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Money Laundering International Standards

What is Money Laundering?





The purpose of money laundering

How can I spend,
use or invest the
money?

How should I hide
the money from
the police?

How can I erase the
evidence linking the
money to the crime?

How can I
perpetuate my
criminal activities



What is Money Laundering?

Money laundering is the process of making illegally-gained proceeds (i.e. 'dirty money') appear legal (i.e. 'clean').

Section 1 of the Anti-Money Laundering Act of 2013 as amended defines Money Laundering as "the process of turning illegitimately obtained property into seemingly legitimate property and it includes concealing or disguising the nature, source, location, disposition, or movement of the proceeds of crime"

“proceeds” means any property or economic advantage derived from or obtained, directly or indirectly, through the commission of a crime, and includes property later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived from such property at any time after the commission of the crime;” (See section 1 of AMLA).

Typically, it involves three steps: **placement, layering and integration**. First, the illegitimate funds are furtively introduced into the legitimate financial system. Then, the money is moved around to create confusion, sometimes by wiring or transferring it through numerous accounts. Finally, it is integrated into the financial system through additional transactions until the “dirty money” appears “clean”.

AML OVERVIEW

Predicate offence



Placement



Layering



Integration

Criminal Activities



theft



corrupt practices



drug trafficking



tax evasion



arms trafficking

Uhalifu

Generate illegal (Dirty) Money

Cleansing the dirty money of its illicit origins includes revolving the money in financial institutions and investing it

Dirty money in circulation. It is now difficult to link this money to the original crime



Bank



Investment



Wealth

Huzalisha Fedha Haramu

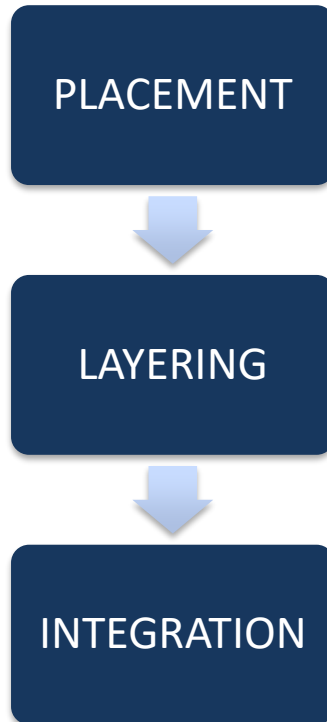
Jitihada za kutakasa fedha haramu ni pamoja na kuzipitisha kwenye vyombo vya fedha au kuziwekeza

Matumizi ya fedha haramu. Hapa ni vigumu kuhusisha fedha hii na uhalifu

The Scheme

vs

The Law



Description of the process

Section 116 of AMLA of 2013 as amended. A person who engages in any act of money laundering prohibited in section 3, commits an offence.”

(a) convert, transfer, transport or transmit property, knowing or suspecting that such property to be the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the crime generating the proceeds to evade the legal consequences of his or her actions;

(b) conceal, disguise or impede the establishment of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing or suspecting that such property to be the proceeds of crime; or

(c) acquire, possess, use or administer property, knowing, at the time of receipt, that the property is the proceeds of crime; or

(d) act to avoid the transaction reporting requirements provided in Part III of this Act; or

(e) assist another to benefit from known proceeds of crime; or

(f) use known proceeds of crime to facilitate the commission of a crime; or

(g) participate in, associate with, conspire to commit, attempt to commit, aid and abet, or facilitate and counsel the commission of any of the acts

described in paragraphs (a) to (f).

Knowledge, intent or purpose required as an element of the crime of money laundering set out in this Part may be inferred from objective factual circumstance.

**UNDERSTANDING IS WHAT THE LAW
SAYS IT IS**

Types of Money Laundering Activity

“Self-laundering” refers to an individual engaging in financial transactions to hide the origin, nature, or ownership of money or assets obtained through illegal means.

“Third-party laundering” involves using another person or entity to hide illegal funds. Criminals choose this method to distance themselves from the tainted money, making it harder to detect and track.

“Foreign predicate offences” are unlawful activities carried out in a different country, followed by efforts to hide or change the funds obtained from these activities.

“Stand-alone offence” is a separate legal concept that involves prosecuting money laundering independently, even without evidence of the true source or a specific predicate offence. This means money laundering can be prosecuted without direct evidence of the criminal activity that generated the proceeds.

Elements of the Crime Money Laundering



Why are the elements important?

- Critical to prove criminal case
- Assist in establishing proof for asset tracing, confiscation and recovery
- Facilitates mutual legal assistance



Section 116(a) AMLA

Element	Facts	Evidence
Any person		
Converts,		
Proceeds of crime		
for the purposes of concealing, the illicit origin of the property		
Knowledge/intent/purpose according to factual circumstance/ may be inferred from objective factual circumstance.		

