
GUIDELINES FOR PREVENTION OF TRADE BASED MONEY LAUNDERING-2021



Published by:

Anti Money Laundering Cell

Bangladesh Krishi Bank

Krishi Bank Bhaban, 83-85 Motijheel Commercial Area, Dhaka-1000,

Bangladesh.

Contact No. : +88-02-9553028+88-02-47120513

Email: [dgmrm@krishibank.org .bd](mailto:dgmrm@krishibank.org.bd), deamleo@krishibank.org .bd

Approved by:

Board of Directors (BoD) in the 796th Board Meeting on 25-10-2021



বাংলাদেশ কৃষি ব্যাংক
প্রধান কার্যালয়, কৃষিব্যাংক ভবন
৮৩-৮৫, মতিঝিল বানিজ্যিক এলাকা, ঢাকা
মানিলভারিং প্রতিরোধ সেল
dcamlco@krishibank.org.bd
Phone: 02-47120513



প্রকা/আরএমডি(৩০)/বোর্ড/২০২১-২২/১৩৬৫

তাং-৩১-১০-২০২১

বিষয়ঃ BKB-Guidelines for Prevention of Trade Based Money Laundering-2021 জারীকরণ প্রসঙ্গে।

০১। বিএফআইইউ সার্কুলার নং-২৪, তাং-১০-১২-২০১৯ অনুযায়ী তফসিলি ব্যাংকসমূহকে নিজ নিজ প্রতিষ্ঠানের আন্তর্জাতিক বানিজ্যের ক্ষেত্র, ব্যক্তি, গ্রাহক সংখ্যা, প্রকৃতি ইত্যাদি বিবেচনায় নিয়ে ঝুঁকি ব্যবস্থাপনা ও পরিচালন পদ্ধতি প্রতিষ্ঠার লক্ষ্যে নিজস্ব গাইডলাইন/ম্যানুয়েল প্রনয়নপূর্বক পরিচালনা পর্ষদ বা পরিচালনা পর্ষদের অনুপস্থিতিতে সর্বোচ্চ ব্যবস্থাপনা কমিটির অনুমোদন গ্রহণ করে উক্ত ইউনিটে দাখিল এবং উক্ত গাইডলাইন/ম্যানুয়েল এর বাস্তবায়ন নিশ্চিত করতে হবে।

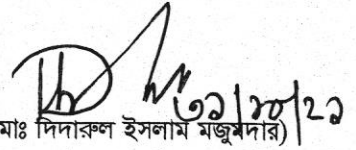
০২। এতদশ্রেণিতে বিবেকির Guidelines for Prevention of Trade Based Money Laundering প্রস্তুতপূর্বক ব্যবস্থাপনা সমন্বয় কমিটির সভায় উপস্থাপন করা হলে ব্যবস্থাপনা সমন্বয় কমিটির ৪২তম সভা, তাং-৩১-০৮-২০২০ এর অনুমোদন ও অনুমতি সাপেক্ষে বাংলাদেশ ব্যাংকের বাংলাদেশ ফাইন্যান্সিয়াল ইন্সটিটিউশন ইন্সটিটিউটে ভেটিং এর জন্য প্রেরণ করা হয় এবং বাংলাদেশ ব্যাংক হতে ভেটিংকৃত বিবেকির Guidelines for Prevention of Trade Based Money Laundering বিবেকি পর্ষদ সভাকে সদয় অবহিতকরণ এবং বাস্তবায়নের সদয় অনুমোদনের উপস্থাপন করা হয়।

০৩। বাংলাদেশ কৃষি ব্যাংক পরিচালনা পর্ষদের গত ২৫-১০-২০২১ ইং তারিখে অনুষ্ঠিত ৭৯৬ তম পর্ষদ সভায় Guidelines for Prevention of Trade Based Money Laundering-2021 বিস্তারিত পর্যালোচনাপূর্বক অত্র ব্যাংকে গাইডলাইনটি বাস্তবায়ন ও বাংলাদেশ ব্যাংকে প্রেরণের অনুমোদন প্রদান করা হয়।

০৪। এই ম্যানুয়েল কেবলমাত্র ব্যাংক কর্মকর্তা/কর্মচারীদের দাপ্তরিক কাজের জন্য ব্যবহৃত হবে এবং এর বিষয়বস্তু প্রত্যক্ষ বা পরোক্ষভাবে জনসাধারণের মধ্যে প্রকাশ করা যাবে না। তবে সম্ভাব্য বা প্রয়োজনীয় ক্ষেত্রে এর অংশ বিশেষ প্রকাশ করা যাবে।

০৫। এমতাবস্থায় বিবেকির Guidelines for Prevention of Trade Based Money Laundering-2021 ব্যাংকের প্রধান কার্যালয়সহ মাঠপর্যায়ে বিভিন্ন বিভাগ, কার্যালয় এবং শাখাসমূহে যথাযথভাবে পরিপালন ও অনুসরণের জন্য অনুরোধ করা গেল।

অনুমোদনক্রমে,


(মোঃ দিদারুল ইসলাম মজুমদার)

মহাব্যবস্থাপক (আন্তর্জাতিক ও হিসাব মহাবিভাগ)

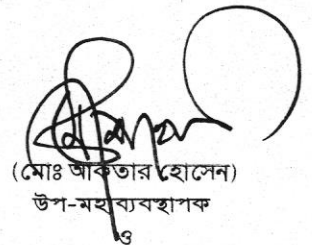
ও

প্রধান মানিলভারিং প্রতিরোধ পরিপালন কর্মকর্তা (CAMLCO)

সংযুক্ত: বিবেকি Guidelines for Prevention of Trade Based Money Laundering-2021

সদয় অবগতি ও প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য অনুলিপি প্রেরণ করা হলো :

- ০১। চীফ স্টাফ অফিসার, ব্যবস্থাপনা পরিচালক মহোদয়ের সচিবালয়, বিবেকি, প্রধান কার্যালয়, ঢাকা।
- ০২। স্টাফ অফিসার, উপ-ব্যবস্থাপনা পরিচালক মহোদয়গণের দপ্তর, বিবেকি, প্রধান কার্যালয়, ঢাকা।
- ০৩। স্টাফ অফিসার, সকল মহাব্যবস্থাপক মহোদয়ের দপ্তর, বাংলাদেশ কৃষি ব্যাংক, প্রকা ঢাকা।
- ০৪। অধ্যক্ষ (মহাব্যবস্থাপক), বিবেকি স্টাফ কলেজ, মিরপুর, ঢাকা।
- ০৪। সকল উপ-মহাব্যবস্থাপক/সচিব, বাংলাদেশ কৃষি ব্যাংক।
- ০৫। উপ-মহাব্যবস্থাপক, আইসিটি সিস্টেমস, কার্ড ও মোবাইল ব্যাংকিং বিভাগ, বিবেকি, প্রধান কার্যালয়, ঢাকা। তাঁকে পত্রটি ব্যাংকের ওয়েবসাইটে আপলোড করার জন্য অনুরোধ করা হলো।
- ০৬। সকল বিভাগীয় নিরীক্ষা কর্মকর্তা, বাংলাদেশ কৃষি ব্যাংক।
- ০৭। সকল মুখ্য আঞ্চলিক/আঞ্চলিক ব্যবস্থাপক/ উপ-মহাব্যবস্থাপক, বাংলাদেশ কৃষি ব্যাংক।
- ০৮। সকল আঞ্চলিক নিরীক্ষা কর্মকর্তা, বাংলাদেশ কৃষি ব্যাংক।
- ০৯। সকল শাখা ব্যবস্থাপক (মুখ্য আঞ্চলিক/আঞ্চলিক ব্যবস্থাপকের মাধ্যমে), বাংলাদেশ কৃষি ব্যাংক।
- ১০। নথি/মহানথি।


(মোঃ আকতার হোসেন)
উপ-মহাব্যবস্থাপক

উপ-প্রধান মানিলভারিং প্রতিরোধ পরিপালন কর্মকর্তা (DCAMLCO)

PREAMBLE

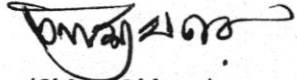
Trade Based Money Laundering or TBML is known to be used to disguise proceeds of crime and to mask legitimately obtained funds that are directed towards terrorism and other criminal activity. TBML techniques range from simple fraud, such as the misrepresentation of prices, quantity or quality of goods on an invoice, through to complex networks of trade and financial transactions. While TBML schemes most commonly involve the misrepresentation of price, quantity or the type of merchandise, trade in intangibles (such as information and services) is emerging as a significant new TBML frontier—also known as service-based money laundering . TBML (and the approaches designed to address it) is defined in terms of international trade, rather than domestic trade. There is a fine line between TBML and other money laundering.

Bangladesh is one of the fastest growing economies in the world and looking forward to transforming itself into a developed economy . However, recent various publications of FATF, APG and GFI have drawn attention to the fact that international trade system is being heavily abused for money laundering and terrorist financing purpose. Against this backdrop and considering the fact that international trade transactions are mainly held through banking system of the country, BFIU, in pursuance with section 23(d) of Money Laundering Prevention Act, 2012 and section 15 (1) (g) of Anti-Terrorism Act, 2009 has issued the Guidelines to guide banks to establish appropriate measures and techniques to combat TBML/TF.

In line with the expectations of Bangladesh Financial Intelligence unit of Bangladesh Bank, Bangladesh Krishi Bank have been documented "Guidelines for Prevention of Trade Based Money Laundering" taking into consideration the TBML/TF risks to which the Bank expose.

This Guideline shall be applicable to all Branches including concerned Department ,Divisions ,Region and Corporate Branches of this Bank.

Krishi Bank Bhaban ,Dhaka.
Date-31 October, 2021.


(Shirin Akhter)
Managing Director

FOCUS GROUP

Advisor

: Shirin Akhter
Managing Director

Supervised & Guided By

: Md.Didarul Islam Mazumder
General Manager (International & Account Division)
&
CAMLCO

Compiled By

: Md. Akter Hossain
Deputy General Manager & DCAMLCO

Zannatara Ferdaush
Senior Principal Officer ,
Anti Money Laundering Cell.

