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Prevention and Prohibition of Money Laundering Under Nigerian Laws: A Comparative Analysis

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ABSTRACT

Money laundering has increasingly gained prominence globally through the unbridled use of financial and non-financial institutions and mechanisms such as cash couriers, money transmission systems, cash-intensive businesses, shell corporations, high-value assets, property transactions, investment in front companies, high levels of conspicuous consumption, and moving large amounts of money to foreign jurisdictions. Money laundering has been criminalised in all countries because of its economic impact, such as the making secret profits and the flourishing of criminal goods. The ingredients of a money laundering offence include concealment, disguising, conversion, transfer, or removal of criminal property from a jurisdiction, entering into or becoming concerned in an arrangement knowingly or suspecting it to facilitate the acquisition, retention, use, and control of criminal property on behalf of another person, and acquiring, using, or possessing criminal property. In spite of the international, regional, and national measures to combat money laundering, it has remained intractable because of its secretive nature; it is almost impossible to measure its scope and extent. This article explores the intricacies of the money laundering offence through doctrinal, comparative, and analytical techniques. Findings made during the research include endemic corruption as a crucial bane for combating money laundering in

Nigeria. The new and even more sophisticated techniques to either launder institutional and legal their proceeds of crime or to fund terrorism without utilising frameworks for countries' financial institutions. The article also offers some combating money proposals for reforming legal frameworks for combating money laundering in Nigeria, laundering. These include, but are not limited to: maximisation of the UK, and the USA terms of imprisonment; adequate protection for whistleblowers; meet international the UK FCA should instigate more stringent criminal proceedings standards, but yet the for money laundering in line with the decision in RV Rollins; the offence of money USA should strengthen its customer due diligence and laundering has not requirements for the availability of corporate ownership been nipped in the information; and certain designated non-financial institutions and bud because professions. organised criminals and terrorists **Keywords:** Money laundering; Criminal property; Combatting; continue to invent Legal frameworks.

INTRODUCTION

Money laundering is one of the regulated organised crimes globally, others are drug trafficking, terrorist financing, armed robbery, extortion, bribery and corruption, piracy and tax evasion (Mugarura, 2016). These are financial crimes that are perpetrated by criminals and criminal gangs for profit. The origin of money laundering is shrouded in mythical history (Dennis & Udo, 2021). The term was first used by Capone. In its early origins, organized criminals laundered their proceeds of crime through intensive businesses such as Casinos (Richards, 1998). By 1950 it was already a complicated and cleverly planned system of financial management (Kaplan, 1984). Legally, money laundering was first used in the case of US V \$4,225,625.39.

Money Laundering and its regulation gained prominence with the launching of drug-war by the United States' government under President Richard Nixon in the early 1970s (Wisotsky, 1989). To effectively prosecute this war the United Nations established the Financial Action Taskforce (FATF). Since then the United Nations, United Kingdom, USA, Nigeria and other countries have joined the war to regulate and abolish money laundering globally (Otto, 2023; Otto, 2024). For instance, Nigeria enacted the Money Laundering (prohibition) Act in 2006 which was harmonized and amended as Money Laundering (Prohibition) Act No 11 of 2011 and No. 1 of 2012 (Ige, 2022). Another bill on the same subject matter was presented to the National Assembly by the President in 2016 and is yet to be passed into law.

The objective of this paper is to explore and critically analyze the Nigerian legislation on its effectiveness or otherwise in comparison with the USA and UK legislations on regulation of Money Laundering. Requisite proposals for reforms will be made in section 6 of this paper.

LITERATURE REVIEW

This is categorized into conceptual clarification and thematic framework.

Conceptual clarification

- a) Money Laundering: this is the use of cash business such as a launderette to facilitate the mingling of legal and illegal funds and also the generic process of disguising the original proceeds of the funds (Lilley, 2003). It can also be described as layering (Nabiebu & Otu, 2019; Nabiebu, 2022). This is the mingling of legitimate and illegitimate funds to give a semblance of the mingled funds as legitimate funds. Such

funds therefore are derived from legitimate sources and criminal activities. Money laundering undergoes three processes, namely, the criminal activity that elicits illegal funds and placement of the funds in the banking system or layering, used to disguise the funds by investing illegal funds in legitimate business and the integration phase in which illegitimate funds are mingled into the legal financial system.

