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Emergence of Anti-Money Laundering and Indian Banks' Efforts against Economical Crime Money Laundering in India

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***Abstract:** Money laundering Crimes are Economic suspected crimes that Demolish our economy. Money laundering-related crimes increasing day by day and its harms our Economy. The conceptual research paper examines the content analysis of Anti-Money laundering rules and regulation and presents banks' latest amendments, efforts, and mechanisms for how to overcome money laundering at the initial stage. This conceptual framework will create awareness for Anti-money laundering. It's established PMLA rules and regulations, banking obligations, and guidelines for Anti-money laundering, so it will increase the knowledge of prevention of money laundering in the banking institution. Whenever cash wants to enter the country's economy then it entered through the banks. So, the banks must maintain some technological instruments, and software and identify suspicious transactions and accounts. Nowadays many small or big money laundering cases and bank defaulters' rates are emerging rapidly this shows Indian banking sector needs to improve Anti-money laundering compliance.*

***Keywords:** Money Laundering, Anti-Money Laundering, Banking Institution, Customer Due Diligence, FATF Recordation, Indian Banks.*

1. INTRODUCTION

In this modern time, terrorism financing /Money Laundering is perpetually a serious crime. Money laundering threat affecting the word. Cases of terrorism financing /Money Laundering is in the growing stage and it destroys the financial and economic situation of the world. Money laundering deformed the effective outcomes of financial and economic activities and reduces the nation's transparency accountability and integrity, which impose public mistrust that

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wrongly affects the changes and developments. The activities of money laundering are not easy to cope up in a long way because it silently increases continuous basis and disables economies, and harm the citizens and growth of the financial sectors.

Money laundering refers to the conversion or adjustment of illegal money in such a way that it appears that money is from legal sources. Today money laundering is not a national, but it is international problem. Money Laundering is a process by which illegal funds &assets are converted into legitimate funds &assets.in other words, converting illegal or black money into legal or white money. More Earning of money through a crime does not amount to money laundering. obtaining property through crime and then projecting such property as legal amounts to money laundering. In a simple sense money laundering is criminal activity its generating substantial profits concealed them hide them and changed their forms into legal form.

Since 1990, the FATF has been concerned with Money Laundering and in 2003 terrorism financing was included in its agenda. Such policy development led to the creation of international standards and anti-Money Laundering and anti-terrorism financing (AML/ATF) laws to reduce such crimes with the implementation of such laws, law enforcement and prosecutors are required to obey with a specific process to relieve the money launderers and terrorism financiers from the unlawful assets. (omar, 2015)

Banks are the primary source of the finance and economy of the nations. banks have faced a growing stage of money laundering cases and the number of bank defaulters but it is difficult to curb. Money launderers and criminals constantly try to find new techniques for launder money. Ethics and regularisation of Anti-money laundering are important for all banking institutions. Because most of the time bankers are involved in money laundering activities. So the Awareness of banking employees in combating money laundering activities is very important.

The research has preliminary based conduct with the help of secondary data, relevant websites, academic journals official documents from the Indian and foreign banking sector, and online data-based, But there is an absence of more published work on Anti-Money laundering in India.The research emphasizes a deep analysis of the Anti-Money laundering framework of the banking sector of India. It can be applied to developing countries like India.

The study contributes an examining a legal aspect of Anti-Money laundering regulation in India. It gives innovative Ideas which have not previously been effectively studied for the Indian regime.

The proposed conceptual paper for Anti-money laundering enhance bank official's capacity and improves the knowledge of investigative functions of Financial institutions/Banking institution, evaluating anti-money laundering activities of banks and spreading conceptual clarity about Anti-money laundering practices. It also pushed the Financial institution/Banking institution for the adoption and implementation of effective Anti-money laundering rules and regularisations compliance. It also shows the role and importance of anti-money laundering in the banking institution. The research paper highlights a need for different banks to actively

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connected to effectively fight against money laundering activities and also support the financial intelligence unit (FIU).