Collaborators

: Md. Mostafizur Rahman
Deputy General Manager,
International Department

S.M.Shohel Rana
Senior Principal Officer,
International Department.

List of Acronyms

ADs	Authorized Dealers
AIT	Advance Income Tax
AML	Anti-Money Laundering
APG	Asia Pacific Group on Money Laundering
ATA	Anti-Terrorism Act
BAFT	Bankers Association for Finance and Trade
BASIS	Bangladesh Association of Software and Information Services
BB	Bangladesh Bank
BCSIR	Bangladesh Council for Scientific and Industrial Research
BE	Bill of Entry
BEPZA	Bangladesh Export Processing Zone Authority
BEZA	Bangladesh Economic Zone Authority
BFIU	Bangladesh Financial Intelligence Unit
BIDA	Bangladesh Investment Development Authority
BL	Bill of Lading
BTB	Back to Back
BUET	Bangladesh University of Engineering and Technology
C & F	Clearing and Forwarding
CAMLCO	Chief Anti-Money Laundering Compliance Officer
CCC	Central Compliance Committee
CCI&E	Chief Controller of Import and Export
CDD	Customer Due Diligence
CFR	Cost and Freight
CFT	Combating Financing of Terrorism
CI	Commercial Invoice
EDD	Enhanced Due Diligence
EDF	Exporters' Development Fund
EPZ	Export Processing Zone
ERC	Export Registration Certificate
ERQ	Exporters Retention Quota
EZ	Economic Zone
FATF	Financial Action Task Force
FCA	Financial Crime Authority
FE	Foreign Exchange
FERA	Foreign Exchange Regulation Act
FOB	Free on Board
GFET	Guidelines for Foreign Exchange Transactions
GFI	Global Financial Integrity
IMP Form	Import Form

IRC	Import Registration Certificate
IPO	Import Policy Order
LC	Letter of Credit
LCAF	Letter of Credit Authorization Form
LTR	Loans Against Trust Receipt
ML	Money Laundering
MLPA	Money Laundering Prevention Act
MPLR	Money Laundering Prevention Rules
NBR	National Board of Revenue
NPL	Non performing Loan
OBU	Off-shore Banking Units
OIMS	Online Import Monitoring System
PEZ	Private Economic Zone
PF	Proliferation Financing
PI	Proforma Invoice
PSI	Pre Shipment Inspection
RBA	Risk Based Approach
SAR	Suspicious Activity Report
SBLC	Standby Letter of Credit
STR	Suspicious Transaction Report
TF	Terrorist Financing
TBML	Trade Based Money Laundering
TMD	Treasury Management Division/Department
TTP	Trade Transaction Profile
TTI	Total Tax Incidence
USD	US Dollar

1. Introduction:

Bangladesh Krishi Bank is fully committed to perform significant role at the forefront of the global efforts as well as efforts taken by Bangladesh to fight against trade based money laundering and terrorist financing. The Bank is issuing the guidelines to guide its officials to establish appropriate measures and techniques to combat TBML/TF in the line and directives guidelines for Prevention of trade based money laundering issued by Bangladesh Bank.

2. Objective

The objective of the BKB Policy Guidelines is to set out the principles for the management of risk and compliance associated with Trade Based Money Laundering ("TBML") and Sanctions in Bangladesh Krishi Bank .

The Policy Guideline is designed to ensure that the Bank (Bangladesh Krishi Bank) adheres to:

- All applicable laws and regulations in relation to AML and CTF for the jurisdictions in which it operates; and
- All relevant sanctions regimes in all jurisdictions in which it operates. These include UN, OFAC, EU, HMT, Bangladesh Government list, any other applicable sanctions as appropriate, as well as instructed by the competent authority(s),
- This Policy must be reviewed annually, updated incorporating the required changes if required.

3. Scope, Area and Applicability of the Policy Guidelines

- The Policy Guidelines are meant for mitigation of money laundering, terrorist financing and proliferation financing of weapons of mass destruction risks.
- Though recommendations of the Guidelines are mainly on the trade related activities of the Banks with its customers and relevant third parties, trade based money laundering risks of the bank-to-bank relationships shall also be taken adequate care of.
- This Guideline applies to all employees including contractual employees in all AD Branches, Regional Offices, Divisional offices, Related Departments of Head Office of Bangladesh Krishi Bank.

TABLE OF CONTENT

CHAPTER 1: TRADE BASED MONEY LAUNDERING IN BANGLADESHI CONTEXT		
sl	PARTICULARS	PAGE
1.1	Background	1
1.2.	Trade Products	1
1.3	Trade and Money Laundering	3
1.4	Three Methods of TBML	4
1.5.	Methods and Scope of TBML in Bangladesh	4
1.6	The Regulatory Framework Governing Foreign Trade	4
1.7	Import Procedure and Some Avenues for TBML	6
1.8.	Export Procedure and some avenues for TBML	8
1.9	Remittance of Royalty, Technical Assistance Fees etc	9
1.10	Vulnerabilities	9
1.11	Some conventional avenues for TBML through OBUs, EPZs, EZs, and PEZs	10
1.12	Key Challenges and Difficulties in Preventing Trade Based Money Laundering	10
1.13	Challenges ahead	12
1.14.	Trade Based Money Laundering-Challenges	13
CHAPTER 2: FOREIGN TRADE PRACTICE IN BKB		
sl	PARTICULARS	PAGE
2.1.	Trade Operational Structure of BKB	14
2.2.	Products & Services offered by the Bank related to Foreign Trade	14
2.3.	Scope/ Definition of Customer	14
2.4.	Parties Involved and their role in Trade	14
2.5.	Major Parties and their Role in Import	15
2.6.	The process flow in a documentary credit	15
2.7.	Major Parties and their Role in Export	16
2.8	The process flow in a documentary collection	16
2.9	Instructing Parties	16
2.10	Counter Parties	17
2.11	Related Parties to Trade	18
2.12	Trade of Services	18
CHAPTER 3: NATIONAL AND INTERNATIONAL INITIATIVES TO PREVENT TBML		
sl	PARTICULARS	PAGE
3.1	National Law	19
3.2	As per Section 2 (v) of Money Laundering Prevention Act, 2012 of Bangladesh, Money Laundering is definition	20
3.3	The Predicate Offences	20
3.4	Responsibilities of the Reporting Organizations under the MLP Act, 2012	21
3.5	Penalties for Non-Compliance with the Responsibilities of Reporting Organizations	22
3.6	Penalties for Non-Compliance with the Directives of Bangladesh Bank	22
3.7	International initiatives	23
3.7.1	The Financial Action Task Force (FATF): In response to mounting	24
3.7.2	Wolfsburg:	25
3.7.3	APG Typology Report on Trade Based money Laundering-2012	25
3.7.4	Guidance Paper on Combating Trade-based Money Laundering -2016: The Hong Kong Association Of Banks	25

CHAPTER 4: RISK BASED APPROACH AND TRADE BASED MONEY LAUNDERING CONTROLS		
sl	PARTICULARS	PAGE
4.1	Introduction	26
4.2	TBML Risk Assessment & Mitigation Mechanism	26
4.3	Infrastructure Level Risk Assessment	27
4.4	Customer Level TBML Assessment and Mitigation Mechanism	28
4.5	Customer Level Risk Assessment	29
4.6	Trade Related CDD Requirements	32
CHAPTER 5- TBML Risk Management framework – 3 Level Approach		
sl	PARTICULARS	PAGE
5.1	Introduction	34
5.2	Level -1	34
5.2.1	Defining Level -1	34
5.2.1.1	Roles and Responsibilities at Level -1	34
5.2.1.2	Level 1 Review, Disposition and Escalation Guidance	34
5.3	Level 2	36
5.3.1	Defining Level 2	36
5.3.1.2	Roles and Responsibilities at Level 2	36
5.3.1.3	Level 2 Review, Disposition and Escalation Guidance	36
5.4	Level 3	38
5.4.1	Defining Level 3	38
5.4.1.2	Roles and Responsibilities at Level 3	38
5.4.1.3	Level 3 Review and Disposition Guidance	38
CHAPTER 6: Integrated TBML controls with existing AML/CTF program, Economic Sanction and Capacity building		
sl	PARTICULARS	PAGE
6.1	Integrated TBML controls with existing AML/CTF program	40
	a. KYC Profile and TBML	40
	b. Roles and responsibilities	41
6.2	Some of the Trade Controls the Bank will consider are	41
6.3	Sanction Screening System	42
6.4	The Bank shall at a minimum designated officials to handle	43
6.4.1	The key factors the Bank will consider regarding Sanction Screening	44
6.5	Capacity Building	44
6.5.1	Training on Trade Based Money Laundering	44
6.6	Suspicious Transaction/Activity Reporting	45
6.7	Price Verification	45
APPENDIX		
PARTICULARS		PAGE
APPENDIX A: TBML Red Flag		47
APPENDIX B: TBML Alerts		51
APPENDIX C: Productwise TBML alerts, Some relevant lists and examples		71
APPENDIX D: Some Instances of Abuse Of Trade in Bangladesh Context		77
Sample Trade Transaction Profile (TTP)		83
Basel AML Index-2021		

CHAPTER 1:

TRADE BASED MONEY LAUNDERING IN BANGLADESHI PERSPECTIVE

1.1 Background

Trade-based money laundering (TBML) involves the exploitation of the international trade system for the purpose of transferring value and obscuring the true origins of illicit wealth. TBML schemes vary in complexity but typically involve misrepresentation of the price, quantity, or quality of imports or exports. Financial institutions may wittingly or unwittingly be implicated in TBML schemes when such institutions are used to settle, facilitate, or finance international trade transactions (e.g., through the processing of wire transfers, provision of trade finance, and issuance of letters of credit and guarantees). TBML activity is considered to be growing in both volume and global reach. Although TBML is widely recognized as one of the most common manifestations of international money laundering, TBML appears to be less understood among academics and policymakers than traditional forms of money laundering through the international banking system and bulk cash smuggling.