Money launderers can effectively place illegitimate funds acquired by them in a country's banking system through the following processes:

- purchase of paintings
 - the purchase of antiques
 - buying things in a market
 - purchase of investment products
 - taking unnecessary insurance products
 - the purchase of new and second-hand cars
 - the purchase of boats
 - buying chips at casinos
 - purchase of lottery tickets
 - purchase of premium bonds
 - providing loans to companies etc (Levi, et al., 2007).
- b) Criminalization: This is the act of making a previously lawful act criminal through the enactment of a statute (Schonsheck, 1994).
- c) Prohibition - A law or other that prohibits or forbids a certain action.
- d) Prevention - Hindrance or impediment.

THEMATIC FRAMEWORK

Lacey and George (2002) contend that globalization has increased the scope and extent of money laundering. They also maintain that with lightening speed money can be wired from Yemen to terrorists in Florida for the destruction of buildings in Washington and New York. Business corruption, drug trafficking, arms smuggling and terrorism are sustained by the loopholes in the financial structure that allow illegal funds to slip through the system undetected (Udoh, 2006).

Collins (2020) describes money laundering as a “shadow economy”. This is because there is no visible data on the money laundered in any, country in the world. It is therefore a nation's unrecorded financial activity.

Wayo (2023) avers that due to the secret nature of money laundering, it is very difficult to determine the precise magnitude of the money laundered globally on an annual basis. For instance, the USA Department of Treasury estimated the money laundered in the US to be \$600bn per annum while Mitchell claimed that the figure is \$300bn. It is pertinent to point out that due to the dearth of statistical data and studies on money laundering, indirect methods have been adopted globally to determine data on the “clandestine growth industry”, or money laundering. Harvey has, however, identified two traditional approaches of calculating the scope and extent of money laundering, viz: macroeconomic data analysis and financial information supplied by money laundering agencies (Kashyap, 2021).

Lilley (2003) posits that the key element that underpins the regulation of money laundering is that inappropriate funds are being moved within the banking system to disguise the original source of funds, enabling organized crime to make free use of funds that may have originated from tainted sources, including trafficking. He further contends that the impetus behind money laundering legislation in any country comes from some form of issue which is considered to be of such magnitude that it actually enters into the political agenda, hence such legislations are usually enacted in, a haste with pitfalls.

In criticizing Nigeria's Money Laundering Prohibition Act 201 (as amended) Esoimeme (2017) claims that it sufficiently addressed observed weaknesses in Nigeria's AML/CFT regime, particularly recommendations contained in Nigeria's Mutual Evaluation Report as well as AML/CFT international standards, but it failed to provide for adequate measures that could prevent money laundering. His claims and assertion are contradictory. Besides, the West African Branch of Intergovernmental Action Group against Money Laundering (GIABA) had in 2012 identified some deficiencies in Nigeria's 2011 Money Laundering legislation in the process of reviewing same.

This article would fill the lacuna in effective measures to prevent Money Laundering through the exploration of International, regional and municipal legislative mechanisms and standards in section 4.

AN EXPLORATION OF NIGERIA'S HARMONIZED MONEY LAUNDERING (PROHIBITION) ACTS (ACT NO 11 OF 2011 AND ACT NO. 1 OF 2012 (AS AMENDED))

Nigeria's foray into the prevention and prohibition of money laundering started with the enactment of the following legislations:

- a) National Drug Law Enforcement Agency (NDLEA) Act No 48 of 1989 as a somewhat domestication of the Vienna Convention or United Nations Convention against Illicit Traffic in Narcotic Drugs and psychotropic substances, 1988 (Ajayi. 2020).
- b) Failed banks (Recovery of Debt and Financial Malpractices in Banks) Act No 18 of 1994 to prevent crime and corruption in Nigeria's banking system, and
- c) The Money Laundering Act, 1995 – which was the first legislation to criminalize Money Laundering in Africa. Its scope and extent of preventing money laundering were limited in its provisions for money laundering offences (they were limited to only proceeds of drug trafficking). It was amended in 2004 in order to meet international standards.

