

REPORT ON MONEY LAUNDERING AND  
COMPLIANCE WORKSHOP

HELD IN SANDTON, SOUTH AFRICA

ON 13-14 APRIL, 2002

## INTRODUCTION

Transparency International Zambia had the opportunity of sending two participants to attend a two day International workshop on Money Laundering and Compliance, held in Sand ton, South Africa between the 13<sup>th</sup> and 14<sup>th</sup> March 2002.

The conference focused on Money Laundering from the South African context, with particular emphasis on the measures that are currently being undertaken to curb this problem. Participants who attended this conference came from a cross section, which encompassed the Public Sector, Private Sector, Financial Institutions, and Law Enforcement Agencies, and on Governmental organizations.

Transparency International Zambia was amongst many other organizations that attended this conference with a view of deriving a better understanding of the problems associated with combating the problem of Money Laundering and getting to know what practical measures have been undertaken in other countries.

As we are all aware, Money Laundering can be termed as a species of Corruption and it is for this reason that Transparency International Zambia had particular interest in this conference because a Money Laundering Bill was recently passed through the Zambian Parliament and this conference gave TIZ an opportunity to make comparison with Zambia, experiences that other countries were facing as far as dealing with this problem is concerned.

## PAPERS PRESENTED

The following presentations were made at the conference:

- Outlining a global Money Laundering presented by Marcus Greyling, Manager Global Forensic Services (Deloitte and Touché)
- Evaluating the proposed SA Financial Intelligence Act presented by Prof. Angela Itzikowitz Attorney Edward Nathan & Fried land (Pty) Ltd
- **KEYNOTE ADDRESS** – Understanding the Magnitude of Crime presented by Adv. William Heath SC, Heath Specialist Consultants
- Outlining Money Laundering Typologies presented by Dr Barry Spitz, Senior consultant International Law and Tax Institute
- Explaining the new provisions to stop Money Laundering presented by Pieter Smit, State Advocate Asset Forfeiture Unit.
- Dealing with Money Laundering Compliance in the Workplace presented by Roy Mel nick, Head Strategic Forensic Initiatives ABSA
- Evaluating the new South African FIC Bill and Compliance Issues presented by Mark Phillips Director Brait Advisory Services Ltd.
- Outlining South African Case Law on Money Laundering presented by Prof Louis de Koker, Director for center for the study of economic crime, Rand Afrikaans University
- Case Study – Anti Money Laundering Surveillance: What a comprehensive Compliance Programme should contain presented by Ursula M'Crystal Manager Forensic Accounting Group, KPMG
- "Bye Bye" Banking Secrecy presented by Dr Barry Spitz, International Law and Taxation Institute.

- *Using Asset Forfeiture to combat organized crime* presented by Adv. Ouma Rabaji, Special Director, Asset Forfeiture Unit.
- *Know your Cyberspace customer* presented by Wim Mostert, Asset Forfeiture Unit
- *Outlining Reporting Obligations*, presented by Francois van Graan, Director South African Police Services.

## OVERVIEW OF THE PRESENTATIONS

Money Laundering is fast becoming a Global problem that has very detrimental effects on Countries economies and development. It has been a problem to eradicate because of its complexity in nature, as the whole process involves legitimizing or "cleaning" up of monies that are illicitly obtained and, in most cases, through large corporations, banking institutions and Government ministries. It is through these legitimate structures that activities of money laundering takes place, making it almost impossible to trace and combat.

Combating the problem of Money Laundering, at a global level, is more complex as it may appear to be because of various obstacles that have been faced. Some of these involve the difference in Cultures and religions, differences in Business environments, Language Barriers, difference in Legislation as far as Money Laundering is concerned, and lastly willingness of some countries believed to experience problems of Money Laundering, to come forth and join in the fight.

In a presentation done by Deloitte and Touché, Forensic Services Division, the main obstacles faced in conducting Anti Money Laundering reviews can be attributed to a number of factors and those highlighted were, the differences in business environments that exist. Some business environments are more conducive for Money Laundering activities whilst others are not; different cultures are also another problem as we have identified in relation to Corruption. Some societies have accepted corruption as a norm whilst other societies realize the corrosiveness of corruption and so is the case with Money Laundering; Language Barriers; differences in legislation as far as Money Laundering is concerned.

The keynote address formed the main highlight of day one presentations as it basically aimed at defining Money Laundering and emphasizing its effects. Money Laundering is linked to organized crime syndicates, that are associated with drug trafficking, arms smuggling, and financial crime. The process in which "dirty money" obtained through these criminal acts is legitimized is what is termed as Money Laundering.

Money Laundering empowers Corruption and organized crime. The history of money laundering dates back in history, to the days of Prohibition in the USA, which were characterized by gambling, prostitution, illegal liquor dealing, extortion etc. Money obtained through such acts had to be legitimized at all costs and this was done through purchasing of legitimate businesses and mixing of legitimate funds with illegitimate funds.

Money laundering as a crime has attracted attention from the early 1980's and essentially in a drug trafficking context. It is with increasing awareness of the huge sums of money realized from such acts that Governments are now being prompted to fight this scourge, by creating legislation that counter and execute any offenders involved in acts of money laundering.