What is Trade

- Engine of growth
- Ensures optimal use of resources
- Countries need to have a 'free and fair' trade regime.
- Dilemma faced by policy makers:

“The requirement to balance the needs of a free, fair and predictable trade regime with the needs for regulation of trade so as to prevent its abuse.”

1.2 Trade Products

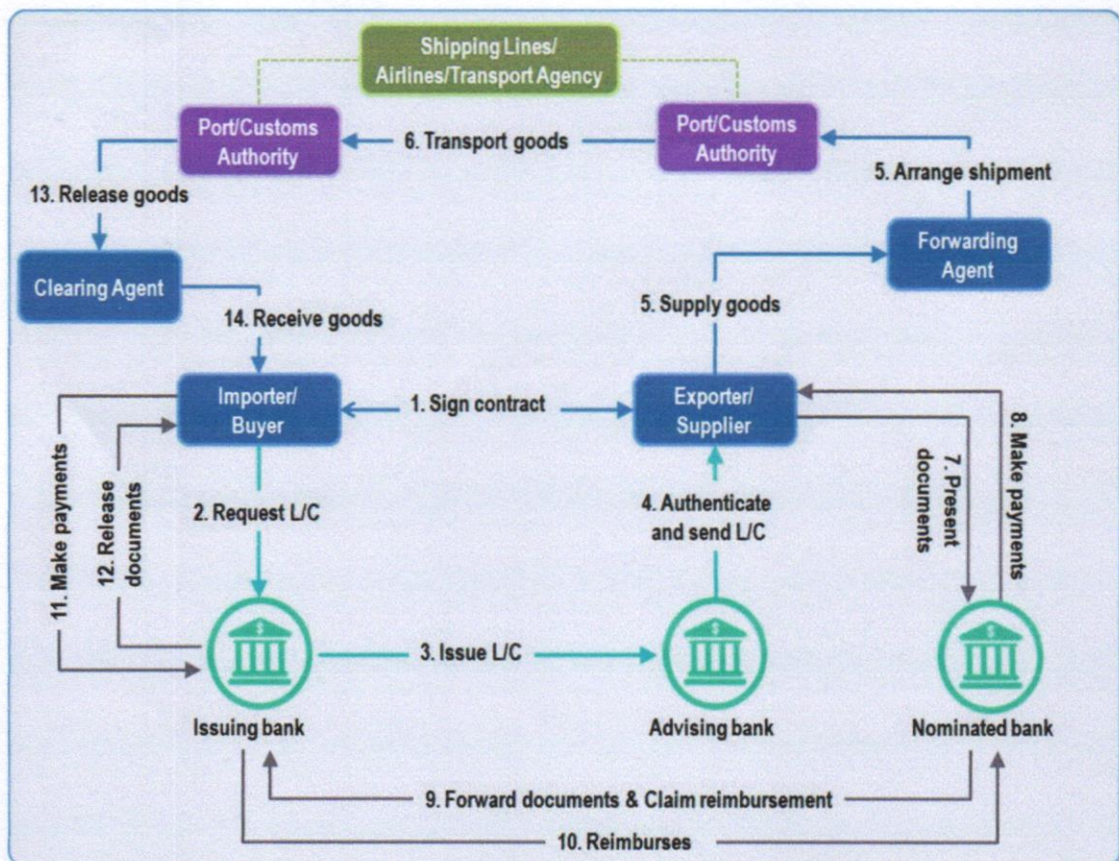
While there is no exhaustive list of trade-related products and services, some indicative examples of products or services that typically fall within the scope of “trade finance” services offered by banks, include:

- Bank guarantees
- Documentary collections
- Financing under open account transactions
- Forfeiting and risk participation
- Letters of credit (“L/C”)
- Financing for transactions under L/Cs

- Packing credits
- Pre-shipment credits
- Structured trade financing
- Trust receipts
- Warehouse financing
- Import/export loans
- Import/export invoice
- Discounting, forfeiting (If Applicable)

The process flow in a documentary credit

Among the trade payment methods mostly followed in Bangladesh are documentary credit and documentary collection. In a documentary credit process, the issuing banks have primary obligations in the transaction. The process flow is as under:



1.3 Trade and Money Laundering-

“Trade is the weakest link in the fight against dirty money”

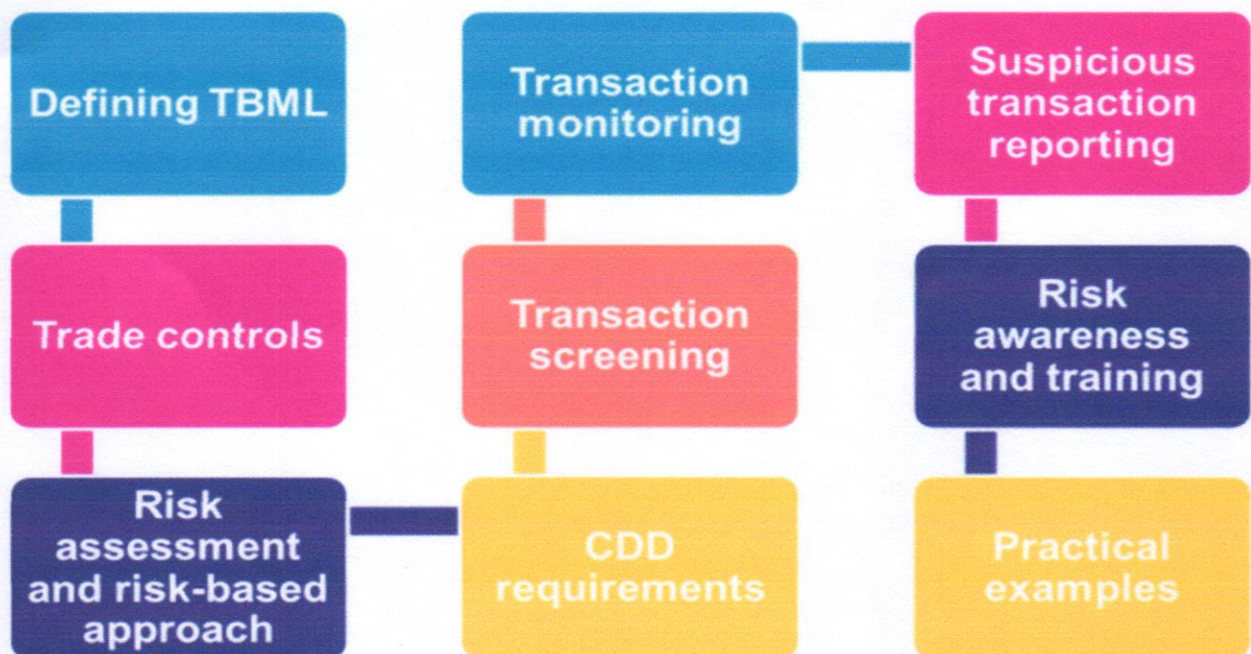
Trade Based Money Laundering—Conceptual Framework

- The process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origins.
- The crime involves a number of schemes in order to complicate the documentation of legitimate trade transactions.
- Trade includes Domestic as well as International Trade.
- “The use of trade to move value with the intent of obscuring the true origins of funds”.

TBML – a lucid product to launder money

TBML is the most commonly used technique for generating and transferring dirty money—money that breaks laws in its origin, movement and use. This is partly due to the fact that TBML can take many forms and the boundaries between TBML and money laundering using the financial system are often blurred. Absence and dissimilarities of law to combat TBML from country to country has widened the breathing space for the illicit movement of fund. The complex transaction patterns, lack of information, integration among organizations, awareness and inadequate expert hand have made a lucid avenue of TBML.

Trade Based Money Laundering Summary



1.4 Three Methods of TBML

The methods of TBML are evolving day by day, country to country, business to business. But, the most common TBML methods are:

- Falsify the price of goods: Invoice Manipulation
- Falsify the quantity of goods shipped: Over, short, and phantom shipment of goods
- Falsify the quality or type of goods or services: Falsely described goods and services

1.5 Methods and Scope of TBML in Bangladesh

Miscreants use trade finance to obscure the illegal movement of funds through misrepresentation of price, quality and/or quantity of goods and services. And to do this, in most cases, there might be collusion between the seller and the buyer. The collusion may well arise as both parties could be controlled by the same person/entity. The transfer of value in this way may be executed in a number of ways such as Over Invoicing, Under Invoicing, Multiple Invoicing, Short shipment, Over Shipment, Phantom Shipment, and Complicated Payment Structure, discount, price changes, freight charges or without making any payment at all etc. Bangladesh is not an exception in this regard. The three stages of TBML as observed are:

- a. Placement: Dirty money becomes goods.
- b. Layering: Trade goods move across borders.
- c. Integration: Resale of goods.

1.6 The Regulatory Framework Governing Foreign Trade

Over the years Bangladesh government has taken some significant initiatives to prevent TBML. Such as the Money Laundering Prevention Act, 2012 has been enacted, separate national intelligence body has been formed and many more.

Money Laundering Prevention Act, 2012: As per section 2 (v) (ii) of Money Laundering Prevention Act, 2012 smuggling of money or property is money laundering while section 2 (a) of the Act defines "smuggling of money or property" as-

- a) Transfer or holding money or property outside the country in breach of the existing laws in the country; or
- b) Refrain from repatriating money or property from abroad in which Bangladesh has an interest and was due to be repatriated; or
- c) Not bringing into the country the actual dues from a foreign country, or paying to foreign country in excess of the actual dues.

The law of the land, therefore, prohibits smuggling of money or property in the strictest term and provides stringent punishment for the offence.