Money laundering and stages of money laundering

Money Laundering is a worldwide problem it's create criminals and launderers in the nation's economy and support the criminal for expanding their criminal activity. Money laundering is harmful to the financial system and economy. Drugs, unlicensed weapons, human trafficking, gambling, extortion smuggling, and white-collar crime may create a need for money laundering defined differently by different researchers. The main intention of this activity is trying to convert black money into lawful or legal earnings via unlawful activities. (Baldwin.G, 2003).

The process of Money Laundering is categorized into three different stages. (HASAN and ABD MURAD, 2010) which are known as the placement stage, layering stage, and integration stage. (Thanasegaran, H. & Shanmugam, B., 2007) The placement stage denoted launderer put the illegal bulky cash into the legal financial system, and relives it from illegal bulky cash. The second stage layering indicates launderer transforms the fund into another source and its origin difficult to trace. The integration stage may be converting the unlawful funds into legal funds by come again the legalized financial system through the investments into luxury goods, shares, assets, real estate, etc. (Buchanan.B, 2004).

Money laundering risk and indian banking sector

Bank accounts are also being used today for money laundering. There is no shortage of money launderers in India after developing good relations with bank officials. Even the bank officials who cooperate with money launderers no shortage of. As a result, even if the Indian government makes a million efforts, the number of those who do whatever they want by pushing unaccounted money into the bank is constantly increasing. (Maheta, 2019)

An audit of Punjab National Bank's accounts from April 2013 to the end of November 2017 by the Delhi-based Financial Intelligence Unit has revealed that there was rampant money laundering. For this money laundering, the Bank Financial Intelligence Unit - FIU has imposed a fine of Rs 15.62 crore. An explanation was also sought from the bank under Section 12A of the Money Laundering Act. But the bank has failed to give a proper explanation. Activities have been established that Punjab National Bank has failed to comply with the provisions of Sections 12 and 12A of the Money Laundering Act. (Yadav, August 02,2019)

Punjab & Sindh bank was also fined Rs.2.87 crore. Indian Overseas Bank has also received a fine of Rs 1,050 lakh has been imposed for money laundering activities. (Mishra, September 28, 2019, 8:34 pm)Andhra Bank is also facing the RS 25 Lakh charges. As many as two state-level state cooperative banks have also been fined for embezzling money in the money laundering sector. (NEWS, December 05 2019, 9:17 PM)ED has seized the 17 crore property of the promoter of Rajasthan's Arbuda credit co-operative society (PTI, September 13, 2019)and also seized the 9.35 crore property of Moin kureshi in the Money Laundering case. (pandya, September 17, 2019 23:24)ED has seized the Rs 234 crore property of one's company's promoter of Punjab who attempts money laundering.The recent status of money laundering risk measured and assessed by The Basel's AML Index 2019, shown India's rank

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51 out of 125 countries, with a risk score of 5.60 (0 – low risk to 10 – high risk). (mont, 2017)

Emergence of the anti-money laundering regulation
The provisions of the Basel Committee on Banking Supervision report of prevention of criminal use of the banking system for money laundering (BCBS,1988) the following key elements will be considered as a part of Anti-money laundering regulation: -

- Customer Identification Procedure
- Monitoring of discouraging transactions that do not legitimate by nature.
- To support law enforcement agencies

But the Basel Committee reports not present or make any single obligation against suspicious transaction reporting.

In 1989, the Financial Action Task Force (FATF, 1990) was established by the G7 countries and it's Covered 40 international recommendation standards that apply to bank and non-bank financial institutions. the main objectives of this standard are countering the laundering of illicit funds in the economy of nations. After 2001, FATF again added nine more recommendations. These 40+9 recommendations. The regulation of FATF works to identify national-level vulnerabilities. and their aim to protect the international financial system against financial misdeed.According to the Basel Committee on Banking Supervision report of customer due diligence (BCBS, 2001) Insist the adoption of FATF recommendation and KYC policy their principles focused on mitigating the operational, legal, and other banking risk and also efficient management.
Subsequently revised FATF regulations have been re-issued in Feb 2012. The latest one is issued to keep it more relevant and up to date and make it universal.Prevention of money laundering act, 2002 (PMLA) come into force in 2005. The act is enforceable to the whole of India. Last amended in the year 2009 & 2012. This act intends to combat the channelling of money into illegal activity and economic crimes, provide for confiscation of property derived from money laundering, provide for matters connected thereto.