The birth of the harmonized Act of 2011 and 2012 was as a result of Nigeria's poor rating by the Financial Action Taskforce (FATF) of her implementation of FATF's sixteen recommendations (Nanyun & Nasiri, 2021). The harmonized legislation has twenty-six (26) sections. It prohibits Money Laundering in Nigeria. The law regulates all financial transactions within Nigeria and transfers of funds to Nigeria from outside. For instance:

- a) All persons or bodies corporate in Nigeria must make all financial transactions through financial institutions which must not exceed ₦5,000,000 (for individuals) and ₦10,000,000 (for bodies corporate).
- b) Transfers and transportation of funds, securities, negotiable instruments by persons or bodies corporate to or from a foreign country must not exceed \$10,000 or its equivalent, and if in excess, shall be reported to the Central Bank of Nigeria (CBN) and Securities and Exchange Commission (SEC) within 7 days from the date of transaction. Transportation of cash or negotiable instruments in excess of \$10,000 or its equivalent must be declared to the Nigeria customs service. False declaration or failure to declare to Nigeria Customs Service (NCS) attracts a penalty of forfeiture of undeclared funds or negotiable instruments or imprisonment of a term not less than 2 years or both. All declarations to NCS must be made in accordance with section 12 of the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act.

In line with international standards the Act provides for due diligence by financial and Designated Non-financial institutions which involves identification of permanent or occasional, natural or legal person through identification documents. Due diligence must be achieved by the financial or designated non-financial institution through risk management system. All casinos operating in Nigeria must verify and identify all their customers in a register which must be forwarded to the Ministry of Industry, Trade and Investment (the ministry). Designated Non-financial institutions who engage in cash transactions are obliged to submit registered records

of all their customers to the ministry, which will be transmitted to the Economic and Financial Crimes Commission or EFCC. Non transmission of customers records to EFCC via the ministry does attract civil and criminal liability to financial and Designated Non-financial Institutions, but failure to comply with section 6, subsections 1 and 2 attracts a fine of ₦100,000,000 for each day that the offence continues.

Due diligence by financial and Designated Non-financial Institutions also involves the development of programmes to control the laundering of proceeds of crime or other illegal acts, such as designation of compliance officers, training, centralized information gathered, establishment of internal Audit Unit. These measures are meant to ensure compliance with and the effectiveness of these statutory provisions. Non-compliance attracts ₦5,000,000 for individuals and ₦10,000,000 for Banks. These pecuniary penalties appear to be adequate.

Offences are contained in sections 15 and 16 of the Act. The offences include the concealment or disguising of origin of funds, or property knowingly or with reasonable knowledge, conversation or transfer of funds, removal of funds from the jurisdiction, acquisition or usage or retention or taking possession or control of funds or property knowingly or with reasonable knowledge. These offences constitute the ingredients of Money Laundering in Nigeria, the penalties of which include payment of a fine of not less than 100% of the funds and properties acquired as a result of the offence committed, withdrawal of licences of bodies corporate or revocation of their certificates. (Bisong & Udo, 2014).

The Act provides for a central intelligence unit (The Nigerian Financial Intelligence Unit - NFIU) which has the responsibility to receive, request, analyze and disseminate to the competent authorities disclosures of financial information that relate to the suspected proceeds of crime and potential financing of terrorism.

Although the Act meets the International requirements of criminalization of Money Laundering due diligence, financial intelligence and provision for institutional frameworks for combating Money Laundering, it is still fraught with some pitfalls in relation to meeting Global Anti-Money Laundering strategy and standards. The Act does not provide for defences to the crime of money laundering. The Act complies with the third set of Recommendations by vesting jurisdiction on the Federal High Court to try, sentence and convict offenders of Money Laundering provided under the Act through an accusatorial system (Bisong, et al., 2017). It does not provide for the fourth set Recommendations-terrorist financing and international co-operation. The Attorney-General of the Federation is also empowered by the Act to make orders, rules, guidelines or regulations as are necessary for the efficient implementation of the provisions of the Act.