A number of Acts, regulations and instructions from competent authorities form the regulatory framework of trade services in Bangladesh. The Foreign Exchange Regulation Act, 1947 lays the foundation of regulatory framework by which the Bangladesh trade is mostly governed. The Import and Export Control Act, 1950 controls the import and export of goods to and from Bangladesh, while the Customs Act, 1969 defines the operational customs procedures of import and export in Bangladesh. The Bangladesh Bank Order, 1972 empowers Bangladesh Bank (BB) as the Central Bank of the country to formulate and implement intervention policies in the foreign exchange market and to hold and manage the official foreign reserves of Bangladesh. The Importers, Exporters and Indentors (Registration) Order, 1981 empowers the Chief Controller of Import and Export (CCI&E) to issue license as Import Registration Certificate (IRC), Export Registration Certificate (ERC), Import Permit (IP) and Export Permit (EP) to importer and exporter of Bangladesh to perform trade. The Government of Bangladesh formulates import and export policy for the country namely the Import Policy Order (IPO) and the Export Policy for a three year period. BEPZA, BEZA, EZ and PEZ regulations regulate the import and export of Special Economic Zones. Various Ministries, Departments and Divisions of Govt. import against permission of these authorities. Apart from these, BB issues instructions under FERA in the form of FE circulars and FE circular letters from time to time to regulate foreign exchange market of the country. Guidelines for Foreign Exchange Transactions (GFET) summarizes all the instructions issued for authorized dealers (ADs) and money changers. These local regulations primarily construct the regulatory framework of Bangladesh.

Since trade involves extra-territorial parties, some international rules, regulations and practices are also part of the broader regulatory framework. Notable of them are regulations designed by the General Agreement on Tariffs and Trade (GATT), Uniform Customs and Practice for Documentary Credits (UCPDC-600), Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits (URR- 725), Uniform Rules for Collections (URC-522), International Standard Banking Practices (ISBP-745), International Standby Practices (ISP-98), Uniform Rules for Demand Guarantees (URDG-758), and Inco terms 2020. It is to be noted that the local regulations generally prevail over the international ones.

The Guidelines for Foreign Exchange Transactions (GFET) and Import Policy Order have made specific mandatory requirement for ensuring pricing competitiveness prior to any international trade transactions:

Import Policy Order 2015-2018: Chapter 2 “General Provisions for Import”, Section 5(4) “Import at competitive rate”:

- a) Import shall be made at the most competitive rate and it is obligatory for the importers, at any time, to submit documents to Import Control Authority regarding the price paid or to be paid by them;
- b) or indentors representing at least two source countries: Provided that this condition shall not apply for opening LC up to Tk. one lac; and

c) for import at the most competitive rate by the public sector importers, quotations have to be invited before opening letter of credit, and goods shall be imported at the most competitive price.

Guidelines for Foreign Exchange Transactions (GFET), 2018: volume-1 Chapter 7, Para 20: "Verification of import price etc.":

"Before opening of LC or issuing LCAF, the AD shall have to take usual and reasonable cautionary measures to ensure that both the exporter and importer are bonafide business person of the goods concerned, the exporting country is the usual exporter of the goods concerned and the price of the goods concerned is competitive in terms of prevailing price in the international market on the date of contract and/or similar

imports in contemporary period. ADs are advised to verify the above, if needed, with the help of concerned Bangladesh Mission abroad.

" Chapter 8, Para 7 "Certification of EXP forms by ADs":

In order to avoid any loss of foreign exchange to the country, ADs shall not certify any EXP form unless they have satisfied themselves with regard to the followings:

(iv) Bonafides of the buyers/consignees abroad and their credentials etc. where necessary, ADs should make discreet enquiries in this regard through their correspondents abroad etc., greater care should be taken particularly in cases of shipments against contract alone and shipments on CAD/DA basis. Where ADs doubt the bonafides and standing of the buyers/consignees abroad or where owing to common interest or otherwise they suspect collusion with the intent of delaying or avoiding repatriation of export proceeds ADs should report such cases promptly to Bangladesh Bank. Similarly, ADs should report to Bangladesh Bank cases where it comes to their knowledge that the exporters are directly or indirectly connected with or have any financial or other interest in the buyer/consignee abroad. Where felt necessary, discreet enquiry about the bonafides and credentials of the charter party should also be made in case the shipment is to be against a charter party Bill of Lading so as to avoid loss of cargo/foreign exchange.

These are only few examples of regulatory instructions. In fact, there are many other regulatory instructions relevant to combating TBML.

1.7 Import Procedure and Some Avenues for TBML

a. Import procedure in Bangladesh generally begins by obtaining an Importer Registration Certificate (IRC) from the Office of the Chief Controller of Import and Export (CCI&E) under the Importers, Exporters and Indentors (registration) Order, 1981. According to this Order, an importer can get one IRC for commercial and one for industrial import. Importers may take the opportunity to have more than one IRC to use one in TBML as throughout the import procedure and reporting of the transactions importers are identified through IRCs not through their names. Moreover, family members of a trader having same business address may obtain IRCs and abuse them to commit TBML.

b. Letter of Credit Authorization Form (LCAF) is mandatory for importer as it is the declaration of amount, value, HS code and the description of the goods as per Customs First Schedule and terms of import. After declaration of LCAF, importers are allowed to open/issue LC/Contract by the ADs. On the basis of the LC/Contract declaring on IMP by the importers ADs can sale/make payment of LC/Contract documents. Though importers are strictly prohibited from making payment in excess of LCAF value, sometimes abusing FC/ERQ accounts or other means, they pay more than the value of the LCAF or of expired value and thus facilitate TBML.

c. Major portion of imported goods are imported on CFR basis in Bangladesh where freight charges are invoiced to the importer. In some cases it has been found that freight charges reached several times of the FOB value. In fact, freight and other charges can also be a medium of TBML.

d. Value of goods to be imported can be medium of TBML as value can be quoted less than the actual price (Under invoicing) of the goods with a deliberate intention to evade import duties and taxes. Generally most of the amount of under invoiced import is paid through hundi or hawala. Evasion of taxes and duties i.e. custom related offenses is the predicate offence of ML in Bangladesh according to MLPA, 2012. On the other hand, capital machinery and raw materials (of which import duties are lower) can be imported quoting more than the actual price (Over invoicing) of goods as a medium of TBML.

e. Banks are responsible to make payment against the import documents if found in order and no discrepancy arises. Yet, documents can be received directly by the importer and the goods can be released from the customs. In that case, banks may make payment based on the customs certified bill of entry (BE) submitted by the importer. This practice takes place while releasing goods with copy documents. TBML can occur in these situations as there are opportunities to fabricate the import documents and related BE by the malafide importer.

f. Banks are permitted to make advance payment against import without prior approval of BB based on a repayment guarantee from a bank abroad. This guarantee is not needed for remittance upto USD 5,000 (and USD 25,000 from ERQ accounts). Moreover, fabricated/fake/false bank guarantee can create a scope of TBML through payment of advance remittance against import.

g. After making payment against the goods to be imported, importers are liable either to import the goods or to bring back the amount remitted in proper banking channel (Article 4(3), FERA, 1947). BB marks out the duration of the process 4 months after the date of making payment. Failure to transport the goods within the prescribed duration makes the related Bill of Entry (BE) overdue and no importer can get any import facility (opening LC/making advance payment, or enhancement of existing LC/Contract value) from any bank in Bangladesh having overdue BE against any of its previous import without the prior approval of BB. Importers may take the opportunity to surrender the IRC (intended to avoid the import liability and also to be involved in TBML) against which BE is being overdue and get another IRC for a fresh start.

h. The incidence of loss or damage of the goods-in-transit or before release as well as cancellation of shipment may be used as a medium of TBML. Compensation against the damaged goods or return of the remittance against cancelled shipment can be received from sources/third parties directly not related to the exporter of the goods

i. The ADs are allowed to open back-to-back (BTB) import LCs against export LCs operating under the bonded warehouse system, subject to observance of domestic value addition requirement. Misuse of the bonded warehouse facility (intended to evade tax) by selling the imported goods to the local market can also be an example of TBML in import. Again, BTB LCs opened against arranged/fake master LCs can also be used in TBML where no export occurs showing some 'valid' reasons though raw materials imported duly against the BTB LCs.

j. ADs are allowed to open deferred (Under Chapter 7, Para 33(a) of GFET, 2018), or usance basis L/C. As there are instances and vulnerabilities of abuse of suppliers' and buyer's credit, utmost care should be given to those payments where payments are settled through buyers' credit or suppliers' credit.

k. Exporters are allowed to export on CMT (Cutting, Making and Trimming) basis as well as to import the raw materials on Free of Cost (FOC) basis. Since this FOC import does not require any bank endorsement and there is no matching of bill of entry with the value, customers can manipulate the FOC items.

l. Import of non-physical goods (software and others) can be a medium of TBML as keeping track of import process of such non-physical goods is difficult for any reporting/regulatory agency.

m. Import Policy Order allows actual users to import up to a certain limit (USD 7,000.00 per year) for their personal consumption. As AD banks have no control to monitor this limit through any system individuals might import through different ADs exceeding the limit and sell them commercially to the market illegally.

Consumers can purchase goods online by making payment through international credit or debit cards or unused portion of Travel Quota and later receive goods through courier. Criminal proceeds might be transferred through this online payment.

1.8 Export Procedure and some avenues for TBML

- Export procedure in Bangladesh generally starts with obtaining Exporter registration Certificate (ERC) from the CCI&E under the Importers, Exporters and Indentors (registration) Order, 1981. According to the order, an exporter can get only one ERC for export. Exporters may take the opportunity to have more than one ERC to use one in TBML, as throughout the export procedure and reporting of the transactions, exporters are identified through ERCs not through their names.
- Value of goods to be exported can be a medium of TBML as value can be quoted less than the actual price (under invoicing) of the goods intended to siphon money abroad.
- After shipment of the goods for export, exporters are liable to repatriate export proceeds in full (Section 12 of FERA, 1947). BB marks out the duration of the repatriation of export proceeds within 4 months after the date of shipment. Failure to receive the full export proceeds within the prescribed duration makes the related Export Bill overdue. Exporter can be out of track having huge amount of overdue export bills intended to commit money laundering through export.
- Commission, brokerage fee or other trade charges to be paid to foreign importers/agents (of which up to 5% ADs can allow) may also sometimes be abused for TBML.
- Payments in Foreign Exchange may be made through international cards (debit/credit/prepaid etc.) which are categorically mentioned in Chapter 19 of GFET, 2018. ADs should meticulously monitor the issuance and end-use of those cards.
- Partial drawing of export bill/Advance Receipt against export can be abused for TBML. It is the responsibility of the ADs to follow up each such case and to ensure that the balance amount is also realized within the prescribed period.