According to Indian Anti-money laundering law if people committed money-laundering crimes are sentenced to imprisonment of minimum 3 years to 7 years and also charged a fine maximum of 5lakh both penalties are required because money laundering is a non-compoundable offense. Offenses are non-bailable and cognizable, and the property is also attached or freeze under the violation of the prevention of money laundering act.The Financial institutions and the Banking institutions and the stock and securities market sector of India have to completely adopt Anti-money laundering obligations. Fines are imposed by the government against the financial institution that does not comply with Anti-money laundering regulations.
(https://sanctionscanner.com/Aml-Guide/anti-money-laundering-aml-in-india-)

Reserve bank of India has admitted it banking sector of India has prime responsibility to maintain the client accounts and their due- diligence and also specify some legal obligation regarding Anti Money Laundering initiatives, RBI has followed the FATF international

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recommendations standards and the Basel Committee on Banking Supervision guidelines. (Reserve bank of india, 30,june 2014).
In recent years RBI has charged penalties against the various bank for the violation of Know Your Customer norms, Benami business, and assets, which indicates that money laundering risk in India is at the desired level. In India, FIU-IND central national agency works for Anti Money Laundering and Combating Financial Terrorism. The government of India has established them on 18 Nov 2004. (https://fiuindia.gov.in/files/About_FIU-IND/About_FIUIND.html)

FIU-IND is responsible for receiving suspicious transaction processing and analyzing their suspect and bring to the front of them. FIU-IND is also responsible for coordinating and strengthening efforts of national and international intelligence, investigation and enforcement agencies in pursuing the global efforts against money laundering and financing of terrorism. (Vijay Pal Dalmia) FIU-IND is an independent body reporting directly to the Economic Intelligence Council (EIC) headed by the Finance Minister. FIU plays a key role in the domestic level Anti-money laundering system. FIU’s task of activities are classified as below:

A) Gathering information and records regarding the suspicious transaction.
B) Analysis of them and find the suspects.
C) Take appropriate decisions for the frozen funds or source of an asset.
D) Complete the Documentation and submit the report appropriate organization, law enforcement agency, and the central bank of India (Reserve Bank of India)

Banks practices for anti-money laundering compliance
The latest KPMG Global Anti-Money Laundering Survey 2014 confess Indian banking institutions have not underestimated the risk of money laundering. They focused on the fight against money laundering because banking crime is in the growth stage. (KPMG, 2014).

Banking institutions have to take some action in the primary stage of establishment of a relationship with the customer. Like Client due diligence, Collecting and recording data, Customer verification. The purpose of this action to arrest the money laundering activities in the primary stage of the establishment of a relationship with the customer. (Svetlana Nikoloska ; Ivica Simonovski, 2012) The second most important work for bank officials is to maintain the records, Monitoring the transactions and accounts, and investigate and analyse the suspicious transaction, and reporting them to FIU, and maintain the data in an application or programs-based system.

Banks of India are controlled and handled by the RBI and the different warnings, booklets, headings, and rules issued by it now and then. The RBI passed strict orders of customer information protection and transaction verification and monitoring for banks which commit banks to keep customer identification and secure the security of customer information. (khaithan and co -corporate, 2019).The role of banks plays a very crucial and critical in the three stages of money laundering. The primary stage is called the Placement stage where the lawbreaker tries to conceal money in various bank accounts. For curbing this condition, RBI came up with Know Your Customer Guidelines where the customer is liable to give all the information. The second problem is with the duty of banks to confidentiality where if the bank

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is negligent can be charged for leaking the personal information of the customer. (tarannum, 2019)