The Act does not provide for adequate and effective measures to combat Money Laundering in Nigeria. The deficiencies in the Act gave rise to the Money Laundering (prevention and prohibition) Bill of 2016. The lacuna that the Bill attempts to fill include:

- a) Creation of a single set of Money Laundering offences, that applies in the entire country in relation to the proceeds of crime.
- b) It criminalizes non-disclosure of the knowledge or suspicion of Money laundering.
- c) It creates exceptions for consent in certain circumstances for persons to carry out activities which otherwise, could constitute money laundering (Benson, 2018; Benson, 2020).
- d) Broadens the spectrum of offenders of Money Laundering at the layering and integration stages to include professionals such as lawyers, Accountants, Estate Valuers and those who engage in Money Laundering by proxy.
- e) The Bill provides for only minimum sentence instead of minimum and maximum sentences as contained in Money Laundering (Prohibition) Act 2011/2012. The

minimum sentence is 7 years, the legal implication is that the sentence could be more than 7 years. The Bill seeks to comply with PATF Recommendation 3 which stipulates that sentencing for natural persons who are convicted for Money Laundering should be effective, proportionate and dissuasive. Proportionality in sentencing presupposes that there are levels and categories of money laundering activities.

f) Creation of defence of Authorized Disclosure to Nigerian Financial Intelligence Centre (NFIC) by persons who stand the risk of prosecution for possessing property or suspected property with criminal origin. Such a person is adjudged to possess “appropriate consent”.

g) Establishment of Bureau for Money Laundering Control (BMLC)

The Bureau is to supervise designated non-financial businesses and professions to ensure they comply with the provisions of the Bill and associated regulations. The Bureau which is a body corporate replaces the Special Control Unit against Money Laundering of the Federal Ministry of Industry Trade and Investment that supervised, monitored and regulated Designated Non-financial Institutions in the MLPA 2011/2012.

h) Provision for the protection whistleblowers.

The Bill protects whistleblowers who have reasonable cause to believe that another person is engaged in money laundering against civil and criminal liability. Whistleblowers in the Bill include financial institutions, designated non-financial institutions, professions, supervisory bodies, Federal Inland Revenue Service (FIRS) or persons complying in good faith with the Bill’s part II provision such as any director, employee or other person acting on behalf of aforementioned institutions and establishments. In addition, persons who make, initiate or contribute to a report under sections 11, 12, 16, 17 and 18 of the Bill or give additional information on the report are competent but not compellable witnesses to give evidence in criminal trials emanating from the report.

Besides the inherent deficiencies of the MLPA 2011/2011 and MLPPB 2016 such as linguistic ambiguity and vagueness, subjection of legal practitioners to the control and supervision of the Bureau, absence of protection of whistleblower’s employment against witch hunting and victimization by affected employers in money laundering offences, enormous powers of the Director General of NFIC and absence of the judicial review of these powers, Nigeria is also plagued with poor enforcement of legislations (Olusakin & Udoh, 2018). The reasons for this seemingly incurable plague are endemic corruption, lack of political will by government, weak/poor leadership, inadequate skilled and proficient staff etc.

PREVENTION AND PROHIBITION OF MONEY LAUNDERING IN OTHER JURISDICTIONS - INTERNATIONAL, REGIONAL AND MUNICIPAL

UNITED NATIONS

Money laundering, by its very nature, is an International criminal problem, and therefore must be addressed at an International level. This Directive presupposes that measures adopted at the municipal level cannot adequately combat Money Laundering activities, hence International co-operation and co-ordination amongst countries is needed to effectively prevent and prohibit money laundering and terrorist financing.

The regulation of money laundering was started by the United Nations (UN) through the instrumentality of its conventions such as:

- a) International Opium Convention of 1912
- b) Convention Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, 1931
- c) Convention for suppression of the Illicit Traffic in Dangerous Drugs, 1939
- d) UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic substances or the Vienna Convention, 1988.

These conventions form the bedrock of UN's policy towards narcotic substances of all of them only the Vienna Convention criminalizes money laundering although it limits its scope to the laundering of the proceeds of crime from the manufacturing and sale of narcotics. The Vienna Convention also urges signatories to take measures to establish their jurisdictions over the offence of money laundering, confiscate proceeds of the sale of illegal drugs, and/or materials used in manufacturing provide mechanisms to facilitate extradition matters, and take measures to improve mutual legal assistance.