- Shutting out of a shipment by a particular vessel and re-shipment in another vessel should be checked. This is because there are opportunities of TBML as transshipment through one or more jurisdictions for no apparent economic reason is suspicious.
- The incidence of loss or damage of the exported goods in-transit or before release as well as cancellation of shipment (for which payment has not already been received) may be used as a medium of TBML. Compensation against then damaged goods can be received from other sources/third parties directly not related to the importer of the goods.
- Export of non-physical goods (software and others) can be a medium of TBML as keeping track of the export process of the non-physical goods is difficult for any reporting/regulatory agency.
- Buying House Arrangement/Buyer Nominated Supplier Arrangement can be a medium of TBML. Shipment of goods can illicitly be delayed by the buying houses through 'arranged game' for getting discount on the exported value. Again, buyer nominated supplier can quote higher price for the raw materials and thus money laundering can take place.
- Transaction in large volume through other than banking channel such as exchange house etc. is vulnerable to TBML. In the name of export proceeds wage earners' remittance may be brought into Bangladesh to claim cash incentives.
- Inward remittance may be brought from the countries where Bangladeshis have direct/indirect business and cash incentive may be claimed.
- The facility that ADs are allowed to discount the usance bill (para 25, chapter 8).Care shall be taken while discounting or purchasing foreign documentary export bills.

1. 9 Remittance of Royalty, Technical Assistance Fees etc.

Under Section 18 of Bangladesh Investment Development Authority Act, 2016, approved industrial enterprises shall have to take approval from Bangladesh Investment Development Authority (BIDA) and other competent authorities for payment of royalty, technical know-how, operational service fees, management fees, technical assistance and franchise fees.

Trade Based Money Laundering -Examples Cont'd

Import / Export	Method	Qualifications	Shifting of Value
Import	Over Invoicing	Expensive Imports	In Money Abroad
	Under Invoicing	Lucrative Imports	In Goods to the Homeland
Export	Over Invoicing	Lucrative Exports	In Goods to the Homeland
	Under Invoicing	Cheap Exports	In Goods Abroad

1.10 Vulnerabilities:

While making remittance of royalty and other technical fees, the bank will conduct due diligence under the following conditions but not limited to:

- a) Ambiguous agreement/contract between local company and technical service provider;
- b) Auditor's certificates regarding net remittable amount;

- c) Suspicion remains about the genuineness of the papers (copies of the royalty/technical assistance agreements, documentary evidences); and
- d) Lack of adequate due diligence on the underlying trade.

Adequate measures should be taken to combat TBML in this case and instructions contained in para 26, 27 & 28 of chapter 10 of GFET, 2018 should be followed meticulously when such remittances are executed.

1.11 Some conventional avenues for TBML through OBUs, EPZs, EZs and PEZs

Trade finance through OBUs and different mode of international trade practiced in the EPZs, EZs, PEZs may be abused for TBML. Since OBUs can borrow funds from banks and FIs from both home and abroad they are more vulnerable to TBML. It can provide finance facilities against purchase/supply order, corporate guarantee, personal guarantee of the directors of company etc with borrowed fund. However, recovery of the fund may not be possible due to lack of verification of the authenticity of the documents, willful default of the borrowers and poor or biased customer risk assessment. In such cases it is assumed that Bangladeshi nationals can also siphon money if they have beneficial ownership or control on the company in whose favor the financing facilities are provided.

In case of companies in Special Economic Zones, directors' liabilities are limited by shares. When the company falls into trouble due to taking more exposure through more foreign/local loan or trade gap, they may transfer, sell or even wind up the company keeping the outstanding liabilities in Bangladesh. The situation arises sometimes that the company makes payment for import without entry of the goods, or export is done but the proceeds are not realized. Keeping these liabilities pending owners/directors transfer, sell or wind up the company and leave the country. The Bank shall provide proper information to regulators in time before winding up of these companies. The Bank shall apply enhanced due diligence while providing trade and other services to these companies of Economic Zones.

In Bangladesh context the letter of credit is assumed safe compared to other mode of trade (such as Open Account, Cash in Advance etc.) in TBML perspective. However, it is also undeniable that TBML risk may arise under LC if the LC is between parent and affiliates or if the trade is just an arranged game. Hence, TBML risk mitigation measures shall be stringent, otherwise trade should be facilitated by banks through LC applying adequate due diligence only.

1.12 Key Challenges and Difficulties in Preventing Trade Based Money Laundering

The globalization opens up various particular risks for TBML that would be difficult to detect. Moreover, it is reasonable to assume that as TBML schemes become more sophisticated, the use of services for money laundering will become more common. To monitor billions of transactions, encompassing millions of containers, in a cost-effective and efficient way is the great, gross challenge of TBML/TF enforcement.

Although there would likely be some benefits in extending the AML/CTF regime to trade, the costs and logistics of implementation raise major concerns, particularly as TBML remains an under-researched area with a lack of data.

However, some major challenges in preventing TBML in Bangladesh context as faced by banks and bankers are discussed bellow.

a) Price Verification for Financial Crime Control

According to Import Policy Order, importers are obligated to import goods at competitive prices. Banks are advised in the GFET, 2018 to take usual and reasonable cautionary measures to ensure that the price of the goods concerned is competitive in terms of prevailing price in the international market on the date of contract and/or similar imports in contemporary period.

They are also advised to verify the above, if needed, with the help of concerned Bangladesh Mission abroad. Due to lack of relevant business information, such as the terms of business relationship, volume discounting or specific quality, or feature, specifications of goods involved bankers have to be cautious in making meaningful determinations about the appropriateness of the unit price. Moreover, many products are not traded in public markets and their market prices are also not publicly available. Even where goods are publicly traded, the current prices may not reflect the agreed price used in any contract of sale or purchase and these details will not usually be available to the banks involved due to competitive sensitivity of such information.

b) Transfer Pricing

Transfer pricing is a related party transaction commonly used by transnational corporation as part of their financial and tax planning strategy. Multinational organizations use transfer pricing to shift taxable income from jurisdictions with relatively high tax rates to jurisdictions with relatively low tax rates to minimize income tax. Similar strategies are also employed in relation to import duties and value added tax. TBML can occur when international trade is abused for transfer pricing. This poses a significant challenge which needs to be overcome.

c) Limited Skilled Manpower

Performing the foreign exchange activities involves proper communication with the client, various banks of the country as well as abroad. A single error may cost thousands of dollars. In Bangladesh there are limited skilled manpower who are able to understand and handle the foreign exchange dealings very well. As such, skill development through proper training is a must to address TBML risk.

d) Extreme Competition

Unhealthy competition is driving bankers to constantly hunt for aggressive business and profit target. Thus working under pressure of such target combined with the fear of losing customers and presence of other competitor banks officials sometimes ignore minor trade related due diligence which makes the bank a victim to TBML. Unhealthy competition poses a challenge to combating TBML.

e) Absence of Co-ordination

Absence of coordination is also one of the major challenges in combating TBML. A coordinated Risk Management Unit/Division in combination of all concerned agencies may be framed to ensure co-ordination & concerted efforts. Besides, National Board of Revenue (specially the Valuations and Audit unit)/, Customs and Bangladesh Banks may also work to assess the value of the imported or exported goods/ commodities/ services. Arrangements may be in place so that customs authority and banks may be aware through mutual information sharing mechanism when there is abnormal increase in the number and value of LC of a particular company/firm etc., risky import of goods such as Reconditioned Capital Machinery, Software, Chemicals where complexity exists in determining price and description of the products, cases where importer and exporter are related, when import and export goods are inconsistent with the nature of trade of the customer, inconsistency in price exists, when an LC is frequently amended, where beneficiary desires payment in third country or party, when Bill of Lading does not mention container

number, does not bear invoice number, where miscellaneous charges such as freight, lading charge etc are abnormal etc.

f) Absence of Management Information Systems (MIS) and a Central Data Base

Lack of MIS and a central data base is also a hindrance to prevent under invoicing and over-invoicing by those engaged in trade operations.

g) Duty/Tax structure

At times, bankers sometimes disagree with the quoted price in the Proforma Invoice (PI), because they fail to match the given price which is sometimes far away from the actual price of the commodity in the international market. In some items of imports importers may quote higher price in line with customs' rate of duty even though the price may be less than the price mentioned in NBR's minimum price list. Though there is no scope of tax/VAT evasion against such imports, it may be abused for TBML.

The Challenges and difficulties faced by the sector and the specific trend of trade based money laundering in Bangladesh indicates the challenging task any bank have to accomplish to protect themselves from this financial crime.

1.13 Challenges ahead

The most significant challenge is that TBML, like other types of money laundering, will continue to develop and new typologies will undoubtedly emerge. In a statement as apt today as when it was made, FATF observed that:

"There are likely to be illicit financing methods being used that have not been detected by financial institutions or law enforcement, and so will not show up in the data gathered from criminal investigations or financial institution currency or transaction reporting. And there may be other illicit financing options that even the criminals have not yet discovered. In the absence of data or case studies identifying these methods, financial institutions and competent authorities must rely on creative intuition and a careful analysis of potential systemic weaknesses."

This statement highlights several important points which are borne out by this research. First, the evolving, and often ingenious, nature of money laundering highlights the need to anticipate new developments and trends. Second, it emphasizes the importance of information and analysis in informing and shaping an effective AML/CTF strategy.

These points indicate that to be most effective, ongoing monitoring and assessment of TBML will be necessary to address potential new developments, such as the move from money laundering using international merchandise trade to services and from international trade to domestic trade. New trading forums such as virtual trading will also need to be considered. The trading in online gaming and social network environments, such as virtual currency (bitcoin etc.) can be used for money laundering purposes. At present there is little known about these areas but they may be likely areas for the next evolution of TBML.