The main object of money laundering is legalizing money obtained from illegal sources. Though many banks in India prefer to deposit money in the bank account thereafter transferring it from another account to a foreign account, money laundering is done with the entry of criminal money to avoid the legal transaction. Banks and financial institutions have a prime responsibility to stop money laundering and report any suspicious transaction to the financial intelligence unit. (tarannum, 2019)

Strong police and their control are helped to fighting against money laundering (chaikin, 2008).Good governance norms can create a strong influence of Anti Money laundering regulation in the place of banking operations. (jayasuriya, 2009). Nowadays banking sector has tried to set up sufficient infrastructural facilities and frame some criteria to identify suspicious transactions related to Money Laundering (Favarel-Garrigues.G,Godefroy.T,Lascoumes.P, 2007). Many banking institutions have adopted the electronic and computerized automated observing system and some are depending on manual system. (Cocheo,S, 2010).

In developing countries like India small banking sectors, the main limitations are lack of modern infrastructure facility, budget limitations, financial limitations-updated technologies and systems and software to assess money laundering risk. According to Cocheo, there is also a need for human expertise to deal with technical and automated observation systems. some time system generates voluminous data output at that time the data need to examine by human expertise. Present banking sector facing many difficulties in tracing and monitoring the transaction because of limited technologies its create weaker prevention of money laundering system.

(Idowu, 2012) The Study concluded that train all staff members and instruct them to report all doubtful suspicious activity and install software that filters customers and classifies it according to the level of suspiciousness and report anomalies. The adoption of anti-money laundering regulation creates a strong and positive relationship between bank performance and sound money laundering control in the workplace of the banking sector.
(Neda Heidarinia, 2014) recommends to the financial sector especially the banking sector to adopt or develop a system or method for detection of suspiciousness system result shows increasing the accuracy of suspicious account detection.

IA involvement in the banking sector is the most crucial factor or element in IA effectiveness in AML compliance review. IA involvement in IT governance both significantly influence the IA effectiveness in AML compliance (H.sabry, 2018)It is mandatory for AML Practitioners in the field of the public and private sector can find to develop CDD mythologies or risk assessment exercises for the detection of money laundering in the primary stage (Ernesto Ugo Savona, 2019)

The paper concludes that as per RBI KYC guidelines where the customer is liable to give all information and it is necessary to conduct a regular audit by RBI so that inactive accounts or

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sudden transactions caught in on time. There is also a need to approach the financial intelligence unit and proper reporting for strong compliance (tarannum, 2019)

There was a significant difference in No.of Cash transaction report and counterfeit transaction reports from the reporting companies, and difference in No.of suspicious transaction reports disseminated to various agencies, and there was no significant difference in. No. of suspicious transactions reports received from banks, financial institutions, and intermediaries.

There are many transactions received in the Indian banking sector rather than a financial institution in 2011 to 2015 before demonetization in 2015-2016 cash transaction report more in public sector bank so that in 2017 and 2018 found more suspicious transaction in private sector bank and also found counterfeit currencies in the private sector and foreign bank. (S.Suresh, 2020).

A positive assessment of the risk-based mechanism of reporting suspicious operations to the Financial Intelligence Unit reduces money Laundering (lucia dalla pellegrina, 2020).That internal control in a financial institution, prior surveillance mechanisms, informed consent, and safe-harbor immunity, the establishment of an external independent supervising mechanism, and the adoption of a personal information impact assessment is increasingly prioritized for implementation (Wang, 2020) That developing the easy detection of money laundering practices are complex and also describe that imposing the Anti Money Laundering regulation and expect that the Banking sector is capable of the law of enforcement is not all-time effective (Naheem, 2020)

In the Banking sector staff members or officials is the main control factor over the prevention or detection of money laundering and terrorist financing activity. Well-trained and aware staff can easily capture the suspicious source of activities. Efficiently designed applications, effective software, and upgraded control system quickly arrest suspicious activities and give the output, but in India, banking employees are not trained so they don't apply the system adequately. They are more and more prefer manual system. Many of the time it's created mistakes in the organization.