FINANCIAL ACTION TASK FORCE (FATF)

FATF is an inter-governmental body formed sequel to the UN General Assembly's (UNGAS) universal pledge in 1989 to end money laundering. It consists of 34 countries, two international, bodies and many regional organizations, and performs the following functions:

- a) Development and promotion of Anti-Money Laundering policies. FATF issued a set of 40 Recommendations in 1990 which contain anti-money laundering procedures and cover the relevant laws and their enforcement, the activities and regulation of the financial system and international co-operation. These Recommendations contain basis International standards on Anti-Money Laundering regulation. They are divided into four parts:
 - a) Part I (Recommendations 1-4) defines the scope of criminalization and the confiscation of property laundered.
 - b) Part II (Recommendations 5-25) contain measures to be taken by financial institutions to prevent money laundering and terrorist financing.
 - c) Part III (Recommendations 26-34) - contain institutional and other measures necessary to combat money laundering.
 - d) Part IV (Recommendations 27-40) - contain provisions on terrorist financing and International co-operation. FATF monitors its members' implementation of measures to combat money laundering.

It need be stressed that even though the UN Conventions and FATF's Recommendations are not strictly binding on signatories/states parties unless domesticated as required by their internal laws, the United States of America (USA), United Kingdom (UK), Nigeria and other countries have been influenced by the Recommendations to the extent that the conventions and Recommendations have been domesticated to a large extent.

EUROPEAN UNION (EU)

The EU has issued not less than four (4) Directives in line with FATF's Recommendations on financial crime, corruption and tax evasion to its members. The Directives are aimed at promoting the highest standards for fighting money laundering, preventing terrorist financing, and combating financial crimes generally.

The Directive on Money Laundering is the Third Directive which covers credit institutions financial institutions, legal and natural person's such as Auditors, external Accountants, tax Advisors, Notaries, legal Practitioners, trust or company service providers, real estate agents and casinos. It is an amalgam of first and second Directives. Other features of the Third Directive include:

- a) Scope of money laundering – conversion or transfer of property known to derive from criminal activity, concealment of the true nature, source, location, disposition, movement, rights over ownership of property knowingly, acquisition/possession or use of property, participation or association in committing and abetting, counseling or facilitating the commission of any of the foregoing acts.

- b) Customer due diligence in establishing business relationship, suspicion of money laundering etc (Udoette & Nwiyi, 2015).
- c) Legal confidentiality in relation to personal and corporate customers, and beneficial owners.
- d) Reporting obligations through the establishment of Financial Intelligence Units (FIU)
- e) Tipping off
- f) Record-keeping on business relationships and transactions and customer due diligence, risk and compliance management.
- g) Reliance on third parties to meet the requirements of customer due diligence.

UNITED KINGDOM (UK)

The UK's money laundering policy is traced to USA's President Richard Nixon's declaration of "war drugs" in the 1970s. Its anti-money laundering policy is founded on effectiveness, proportionality and engagement. The aims of the policy include but not limited to the achievement of International standards and obligations through domestic measures. The International standards and obligations are as stipulated by Vienna and Palermo Conventions, FATF Recommendations and EU Third Directive on Money Laundering. The Anti-Money Laundering policy is divided into three (3) parts, namely:

- a) Criminalization of money laundering
- b) Regulation of financial institutions with a view of establishing systems to identify and prevent money laundering
- c) Use of reporting identifiable or suspected money laundering transactions to relevant competent authorities.

The main money laundering law in UK is the Proceeds of Crime Act (PCA 2002). The PCA creates three major offences such as:

- (a) concealing, disguising, converting or transferring criminal property or removing it from the jurisdiction.
- (b) entering into or becoming concerned in an arrangement knowing or suspecting it to facilitate the acquisition, retention, use or control of criminal property by or on behalf of another person.
- (c) acquiring, using or possessing criminal property.