1.14 Trade Based Money Laundering-Challenges-

- TBML involves transferring of goods as a substitute to money and occurs outside the Bank.

- Banks must leverage all the information available to them to determine whether their customers' transactions are consistent with their businesses.
- Trade finance brings its own unique challenges and whether the documents are reviewed manually, or the information regarding the trade is input into a system and alerts are thrown out properly.
- There is a difficulty in detecting complex relationships between trading operations, operators, and money movements. Three key barriers make it tough to detect trade based money laundering:
 - The tremendous **volume** of trade makes it easy to hide individual transactions;
 - The **complexity** that is often involved in multiple foreign exchange transactions; and
 - The limited **resources** available to agencies wanting to detect the fraud.

CHAPTER 2

Foreign Trade practice in BKB

2.1 Trade Operational Structure of BKB

The trade operation of BKB is conducted centrally. There are one central establishments to operate the trade . BKB has no offshore banking. Trade transactions of 16 AD Branches along with related non-AD Branches . The KYC and CDD of the trade customers are done at the Branch level.

2.2 Products & Services offered by Bangladesh Krishi Bank related to Foreign Trade

Bangladesh Krishi Bank deals with various products and services related with to Foreign Trade. Though exhaustive list of trade related products and services are not practicable, some indicative examples of products or and services that fall within the scope of the Guidelines are:

- a) All types of Commercial Letters of Credits
- b) All types of Bank Guarantees
- c) All types of Standby LCs
- d) All types of Bills for Collections
- e) Open Account Transactions
- f) Cash in Advance
- g) All kinds of trade finance and payments
- h) Import and export of services and software
- i) Trade finance products (such as factoring, forfeiting, etc.) which do not exist or are not allowed in Bangladesh. Before such products are allowed by the Bank, ML & TF risks of these products shall be assessed and consulted with BFIU.

2.3 Scope/Definition of Customer

Any person or entity maintaining an account or a business relationship of any type, the beneficial owner of the account or business relationship, the person or entity involved in a financial transaction that may pose reputational or other risk to the Bank is a customer. In any single transaction through the banking channel, there must be at least two parties involved. Depending on the nature of transaction, there may be engagement of three or more parties in a single transaction.

2.4 Parties Involved and Their Role in Trade

Many parties actively participate in international trade in various points and they differ from one country to another based on the local regulatory requirements involved in the process. Even the parties involved in import are slightly different from those in export.

The major players in import and export business are as follows:

2.5 Major Parties and their Role in Import

The importer is the primary player in the import market and other participants have their respective roles. Roles are as under:

- a. Buyer and seller furnishes sale/purchase contract.
- b. Exporter supplies the goods/services as per the terms agreed in the LC/Contract.
- c. Shipping Lines/Airlines/Transport Agency transports the goods from exporter's end to the importer's end.
- d. Port Authority is the custodian of the goods till those are released properly.
- e. Customs Authority is responsible to assess collect duties-taxes, issue release order for the imported goods and combat trade based money laundering.
- f. Clearing Agent acts as the agent of importer to release the goods from the customs.
- g. Indentor is the agent of exporter.

2.6 The process flow in a documentary credit

Among the trade payment methods mostly followed in Bangladesh are documentary credit and documentary collection. In a documentary credit process, the issuing banks have primary obligations in the transaction. The process flow is as under:

- a. The Buyer (importer) and the seller (exporter) furnish sale/purchase contract.
- b. The applicant (Buyer) requests the issuing bank to open documentary credit on account of the buyer.
- c. The Issuing Bank issues the credit in favor of the beneficiary and transmits through the advising bank (usually).
- d. The advising bank advises the credit to the beneficiary (Seller).
- e. The beneficiary ships the goods, prepares, collects & collates the required documents under the credit and presents to the nominated bank (usually).
- f. The nominated bank forwards documents to the issuing bank/confirming bank. Nominated bank can honor/negotiate documents i.e. make payments and claim re-imbusement if documents are in order as per LC terms.
- g. Issuing bank on receipt of complying presentation and /or obtaining documents effects payment to the beneficiary and/or nominated bank, as the case may be.
- h. The applicant releases documents from the issuing bank.
- i. The applicant clears the goods from the customs through his appointed clearing agent.

2.7 Major Parties and their Role in Export

Though the process of export is literally the reverse to the import, some participants change their roles in the process. However, the exporter is obviously the primary player in the market and the other players in the process support export surrounding the primary player. The roles of the parties are as follows:

- a. Buyer and seller furnishes sale/purchase contract.
- b. LC issuing Bank issues the LC.
- c. LC Advising Bank advises the LC to the exporter/supplier.
- d. Exporter ships the goods to the importer/buyer or named destination.
- e. Forwarding Agent acts as the agent of exporter to arrange shipment of the goods.

- f. Shipping Lines/Airlines/Transport Agency transports the goods from supplier's end to the buyer's end.
- g. Exporter prepares, collects and submits docs to the nominated bank.
- h. Port Authority is the custodian of the goods.
- i. Customs Authority is responsible to assess, collect duties-taxes and allow goods to export from exporting country and permits goods to release.
- j. LC Nominated Bank honors/negotiates/prepays/purchases/discounts the documents.
- k. LC issuing bank makes payment to the nominated/negotiating bank/exporter as per the terms agreed in the LC.

2.8 The process flow in a documentary collection

Under documentary collection, Banks involve in the transaction without incurring its own payment undertaking & the process flow (from exporter perspective) is as under:

- a. The Buyer (importer) and the seller (exporter) furnishes sale/purchase contract.
- b. The exporter ships the goods & submits documents to the remitting bank.
- c. The remitting bank sends documents to the collecting bank.
- d. The collecting bank sends documents to the presenting bank [most of the time collecting and presenting bank are same].
- e. The presenting bank releases documents to the drawee (the importer) as per collection instructions, and
- f. The drawee clears the goods from the customs through his appointed clearing agent.

2.9 Instructing Parties

In a trade finance transaction, banks are not always involved into transactions at the request or instruction from its own customer. In addition to bank's own customer, the instructing party may be, for example, but not limited to:

For	Instructing party	Instructing party Commercial Bank's role as instructed party
Documentary Credit	Issuing Bank	Advising Bank, Nominated Bank, Confirming Bank, Transferring Bank
	Advising Bank	2nd Advising Bank
Documentary Collection	Remitting Bank	Collecting and/or presenting bank [if collecting bank and presenting bank are the same]
	Collecting Bank	Presenting Bank, [if collecting bank and presenting bank are not the same]
Cash In advance	Ordering Customer/institution	Inward remittance receiving bank
Guarantee backedby counter guarantee including standby LC	Counter/guarantor/Issuer /Guarantor	Guarantor,Advisor,Confirmer, Nominated person etc.

2.10 Counter Parties

There must be at least one counter party in a trade finance transaction. Counter party may be for instances but not limited to as under:

For	Counter Parties
Documentary Credit	Issuing Bank, Nominated Bank, Confirming Bank, Advising Bank, 2nd Advising Bank, Beneficiary, and Applicant etc.
Documentary Collection	Principal, Remitting bank, Collecting bank, Presenting bank, Drawee etc.
Cash in Advance	Ordering Institution, Customer, Exporter etc.
Guarantee/Stand by LC	Issuer, Counter guarantor, confirmer, guarantor etc. Counter parties in trade finance transaction can be broadly categorizes in two forms: <ul style="list-style-type: none">• Banks or financial institutions• Any party other than banks or financial institutions

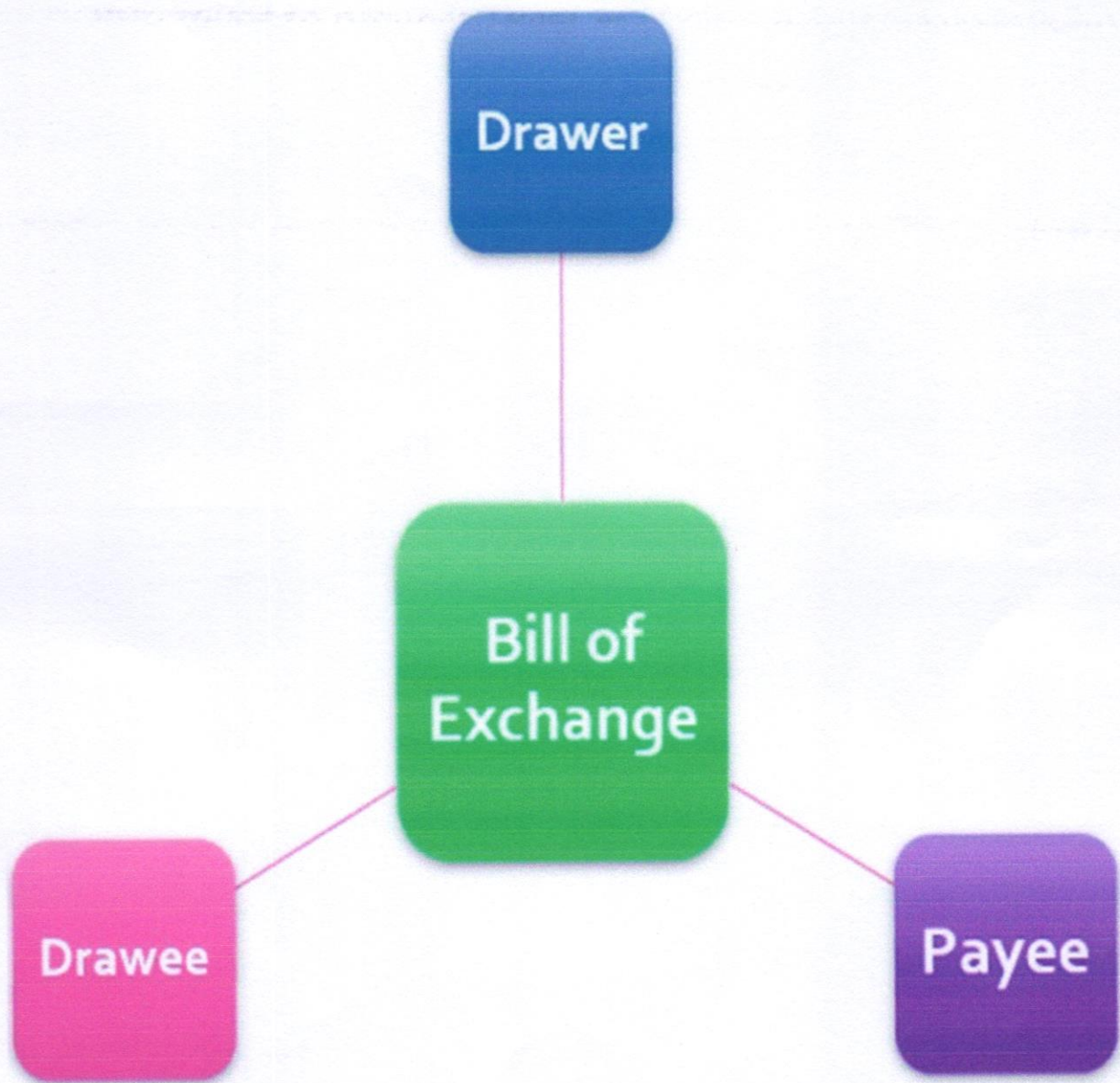
Depending on the risk and vulnerabilities of the instructing and counter parties mentioned above, the Bank shall frame the detailed due diligence measures in line with this guidelines, relevant BFIU circulars, local regulations and international best practices.