Many countries are developing a transparency system by which they can ensure that there is no fraudulent transaction. Banks are the company doing financial business, whenever cash needs to enter the financial system of the country then it needs to be entered through the banks. Indeed, it is needed that banks maintain some technologies and mechanisms to identify these suspicious accounts. The banking sector being vulnerable day by day because Many of the time bankers are involved in money laundering activities, they support unethical activities for their monetary benefits. So the Awareness of banking employees in combating money laundering activities is very important. (Times, 2018)

Some Observation Related to Indian Banks:
Bank employees have information about suspicious activities but most of the time employees are misusing their powers and fully or partially, intentionally or unintentionally involved or supporting the launderers to entering dirty money into the economy via using banking services.

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Timely submission or reporting suspiciousness to FIU India or Enforcement agency is most important and it is a prime duty to FIU India and enforcement agency to obtained and collect evidence against the criminals who tried to commit the wrong deed and also punished them.

Nowadays the vulnerability of banks or operational staff increases for money laundering crimes. Banks need to developed strong money laundering control and Anti Money Laundering system to diminish the impact of money laundering. Banks facing many difficulties in tracing and monitoring transactions because of lack of financial inclusion limited technologies, informal work channels, informal service providers government facility, scarcity of skilled employee, less awareness of Anti Money Laundering program, weakness of legal institution, informal sector, cash-based economy, poor documentation and data arrangements this all makes weaker the financial sector and economy.

Banking institutions have must require to adopt principles of transparency, sound, and sustainable policy, the establishment of appropriate service protection, strong Anti-Money Laundering rules, and regulatory framework for safe and sound workplace control.Indian banking system follows dual work system manual and software-based. Manual based work system emerges money laundering cases because chances of overlapping and manipulation of data are possible at this stage.

People think that machine learning and software can use it KYC screening of but machine learning can use it pretty bigger way providing. You don't know how to use that as I challenge you, today you let me know that any machine learning-based product and programming stuff who can predict world crisis and Money Laundering? For that, there is focus and a requirement of machine learning and software.

Most of the Machin learning people, I ever meet and have poor static. where the problem is coming from? the problem is coming from functional and operational ways because appropriate data will be fit into the system it would be an always challenge for regulators. The reason is that banks have lots of tools and analytics and it's very difficult for banks to scrap all these tools because their cost is very high.

There is a problem in regulatory data in which banks are giving the form of data not the rightest way. single management system data not reaching rightest way and this creates issues. Central banks have their regulatory send box but this is focusing too much on technology and they are forgetting that if you focus too much on technologies not fundamental. you bound to lose.

2. CONCLUSION

This conceptual research-based paper summarized the literature review on money laundering risk and anti-money laundering requirements. Its also focused on the working process of banking institution against the money laundering. The purpose of this paper is to show the role of anti-money laundering in the banking sector. The customer verification and development of the method of banking secrecy create strong Anti-money laundering control. The present paper recommended to bank officials for internal controls like monitoring the transaction, customer verification, monitoring the accounts, auditing, and environmental control, developing good governance, and need to use the strong mechanism of software and maintain technologies.

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This study also recommended the banking institution identifying suspicious transactions and reporting them to FIU-IND because timely reporting of the suspicious transactions reduces the risk of money laundering. The banking officials have to play a significant role in anti-money laundering. There is a significant relationship between internal controls and the level of corruption and illegal activities, it is required for bank officials to be well trained and aware of the Anti-money laundering field.

It also insists the banking institutions provide training courses to their employees for the proper implementation of anti-money laundering. The paper also insists the bank employee adopt the modern and technical upgraded automated system to assess money laundering risk. Developing an appropriate banking system for Anti-money laundering regulation will create a strong potential for money laundering control.
For the prevention of money laundering, RBI must conduct a regular audit so that inactive accounts or sudden transactions can be caught in no time. There is also a need to empower the financial intelligence with more power so that they can conduct or adjudicate the matter. The role of the regulator becomes most important as the need to preserve a great amount of exposure and informational equilibrium.

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