Other offences are failure to disclose by the regulated sector failure to disclose by other nominated officers, tipping off, and prejudicing an investigation. It is submitted that the provision of section 328 appears to conflict with the doctrine of good faith or confidentiality that governs the relationship between a legal practitioner and his client, authorized disclosure does not cover legal proceedings or ordinary conduct of litigation.

The Proceeds of Crime Act (2002) consolidates and extends the existing UK legislation on money laundering. The legislation covers all crimes and any dealing in criminal property, with no exceptions and unusually no de minimis, thereby regulating all forms of theft. It provides for maximum sentences or penalties, that is,

- a) money laundering attracts 14 years imprisonment and/or an unlimited fine.
- b) "tipping off" attracts 5 years imprisonment and/or unlimited fine.
- c) destruction or disposal of relevant documents is 5 years imprisonment and/or unlimited fine. The Proceeds of Crime Act (2002) is supplemented by Money Laundering Regulations 2007 (a domestication of EU's Third Directive on Money Laundering). It regulates the activities of all the firms in the UK's financial sector with regard to evolvment of relevant policies and procedures to prevent money Laundering or terrorist financing. Such policies and procedures must reflect firms' customer due diligence, reporting, record-keeping, internal control, risk assessment and management, compliance management and communications. It is necessary to point out that the Proceeds of Crime Act (2002) has tremendous impact on related legislations such as the Policing and Crime Act, 2009, Coroners and Justice Act 2009, UK Borders Act 2007, the

Crime and Courts Act 2013 and its four codes of practice, Terrorism Act 2000, and the Anti-Terrorism Crime and Security Act 2001.

INSTITUTIONAL FRAMEWORKS

Many law enforcement agencies have been established by the UK government to enforce the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and related legislations (Aurasu & Rahman, 2018). The Proceeds of Crime Act 2002 creates five investigative powers for the law enforcement agencies, namely, production order, search and seizure power, disclosure order, customer information order and account – monitoring order. Regulatory authorities include HM Treasury, Home Office, the Financial Services Authority (FSA) created under the Financial Services and Markets Act (FSMA) 2000, the Financial Conduct Authority (FCA), the Economic Crimes Agency (ECA), Serious Organized Crime Agency (SOCA), a UK's Financial Intelligence Unit (FIU), the National Crime Agency (NCA), HM Revenue and Customs, Crown Prosecution Service (CPS), Joint Money Laundering Steering Group (JMLSG) made of 17 UK leading trade associations, Royal Institute of Chartered Surveys, the Law Society: England and Wales etc (Mills & Haines, 2015). These Institutional Mechanisms Perform disparate functions but work as a synergy to combat Money Laundering in the UK. The policy on Money Laundering as contained in the legislation: Proceeds of Crime Act 2002, is credibly deterrent. Its approach is both criminal and civil - it imposes financial sanctions on firms that are sentenced for Money Laundering, and criminal sanctions on persons (Hicks, 2010). The table below depicts some of the firms that have been sanctioned by financial services Authority.

S/NO	NAME OF FIRM	OFFENCE	FINE	YEAR
1.	Alpan's former MIBO sudipto	Failed to broaden the firm's AM (compliance levels after its customers increased from 400 to over 11000	€14,000	2010
2.	_____do_____	Failed to have in place adequate AML systems and controls	€140,000	2010
3.	Habib Bank AG Zunch & Syed MLRO Itrat Hussainn	Failure to take reasonable care to establish and maintain adequate anti-money laundering systems and controls	€525,000 & €17,500	2012
4.	COUHS & Company	Anti-money laundering control failings	€8.75 million	2012
5.	EFG Private Bank	_____do_____	€4.2 million	2013

From all indications the UK money laundering policy and standard are of “gold standard” because of the following reasons:

- strict and deterrent enforcement policies of the regulatory authorities.
- They comply with the international money laundering policies and measures of the UN, FATF and EU.
- The UK money laundering policy and standards exceed the international and regional standards and measures for combating money laundering.