2.11 Related Parties to Trade

In order to execute a trade transaction, there are inherently more parties involved other than buyer and seller. For the purpose of this guideline, those parties are called "related parties to trade". "Related parties to trade" include traders, brokers, shipper/consignor, notify parties, shipping lines, freight forwarders etc. Reasonable due diligence measures (i.e. sanction screening/adverse media screening etc.), at least on TBML alerted transactions in a risk based approach, should be conducted on "related party to trade" as well.

2.12 Trade of Services

Lion share of trade is backed by underlying goods, however, trade of service items such as software, data entry, repair/renovation/refilled/overhauling, transporting, carrying, delivering etc. is also on the rise. Service import and export therefore should be dealt with adequate due diligence as scope and vulnerability of service items to TBML is increasing day by day. All the documents and invoices should be verified and checked whether the competitive price of the service has been quoted or not. In software and service trade, certificate issued by BASIS and documents evidencing customs assessment and payment of duties and taxes will not be enough. Genuineness and reliability of the importer and supplier should be ensured so that transactions arising out of such arrangement may not pose ML, TF and PF threats. The Bank will guide trade processing staff on how to ensure them.



CHAPTER 3:

Initiatives to prevent TBML in National and International context

3.1 National Law

Bangladesh, in line with international efforts, has also taken many initiatives to prevent money laundering and terrorist financing, considering their severe adverse effects on the country. But, criminals change their strategy off and on to divert attention of law enforcement agencies. Unless and until society gets affected intensely, it rarely responds. Likewise trade based money laundering drew attention of global bodies not long ago. Only in 2006 the Financial Action Task Force (FATF) recognized trade based money laundering as one of the major methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origins and integrating it back into the formal economy. And in 2008 FATF, in its best practice paper, states "The term trade-based money laundering and terrorist financing (TBML/TF) refers to the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illegal origins or finance their activities". Like many countries Bangladesh is also affected by trade based money laundering and ensuing illicit outflow. Concerns in this area are almost unanimously agreed by all relevant agencies and authorities.

Initially, Bangladesh enacted laws to prevent money laundering in 2002, and to combat financing of terrorism in 2009. Subsequently, these laws were amended to be in line with the international standards and lastly, Money Laundering Prevention Act, 2012 was passed with effect from January 16, 2012 and The Anti Terrorism Act (ATA), 2009 was amended in 2013. Lastly the government has enacted The Money Laundering Prevention Rules – 2019. BFIU, to combat TBML/TF formulated the Guidelines on TBML making some recommendations to guide effective control measures; without modifying any applicable laws, regulations and requirements applicable to all banks operating in Bangladesh. The following Laws, Rules, Regulations and Guidelines are related with to the BKB Policy Guidelines on TBML:

- (a) Money Laundering Prevention Act, 2012;
- (b) Money Laundering Prevention Rules, 2019;
- (c) Anti-Terrorism Act, 2009;
- (d) Anti-Terrorism Rules, 2013;
- (e) Foreign Exchange Regulations Act, 1947;
- (f) Customs Act, 1969;
- (g) The Import and Export Control Act, 1950;
- (h) Importers, Exporters and Indentors (Registration) Order, 1981;
- (i) Value Added Tax Act, 1991;
- (j) Import Policy Order and Export Policy in force;
- (k) Rules, Govt. SROs, Circulars, Circular letters, Guidelines, instructions issued by relevant authorities /regulators.

Some other initiatives as taken by the government are bellow:

- a. Bangladesh Government has formed the National Coordination Committee headed by the Minister of Finance Minister along with other fourteen members.
- b. Bangladesh Government has formed the Working Committee with designated senior level government officials.

3.2 As per Section 2 (v) of Money Laundering Prevention Act, 2012 of Bangladesh, Money Laundering is defination-

As per Section 2 (v) of Money Laundering Prevention Act, 2012 of Bangladesh, Money Laundering is defined as under:

- knowingly moving, converting, or transferring proceeds of crime or property involved in an offence for the following purposes:
 - concealing or disguising the illicit nature, source, location, ownership or control of the proceeds of crime; or
 - assisting any person involved in the commission of the predicate offence to evade the legal consequences of such offence;
- smuggling money or property earned through legal or illegal means to a foreign country;
- knowingly transferring or remitting the proceeds of crime to a foreign country or remitting or bringing them into Bangladesh from a foreign country with the intention of hiding or disguising its illegal source; or
- concluding or attempting to conclude financial transactions in such a manner so as to reporting requirement under this Act may be avoided;
- converting or moving or transferring property with the intention to instigate or assist for committing a predicate offence;
- acquiring, possessing or using any property, knowing that such property is the proceeds of a predicate offence;
- performing such activities so as to the illegal source of the proceeds of crime may be concealed or disguised;
- Participating in, associating with, conspiring, attempting, abetting, instigating or counseling to commit any offences mentioned above.

3.3 The Predicate Offences

- Corruption and bribing
- Counterfeiting Notes and coins .
- Counterfeiting Documents .
- Extortion.
- Cheating .
- Forgery .
- Illegal Arms trade.
- Illegal trade of Narcotics and psychotropic substances (Drugs).
- Illegal trade of stolen and other properties .

- Abduction, Illegal confinement and abduction for ransom .
- Murder, causing grievous injury/ hurt .
- Illegal trafficking of Women and children.
- Smuggling.
- Illegal cross border transfer of local and foreign currency.
- Theft, Robbery, Dacoity, Piracy and Air Piracy .
- Illegal human trafficking.
- Dowry.
- Smuggling and Offence relating to Custom duties evasion.
- Offence relating to Tax.
- Infringement of Intellectual Property Right.
- Terrorism and Terrorist Financing.
- Production of goods by adulteration or violating the patent right.
- Environment Polluting.
- Sexual exploitation.
- Insider trading and Market Manipulation regarding Stock business.
- Organized Crime or participation in organized criminal group.
- Racketeering (Collecting money through intimidation, terrorization or threatening).
- Any other offence as declared in gazette from time to time.

3.4 Responsibilities of the Reporting Organizations under the MLP Act, 2012

i. The Act defines the responsibilities of reporting organizations for the purpose of prevention of money laundering in Sub-Section 25(1) as follows:

- KYC Requirement :To retain correct and full information used to identify their customers [Clause 25(1)(Ka)];
- Record Keeping : To retain transaction records at least for 5 (Five) years after termination of relationships with the customers [Clause 25(1)(Kha)];
- Providing Information on Demand: To provide customer identification and transaction records to Bangladesh Bank on demand from time to time [Clause 25(1) (Ga)]; and
- STR Reporting: To send a Suspicious Transaction Report (STR) to the Bangladesh Bank where they observe any suspicious transaction or attempt for such transaction [Clause 25(1) (Gha)].

ii. **According to section 16 of Anti Terrorism (Amendment) Act, 2009, Bank's responsibilities to combat financing of terrorism are:**

- Every reporting agency shall take necessary measures, with appropriate caution and responsibility, to prevent and identify financial transactions which are connected to any offence under this Act and if any suspicious transaction is identified, the agency shall spontaneously report it to the Bangladesh Bank without any delay.
- The Board of Directors, or in the absence of the Board of Directors, the Chief Executive Officer, by whatever name called, of each reporting organization shall approve and issue directions

regarding the duties of its officers, and shall ascertain whether the directions issued by Bangladesh Bank under section 15, which are applicable to the reporting agency, have been complied with or not.

3.5 Penalties for Non-Compliance with the Responsibilities of Reporting Organizations

The MLP Act also provides penalties in Sub-Section 25(2) for non-compliance with the above responsibilities of the reporting organizations as follows:

i. Cash Penalty:

If any reporting organization fails to comply with its above-mentioned responsibilities defined under Sub-Section 25(1) of the Act, then Bangladesh Bank may impose cash penalty of minimum Tk. 50 (Fifty) thousand up to maximum Tk. 25 (Twenty Five) lacs upon that reporting organization [Clause 25(2)(Ka)]; and

ii. Cancellation of Permission or License:

In addition to the above-mentioned cash penalty, Bangladesh Bank may cancel permission or license of that reporting organization or any of its branch, service center, booth or agent's business, or where appropriate, shall request the register or licensing authority to take proper action against such reporting organization [Clause 25(2) (Kha)].

