capital flight from the developing economy, do not return for integration in the original economy.
- Flow-through funds enter the developing country as part of the laundering process and largely depart for

integration elsewhere, thus playing little or no role in the economy itself (although the “fees” for money laundering activity may remain).

Despite the global approach at the eradication of money laundering all over the world, the crime continues to thrive due to the following reasons:

- The failure of countries to implement existing United Nations anti-money laundering measures such as a resolution of the United Nations against illicit traffic in narcotic and psychotropic substance.
- Conflict of laws due to the failure to adapt the United Nations Model Law by all nations.
- The sophisticated nature of the crime militates against its eradication.
- The proliferation of non-banking financial institutions all over the world has assisted the business of money laundering.

- e. The hypocritical attitude of some nations militates against this struggle.
- f. When the laundered money results in the in-flow of capital to their country, they conceal it, but when they are the victims, they complain.
- g. The level of corruption in many countries is a big setback for the crusade against money laundering.

This challenge is more in developing nations where for lack of facilities money laundering cannot be easily detected by law enforcement agencies and they depend on the cooperation of the banks. However, the international pressures that has recently broken the Swiss rigid secret Banking Tradition as well as the Technology that has put some law enforcement agencies in Europe and America on-line with certain banks has made information collection easy in the former and automatic in the latter. If the on-line facility is available in every nation, this certainly would go a long way in combating the global money laundering.

Although Ikpong (2011) opined that the Federal Government of Nigeria has demonstrated genuine concern and commitment in the enforcement of money laundering laws through the enacting of 2011 amendment to the previous law, which send a warning signal to the perpetrators that the country is no safe haven for them.

Methodology

This study used a descriptive survey design which is to collect detailed and factual information that describes an existing phenomenon (Ezeani 1998). The target population of the study was banks staffs in Lagos State Nigeria. A census of three banks was taken. A simple random sampling technique was used to select 200 personnel with an average of 67 staff from each bank while only 180 questionnaires were returned. Of these, 72 (40%) were females; while 108 (60%) were males with age ranges from 25-52 years, with an average age of 38.5 years. The academic qualifications of the participants are: OND, HND, B.Sc., B.Ed., B.A, M.Sc, M.A, PhD.

Instrument

A structured questionnaire was used for the collection of data on the study. The questionnaire was specifically designed to accomplish the objectives of the study. The first section collected information such as age, sex, experience,

professional status, marital status, position, etc. while the second section contained twenty (20) statements formulated to establish the level of awareness of the respondents as well as the extent of success of various anti-money laundry policies among bank staffs in Lagos State (appendix 1). A simple percentage and Pearson Product Multiple Correlation were employed to analyze the collected data.

Results

From table 2 (see appendix), the following revelations emerges:

- That majority of the bank's staffs is aware of the Anti-Money Laundering Policy and understands its provisions. This awareness could be attributed to the massive enlightenment campaign embarked upon by the bank management and the government.
- That majority of the respondents disagreed with the statement that money laundering has no negative impact on the economy and call for a joint effort to arrest its implication on the economy.
- That bank Anti-Money Laundering Policy has a positive impact on its operations, while Government has created enough awareness about money laundering in Nigeria in order to reduce political instability which is often financed by money laundering since it affect government plans.
- That the enactment of EFCC Act reduces the incidence of money laundering through its provisions and procedures as well as regular training of banks officials on Anti-Money Laundering techniques. Similarly, applying Know Your Customer (KYC) and Know Your Business (KYB) conditions also enhance dealing with customers.
- That government has shown enough commitment in tacking money laundry while some political office holders are protected by the loop-hole in the constitution in perpetrating this fraudulent act without being checked by the EFCC Operatives.

Test of Hypothesis

In order to validate the aim of this study, the following hypothesis was subjected to test.

*Ho: That Anti-Money Laundering Policy has no significant effect on banks performance.