REGULATION OF MONEY LAUNDERING IN UNITED STATES OF AMERICA (USA)

The FATF 2006 mutual Evaluation/Assessment of the USA Anti-Money Laundering Policy (AML policy) described it as the most comprehensive and effective, attained through effective regulatory framework (Chaikin, 2018; Aloba & Nabiebu, 2022). It also indicated that the USA pursues criminals involved in Money Laundering “vigorously”. It however, observed the weaknesses of the policy to be pitfalls in fulfilling requirements for undertaking customer due diligence, the non-availability of corporate ownership information and requirements applicable to some designated non-financial institutions.

The origins of the USA AML policy can be traced to the 1960s when it became increasingly concerned about the use of secret “offshore” bank accounts by Americans engaged in illegal activity (Hsu, 2012). In the 1980s the policy was necessitated by the illegitimate sale of narcotics and the war on drugs. Four principal legislations are used to combat Money Laundering in USA (Natarajan, 1997), namely:

- a) Bank Secrecy Act (BSA)
- b) Patriots Act (PA)
- c) Money Laundering Crime Act (MLCA)
- d) Money Laundering and Financial Crimes Act 1998 or the Strategy Act (MLFCA or SA)

The BSA provides the basic AML framework, while FINRA Rule 3310 provides the minimum requirements for an AML programme. Even though the USA AML policy was evolved before the introduction of international AML measures and programme in the enactment of BSA, only the MLCA criminalized money laundering. The codification of money laundering was achieved through the enactment of the Money Laundering and Financial Crimes Act 1998 which provides for the issuance of an annual National Money Laundering Strategy. The strategy contains five objectives, namely:

- a) reduction of the extent of money laundering
- b) development of co-ordinated response to Money Laundering
- c) implementation of mechanisms for the improvement of the discovery and prosecution of money laundering cases
- d) improvement of the links between financial institutions and law enforcement agencies, and
- e) improvement of links between federal and state authorities.

The MLFCA 1998 therefore creates and sustains a strong synergy between financial institutions and law enforcement agencies on the one hand, and federal and state authorities on the other hand. Another significant aspect of the USA AML policy is the entronement of joint public-private measures, and state and local government partnership which are all aimed at disrupting money laundering and the strengthening of international co-operation to fight money laundering.

The USA AML policy is managed by a plethora of agencies such as:

- a) the US Department of Treasury - authorized by the BSA to make rules and regulations which require banks and other financial institutions to take adequate precautions against financial crimes, establishment of AML programme and filing of reports. The reports include suspicious transaction reports, currency activity reports. The suspicious transaction reports cover criminal violations involving insider abuse aggregating \$5000 or more for suspects who can be identified and \$25000 or more for potential suspects.
- b) Financial Crimes Enforcement Network (FINCET) is a bureau of the US Department of Treasury which has the mission of enhancing the integrity of the financial systems through deterrence and detection of financial crimes (Wilkes, 2020). It also performs delegated duties from the Secretary of the Treasury such as implementation, administration and enforcement of compliance with BSA and its regulations.
- c) Financial Industry Regulatory Authority (FINRA): it is the largest independent regulator for all USA securities firms and protects America’s investors by ensuring fairness and honesty in the securities industry.

- d) Internal Revenue Service Criminal Investigation (IRSCI) - investigates all potential criminal violations of the Internal Revenue Code and related financial crimes.
- e) The Office of Terrorism and Financial Intelligence (TFI) - evolves the Treasury Department's Policy and performs enforcement, regulatory and intelligence functions.
- f) The Drug Enforcement Agency (DEA) - carries out investigations with a view to identifying and preventing the use of drug proceeds by traffickers of drugs (Soudijn, 2016).
- g) Federal Financial Institutions Examination Council (FFIEC) - an inter-agency body that formulates uniform principles, standards and report forms for examination of financial institutions.

OFFENCES AND PENALTIES: the non-compliance with BSA, the use of structured payments to avoid the financial reporting thresholds and the acceleration of the drug trade and the large amount of money associated with it informed the criminalization of money laundering in USA. The MLCA provides for a maximum sentence of 20 years imprisonment or fine of not more than \$500,000 or twice for the value of the property involved in the transaction, or whichever is greater (Reidy, 2009).