3.6 Penalties for Non-Compliance with the Directives of Bangladesh Bank

The Act also provides penalties in Sub-Sections 23(3), 23(4), 23(5), 23(6), 23(7) and 23(8) for failure to provide information on demand, for providing erroneous/false information, or for failure to comply with Bangladesh Bank instructions as follows:

i. Failure to Submit Information within Deadline:

If any reporting organization fails to submit within deadline information sought by Bangladesh Bank under Sub-Section 23(1) of the Act, then Bangladesh Bank may impose cash penalty of Tk. 10 (Ten) thousand per day up to maximum Tk.5 (Five) lacs upon that reporting organization [Sub-Section 23(3)]; and if any reporting organization faces cash penalty for more than 3 (Three) times in a financial year, then Bangladesh Bank may withhold registration or license of that reporting organization or any of its branch, service center, booth or agent's business in Bangladesh, or where appropriate, shall request the registrar or licensing authority to take proper action against such reporting organization [Sub-Section 23(3)].

ii. Submitting Erroneous or False Information or Statement:

If any reporting organization submits erroneous or false information or statement on any subject sought by Bangladesh Bank under Sub-Section 23(1) of the Act, then Bangladesh Bank may impose cash penalty of minimum Tk. 20 (Twenty) thousand up to maximum Tk. 5 (Five) lacs upon that reporting organization [Sub-Section 23(4)]; and if any reporting organization faces cash penalty for more than 3 (Three) times in a financial year, then Bangladesh Bank may withhold registration or license of that reporting organization or any of its branch, service center, booth or agent's business in Bangladesh, or where appropriate, shall request the register or licensing authority to take proper action against such reporting organization [Sub-Section 23(4)].

iii. Failure to Comply with any Instruction of Bangladesh Bank:

If any reporting organization fails to comply with any instruction issued by Bangladesh Bank under the Act, then Bangladesh Bank may impose cash penalty of Tk. 10 (Ten) thousand per day up to maximum Tk. 5 (Five) lacs for each noncompliance issue upon that reporting organization [Sub-Section 23(5)]; and if any reporting organization faces cash penalty for more than 3 (Three)

times in a financial year, then Bangladesh Bank may withhold registration or license of that reporting organization or any of its branch, service center, booth or agent's business in Bangladesh, or where appropriate, shall request the registrar or licensing authority to take proper action against such reporting organization [Sub-Section 23(5)].

iv. Failure to Comply with Account Freezing or Suspension Order of Bangladesh Bank:

If any reporting organization fails to comply with the freezing or suspension order on any account issued by Bangladesh Bank under Clause 23(1)(Ga) of the Act, then Bangladesh Bank may impose cash penalty equal to the balance of that account as a minimum, which will not be more than twice of the balance of that account on the order date [Sub-Section 23(6)].

v. Realization of Penalty by Bangladesh Bank:

If any person or entity or reporting organization fails to pay the amount of penalty imposed by Bangladesh Bank under Sections 23 and 25 of the Act, then Bangladesh Bank may realize the same by debiting the account maintained in the name of that person or entity or reporting organization with any bank or financial institution or with Bangladesh Bank. If any portion of the penalty amount still remains unpaid, then Bangladesh Bank may appear before the Court for realizing the same and the Court shall pass order as it deems appropriate [Sub-Section 23(7)].

vi. Additional Penalty for Responsible Owner(s), Director(s), Employee(s) or Contractual(s):

If any penalty is imposed upon any reporting organization under above-mentioned Sub-Sections 23(3), 23(4), 23(5) and 23(6) of the Act, then Bangladesh Bank may impose cash penalty of minimum Tk. 10 (Ten) thousand up to maximum Tk. 5 (Five) lacs upon the responsible Owner(s), Directors(s), Employee(s) or Contractual Employee(s) of that reporting organization, and if necessary, may instruct the reporting organization for necessary disciplinary action against the responsible person [Sub-Section 23(8)].

3.7 International initiatives

Trade Based Money Laundering (TBML) is one such threat ,growing in sophisticated and gaining increasing attention from the parties impacted by it. To combat TBML ,different international and national bodies working to develop an effective mechanism such as-

- International standard setting body Financial Action Task Force (FATF) has started its work for combating TBML since 2006.
- After that The the Asia Pacific region is also continuously working against TBML
- A number of supervisory authority in some countries like the Singapore,Hong Kong and Bangladesh have established Risk based control for Financial Institution for alleviating TBML risk.
- Several Private bodies like The Wolfsberg Group,ICC and BAFT are active to develop sound standard for mitigating TBML risk.

Over the last decade, there have been significant initiatives across the globe to combat TBML. The US Government and the European Union have both developed widespread AML/CTF programs and through transnational agencies, such as FATF, there has been a push to establish coordinated and interconnected AML/CTF strategies, with an emphasis upon compliance with FATF's 40+9 Recommendations (although the level of compliance by individual countries is varied). Although how successful the global AML/CTF response has been is not conclusive, its possible effectiveness in limiting certain avenues of TBML, primarily using financial systems to launder money and finance terrorist activities has been attributed to the apparent rise in TBML.

3.7.1 The Financial Action Task Force (FATF): In response to mounting

International concern about money laundering, the Financial Action Task Force (FATF) on money laundering was established in 1989. The FATF is an inter-governmental body that sets international standards and develops and promotes policies to combat money laundering and terrorist financing. The Financial Action Task Force (FATF) has recognized misuse of the trade system as one of the main methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origins and integrating it into the formal economy.

FATF Guidelines on Trade Based Money Laundering -2006

The international trade system is clearly subject to a wide range of risk and vulnerabilities. As the anti-money laundering (AML) and counter-terrorist financing (CFT) standards that have been applied to other money laundering techniques have become increasingly effective, such abuse of the trade system is expected to become increasingly attractive. However, currently, many customs agencies, law enforcement agencies, financial intelligence units (FIU), tax authorities and banking supervisors (i.e. competent authorities) appear less capable of identifying and combating trade-based money laundering than they are in dealing with other forms of money laundering and terrorist financing.

FATF Best Practices Paper on Trade Based Money Laundering-2008

The Financial Action Task Force (FATF) has recognised misuse of the trade system as one of the main methods by which criminal organisations and terrorist financiers move money for the purpose of disguising its origins and integrating it into the formal economy. As the anti-money laundering (AML) and counter-terrorist financing (CFT) standards that have been applied to other money laundering techniques have become increasingly effective, such abuse of the trade system is expected to become increasingly attractive. However, currently many customs agencies, law enforcement agencies, financial intelligence units (FIU), tax authorities and banking supervisors (i.e. competent authorities) appear less capable of identifying and combating trade-based money laundering than they are in dealing with other forms of money laundering and terrorist financing.

FATF Document on Money Laundering Vulnerabilities in Free Trade Zone-2010

FTZs are designated areas within jurisdictions in which incentives are offered to support the development of exports, foreign direct investment(FDI) and local employment. These incentives include exemptions from duty and taxes, simplified administrative procedures and the duty free importation of raw materials, machinery, parts and equipment. In addition to boosting economic opportunity, these incentives can result in a reduction in finance and trade controls and enforcement, creating opportunities for money laundering and the financing of terrorism. Because the same characteristics that make FTZs attractive to legitimate business also attract abuse by illicit actors, FTZs are a concern that the Financial Action Task forces (FATF) Should address.

3.7.2 Wolfsburg:

The Wolfsberg Group is an association of thirteen global banks which aims to develop frameworks and guidance for the management of FCRs, particularly with respect to Know Your Customer, Anti-

Money Laundering and Counter Terrorist Financing policies. The Wolfsberg Group consists of the following financial institutions: Banco Santander, Bank of America, Bank of Tokyo-Mitsubishi UFJ, Ltd, Barclays, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JPMorgan Chase, Société Générale, Standard Chartered and UBS. The Group recognizes the TBML in global trade has not only increased over the past few years, but that it has shifted away from relying solely on the preventative measures from banks and that this is leading to more cooperation between regulators, law enforcement and banks; either directly or via industry groups.

3.7.3 APG Typology Report on Trade Based money Laundering-2012

The APG's TBML study aims to build on the existing studies, in particular those of the FATF, in order to study the extent of the prevalence of TBML and highlight current methods, techniques and modus operandi for TBML as well as to identify 'red flags' to detect and respond to TBML. In determining the magnitude of TBML, the study considered why so few cases of TBML have been detected since the FAT's 2006 study. The paper has sought to clarify and furnish explanations for terms and processes of 'trade finance' which are comprehensible to money Laundering(ML) investigators.

This paper has focused on TBML occurring in the course of international trade in goods. The study does not include in its scope capital flight, tax evasion, trade in services and domestic trade. The features of the dynamic environment that distinguish TBML from other forms of ML are its occurrence through intermingling of the trade sector with the trade finance sector in cross-border transactions. The foreign exchange market and the long supply chain make international trade particularly vulnerable to TBML. The study included circulation of questionnaire to APG and FATF members seeking statistically significant indicators. The paper sets out a number of case studies to illustrate trends of TBML. Simplified explanations of the terms and processes of trade finance have been attempted through interaction with the private sector. A brief review of the literature on the subject generated by the FATF, FSRBs and other authors has been made.

3.7.4.Guidance Paper on Combating Trade-based Money Laundering -2016: The Hong Kong Association Of Bankes

Guidance Paper on Combating Trade-based Money Laundering -2016 has been developed by The Hong Kong Association Of Bankes(HKAB) with input from Hong Kong Monetary Authority (HKMA) . However, the HKMA considers that the adoption of these practices will assist authorized institutions (AIs) in not only meeting the legal and regulatory obligations under the Anti-Money and the AMLO Guideline, but also in implementing effective measures to further mitigate their money laundering and terrorist financing (ML/TF) risk. AIs should also take appropriate measures to ensure compliance with Hong Kong's sanctions regime, and obligations under Hong Kong law in respect of weapons of mass destruction (WMD) proliferation. In addition to meeting requirements under Hong Kong laws, these practices will also help AIs operating internationally to meet relevant overseas sanctions regimes that are applicable to them.