Some initiatives have been undertaken at an International level to try and curb money laundering and one such initiative is the creation of the Financial Action Task Force (FATF) that was established at the G7 summit in Paris in 1987, in order to examine measures to combat this global problem. It is not a permanent organization and has a mandate to be renewed every five years. The FATF comprises of twenty- seven (27) governments and two regional organizations. Zambia unfortunately, is among some of the Commonwealth countries that are not members of the FATF and one of the recommendations would be that Zambia becomes member to this organization, in an effort to collaborate efforts to combat this scourge.

Zambia though, is a member of a fourteen-member body, similar to the FATF, which was established in August 1999. These fourteen countries are members of the Commonwealth and the aims of the organization are similar to those of FATF.

Other initiatives are those such as the United Nations Global Programme Against Money Laundering (GPML), implemented by the UN office for Drug Control and Crime Prevention (ODCCP). This programme aims to create the effectiveness of international action against money laundering through technical co-operation services offered to Governments. The program is carried out in co-operation with regional and international organizations.

The meeting also enlightened us, on what has been done in South Africa about Money laundering. Bills have been passed in Parliament that are aimed at alleviating problems associated with Money Laundering, in view of the fact that the Government has lost a lot of money through this illicit act. As a means of demonstrating their efforts, it was important to give the historical background that lead to the enactment of the existing laws.

The genesis of the Financial Intelligence Center (FIC Act 2001), which is the authority with the responsible for overseeing the implementation of the anti money laundering laws, began with Drugs and Drug Trafficking Act of 1992 which dealt with money Laundering in relation to drug trafficking. A follow up to this act was the Proceeds of Crime Act 1992 which provided for the confiscation of the proceeds of crime once a person has been convicted of an offence and criminalized money laundering in respect of all proceeds of criminal activity. It is only logical that any attempt to regulate the confiscation of the proceeds of crime should go hand in hand with measures to combat Money Laundering.

The FIC in South Africa falls under the supervision of the Minister of Finance and its principle objective is to assist in identifying the proceeds of unlawful activities and to combat money laundering. Functions of this wing include the collection, analysis and interpretation of all information disclosed to it. This wing does not have investigative powers but will co-ordinate policy and efforts to counter money-laundering activities. The FIC also supervises compliance and will give guidance to institutions to combat money laundering.

## **RECOMMENDATIONS**

Most of the presentations were focused in the South African context, although very important issues were brought out that can be applied in practical situations within our countries .

Zambia having recently enacted a money-laundering bill could very well be a beneficiary from a lot of the vital information that was outlined at the conference. The establishment of a similar body like the FIC, could be beneficial in the Zambian context seeing as currently the Drug Enforcement Commission of Zambia, are the authority who are responsible for the investigation and prosecution of any cases related to money laundering activities, apart from their day to day anti drug activities.

As was presented, some private sector financial institutions are coming up with initiatives that are being adopted in the business sector and financial institutions that assist with their day-to-day operations, and are useful in combating any forms of money laundering related activities.

Currently we have seen the banking sector in Zambia, through the central Bank of Zambia together with financial institutions like KPMG come together and organize workshops to sensitize each other on Money Laundering and its detrimental effects. Apart from sensitizing each other, it also provides a forum at which ideas and results oriented strategies can be developed and in the final, implemented.

Civil Society organizations, including TI Zambia should play an active role especially where basic civic education is concerned. Some of the major problems identified are that generally there is ignorance in as far as the issue of money laundering is concerned. People are not aware of the extensive damage created by laundering money. Economies continue to dwindle, and inflation is on the rife, leading to increased poverty levels.

Apart from providing civic education on issues of money laundering, it is also very important for Civil Society to come together to lobby Government through Parliament, to enact laws that will see the formation of more bodies that will have an exclusive focus on Money Laundering issues and also creation of stiffer regulations that control the flow of money into and out of the country through our banks. Currently the economy is very liberalized in terms of exchange control regulations and this initially aimed at creating a conducive environment for outside investment, all in an effort to boost Zambia's economy.

There is also need for the introduction of measures that will ensure that there is total transparency and Accountability in the use of Public Funds especially, in the Government ministries.

It is also very important for Zambia to be committed to joining the fight by becoming an active member of some of the bodies that exist at both regional and International levels, actively involved in trying to overcome this problem. So far we have noted that Zambia is not a member of the FATF, which is an intergovernmental initiative aimed at fighting money laundering.

## **CLOSING**

The Chairperson, Mr. Barry Spitz, Senior Consultant at the International Tax Institute, South Africa officially closed the conference.

## **CONCLUSION**

Left unchecked, Money Laundering has a corrosive effect on a country's economy and Government because it distorts business decisions and creates liquidity problems in the financial

market, due to the quick outside flow of laundered funds. A country's reputation is at stake and such an environment provides a very good breeding ground for Corruption and other criminal activities. It is therefore incumbent upon countries to ensure that legislature exists to combat money laundering. Countries should co-ordinate efforts at a regional and international level to ensure that this problem, if not eradicated completely, is reduced.

The conference gave TIZ an opportunity to acquire relevant information on various aspects of Money Laundering and what measures other countries are undertaking, with particular reference to South Africa. The information acquired will be useful to especially where implementation of its programmes is concerned. Necessary measures to arrest the problem of Money Laundering were identified and TI Zambia in its continued effort to create awareness on the effects of Corruption, will lobby Government to institute reform in certain areas, more particularly Constitutional Reform, with particular emphasis on the Money Laundering Bill.