Important Elements to remember

- Link the money laundering transaction to a predicate offence/underlying criminality
- Evidence of underlying criminal activity
- Proof that property is proceeds of crime
- Knowledge that property is proceeds of crime
- Use of Anti-Money Laundering framework in corruption investigations



Terrorist Financing

Introduction

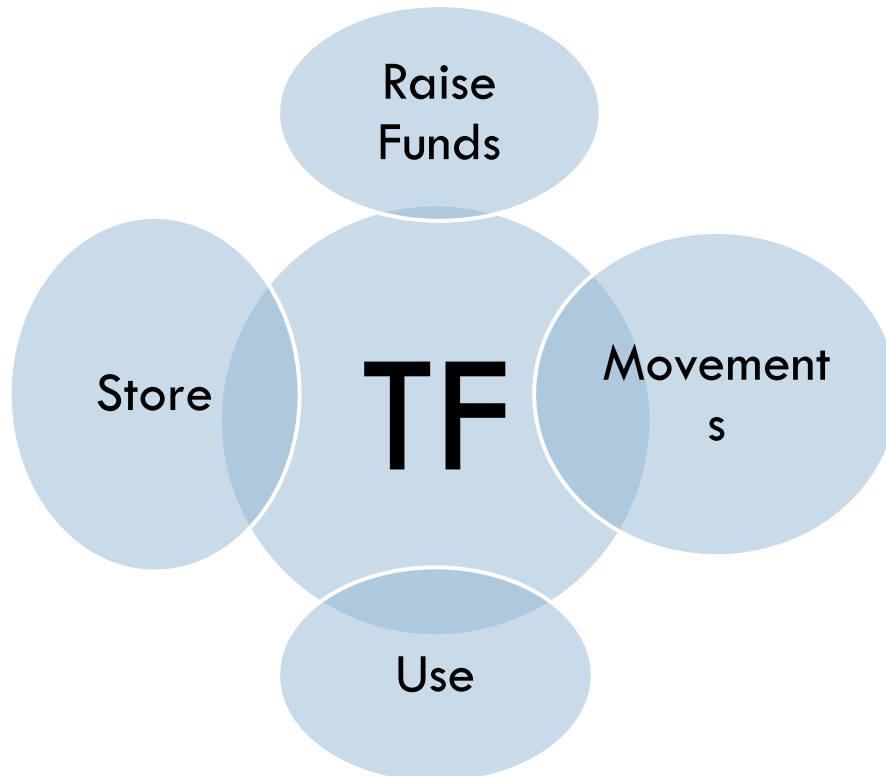
- There is a similarity between ML and TF.
 - Terrorist financiers aim at masking their activities from LEA's outreach through laundering techniques.
- There is also differences
 - ML tries to cleans dirty money to appear clean whereas TF involves even clean money for evil purpose.

Introduction

- Terrorist Financing is global concern that threatens security of every society, focusing individual and the community as a whole.
- The technology and globalization effects have been a catalyst for TF posing domestic and international disturbances and law and order problems.
- In turn, any negative effect compromise legitimacy of law enforcement to the society.

Terrorist Financing

- Investigation of TF must consider both legitimate and illegitimate funding
- The process of TF involves:



Collection of Funds ...

Legal source

- Private donations
- Humanitarian organization /charities
- Business
- Sales of publications
- Civic associations

Illegal source

- Corruption
- Robbery
- Drug trafficking
- Kidnapping
- Extortion
- Illegal poaching
- Smuggling
- Other environmental crimes

Other Sources

- State sponsored
- Safe heaven
- Countries in conflicts

Movement of Funds...

- Currency exchangers
- Offshore branches
- Supermarkets/Bars/Restaurants
- Swaps (drug for arms or explosives or drug for gold, etc.)

Movement of Funds

- Financial institutions and other regulated financial services providers
- Physical movement of money
- International trade system
- Non-profit organizations
- Travel agencies
- Jewellery
- Casino and gambling houses

Terrorist Financier Roles

1. Donor

- Are those, wittingly or unwittingly, through financial contributions, support Terrorist Organisations.
- Exhibit limited interaction with the group beyond monetary support

2. Fundraisers

- Are individuals who actively solicit funds on behalf of the terrorist organisation.
- Again, are engaged in the movement and concealment of money

Terrorist Financier Roles ...

3. Facilitators

- Are directly associated with terrorist organisations leadership and operatives
- Sometimes are involved in promoting the terrorist agenda and knowledgeable of operational plans.

4. Operative

- Is one committed to conduct terrorist attack through either funding provided by the terrorist organisation or via self funding, procures the necessary resources

Behaviour Indicators for Terrorist Financing Detection

- The use of funds by the non-profit organization is not consistent with the purpose for which it was established.
- The transaction is not economically justified considering the account holder's business or profession.
- A series of complicated transfers of funds from one person to another as a means to hide the source and intended use of the funds.
- Transactions which are inconsistent with the account's normal activity.
- Deposits were structured below the reporting requirements to avoid detection.

Behaviour Indicators for Terrorist Financing

...

- Multiple cash deposits and withdrawals with suspicious references.
- Use of false identification.
- No business rationale or economic justification for the transaction.
- Unusual cash activity in foreign bank accounts.
- Multiple cash deposits in small amounts in an account followed by a large wire transfer to another country.
- Use of multiple, foreign bank accounts.
- Use of false corporations, including shell-companies.
- Inclusion of the individual in the United Nations 1267 Sanctions list.

TF Effect

Terrorist financier and terrorist have the same motive, to intimidate a population by *killing innocent people and destructing infrastructures*, or to *compel a government or an international organization to do or abstain from doing any act.*

Why are we Combating Financing of Terrorism?

- To disrupt and prevent incidence of terrorist activities

TF Effect...

Terrorist Financing



Aerial photograph of Pentagon after terror attack Sept 11, 2001



More than 180 people were killed in Mogadishu terror attack by a truck bomb, Al-Shabaab claimed responsibility, 2017



Terror attack in market area Mogadishu destroy shops and hotel, 270 people were killed including the Deputy Minister of the Ministry of Labor and Social Affairs, March, 2019