Offence of money laundering in USA constitutes two ingredients:

- (a) commission of money laundering with knowledge that the property involved in a financial transaction represents proceeds of some form of unlawful activity, and conducting or attempting to conduct such financial transaction which actually involves proceeds of specified unlawful activity;
- (b) transportation, transmission and transfer or attempt to do same of a monetary instrument of funds to or outside USA: concealment or disguising the nature, location, the source, the ownership and control of the proceeds of specified unlawful activity.

From the foregoing, it can be discerned that the MLCA 1986 categorized money laundering offences into domestic money laundering offences, International Money Laundering and the use of sting operations by federal agencies to expose illegal activities (White, 2016). The MLCA has been described as the direct attempt by USA to combat Money Laundering in the sense that it criminalizes the offence of Money Laundering and assistance thereof by any financial institution. The pitfall with MLCA is its use of the word "suspicious" in describing the offence of Money Laundering. The USA judicial authorities have not succeeded in developing criteria for the determination of transactions that can be described as suspicious yet.

FINANCIAL INTELLIGENCE: this is majorly achieved through information that is garnered through Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs), due diligence which incorporates personal client. Due diligence, corporate customer due diligence and Enhanced Due Diligence for handling institutional customers and Politically Exposed Persons (PEP). In addition to the stringent regulatory framework contained in MLCA, the Patriot's Act 2001 has also strengthened the fight against Money Laundering by USA government through its introduction and improvement of customer identification measures, banning financial institutions from doing businesses with foreign shell banks, and compelling them to adopt due diligence procedures, exchange of information between financial institutions and the government, increased the scope of AML requirements to all financial institutions and increased penalties for Money Laundering (Sanders Jr & Sanders, 2004). It has been reported by FATF that the USA federal government alone convicted 1, 075 persons for Money Laundering as at 2005, as against 857 in 1993.

Conclusively, the USA AML policy has been described as very formidable and robust, because it contains (a) development of internal policies, procedures and controls

(b) designates compliance officer (c) ongoing employee training programme and an independent audit function to test the regime, and contains measures that permit USA authorities to impose sanctions on foreign jurisdictions that fail to co-operate with its AML policy, active role of its financial services industry, and extended the definition of Money Laundering to include its commission on the internet as well as permitted the seizure of the assets of non-US banks through the broadening of the definition of financial institution.

CONCLUSION

Money Laundering has increasingly assumed a mysterious nature nationally, regionally and internationally (Beare, 2003). Efforts to combat the ubiquitous crime range from municipal governments, regional blocks, International Monetary Fund (IMF), World Bank and Many International Task Forces, for instance, FATF. The exploration of money laundering war in UK, USA and Nigeria portray that the crime is stringently regulated by their respective AML policies. FATF assessment reports on the three countries depict that AML policies in UK and USA are proactively, efficiently and effectively prosecuted through the co-operation and synergy of all stakeholders, hence many convictions have been made by both countries (Murrar & Barakat, 2021). The FATF assessment 2011 report on Nigeria expressed dissatisfaction with the way Nigeria handles AML policy. However, the FATF 2013 report expressed satisfaction with the significant progress made by Nigeria in improving its AML/CFT regime, but observed that corruption is the pivotal bane of Nigeria's AML policy. There is a dearth of reports on convictions, except on former governors considered to be political opponents. Nigeria must first stamp out corruption, improve its leadership skills, engage skilled personnel and encourage synergy amongst stakeholders to win the war against money laundering.

PROPOSALS FOR REFORM

- a) Terms of imprisonment for money laundering should be increased to maximum to make them commensurate with the fines.
- b) The time frame for filing Suspicious Transactions Reports (STRs) should be abridged to 3 days from 7 days.
- c) The 2016 Bill should be passed by the National Assembly for the President's assent.
- d) Whistle blowers should be granted adequate regulatory protection under the (Money Laundering Prevention and Prohibition) Bill 2016.
- e) The Bill should be clothed with extraterritorial jurisdiction to track money launderers operating beyond Nigeria's jurisdiction.
- f) The Bill should be updated to include provisions on International Co-operation in relation to extradition of offenders outside Nigeria's jurisdiction and legal assistance from other countries such as UK, USA, Russia, Germany, EU, Ireland, Australia, France etc.

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