Model Summary (b)

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.881(a)	.775	.701	13.55974	1.607

a Predictors: (Constant), Anti money laundering policy

b Dependent Variable: Banks performance in Nigeria

Coefficients (a)

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta	B	Std. Error
1 (Constant)	-21.400	14.222		-1.505	.229
Anti money laundering policy	13.800	4.288	.881	3.218	.049

a Dependent Variable: Banks performance in Nigeria

The correlation result above indicates the existence of a strong positive relationship between banks performance and adoption of sound money laundering policy with a value of 0.881. This is due to the fact that banks do not need to serve as a channel for illicit monetary activities before they can post a meaningful performance in the industry. This assertion is confirmed by the study coefficient of determination which show a value of 0.775 and implies that anti-money laundering policy explain and account for about 77.5% of the nature of banks performance in the economy.

This implies that since the banking sector is strict regulated, a bank need to show total conformity with all the provisions and procedure put in place to check money laundering activities in order to enjoy smooth operation and increase public image and loyalty since bank is not engaging in any activity that is against public interest and policy in the discharged of its operations.

The findings are in line with the view of Roth et.al (2004) which state that by knowing one's customers, financial institutions will often be able to identify unusual or suspicious behavior, termed anomalies, which may be an indication of money laundering and warrant taking necessary steps to forestall such moves.

Conclusion and Recommendations

From the foregoing, it is observed that money laundering has negative consequences on the economy which include loss of revenue to the government, worsens criminal rate

in the society, and threatens the political stability and internal security of a nation. Hence, the need to check the activities of the main channel of transporting this poisonous substances from passing through the economy in order to avoid its contaminating effect in its effective functioning.

The understanding of the implication and the sincerity of government as well as the willingness of the concern players in the industry to foster the growth of the economy in totality lead to the formulation of various policy and procedures aimed at militating against such nefarious activities without jeopardizing the primary interest of various stakeholders in the system. Hence the establishment of the EFCC and ICPC to spear head the fight against money laundering and other related activities in the country.

In the same vein, Nigerian Banks must follow global pattern by identify and report transactions of a suspicious nature to the financial intelligence unit in the respective country as well as train their staffs in anti-money laundering and instruct them to report activities that they deem suspicious. Also, the installation of anti-money laundering software that filters customer data, classifies it according to level of suspicion and report anomalies. Such anomalies would include any sudden and substantial increase in funds, a large withdrawal, or moment of cash to a bank secrecy jurisdiction.

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Appendix 1

List of Statement and Corresponding Responses

S/N	STATEMENT	RESPONSE				
		SA	A	UD	DA	SD
1	All Bank staff are aware of anti-money laundering policy	74%	26%			
2	All Bank staffs understand the term Money Laundering.	70%	30%			
3	Money Laundering has no negative impact on the economy		4%	10%	34%	52%
4	All Nigerians should fight the monster call money laundering	62%	26%	8%		
5	Bank Anti-Money Laundering Policy has a positive impact on its operations.	60%	36%	4%		
6	Money laundering has helped crime to grow.	50%	22%	10%	18%	
7	Money laundering does not affect government plans	4%	18%	8%	42%	28%
8	The enactment of EFCC Act reduces the incidence of money laundering.	38%	48%	6%	6%	2%
9	Banks eradicate money laundering through its policies and procedures	48%	36%	4%	10%	2%
10	Money laundering has weakened our currency (Naira)	22%	50%	14%	10%	4%
11	Regular training of banks officials on Anti-Money Laundering techniques is a deviation from the core banking activities.	2%	14%	4%	38%	42%
12	Cancellation of subscription from laundered money is a good decision from the CBN.	8%	4%	4%	44%	40%
13	Applying KYC and KYB conditions are essential in dealing with customers.	8%	12%	10%	40%	30%
14	Government has shown enough commitment in tacking money laundry.	36%	28%	6%	16%	14%
15	The EFCC through its various activities has reduction laundered money in Nigeria.	34%	50%	6%	4%	6%
16	The success of the Anti-Money Laundering Policy depends on government determination and sincerity.	34%	52%	4%	10%	
17	Over protection of officials hinders EFCC & ICPC operations.	50%	38%	4%	2%	6%
18	Money laundering is a stimulant to economic growth.	6%	4%	2%	50%	38%
19	Political instability is financed by money laundering.	42%	32%	8%	10%	8%
20	Government has created enough awareness about money laundering in Nigeria.	20%	50%	2%	22%	6%

Source: Field Survey 2011