Evaluation of Money Laundering Regulations in Ghana

MBA Thesis

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Thesis for the Master’s degree in Business Administration
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ABSTRACT

Title: Evaluation of Money Laundering Regulations in Ghana

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Course: Master Thesis in the Business Administration, 15 credit (ECTS)

Background and Problem Discussion: It can also be defined as an activity of converting funds generated by illegal means into legal funds. The Questions to ask include, what challenges do such activities pose on our economy, what measures have the government taken to control money laundering in the country? And did Bank of Ghana (BoG) take adequate measures to curb such activities in the country?

Purpose: The purpose of this thesis is to identify and appraise within the Ghanaian environment the level of regulations in combat of money laundering and terrorism financing, the extent of the regulation and the effectiveness of the regulations or laws.

Method: Research methodology will be based on qualitative data collection and analysis approach which will consider the gathering of information personally by the researcher including interviews based on structured or semi-structures questions to potential respondents

Theory: The theory considered various concepts of money laundering that exist. The chosen concepts identified the various typologies of the money laundering, the negative
effects and the regulations adopted in the fight against money laundering in the light of internationally accepted standards.

**Analysis:** The analysis was modeled around four set of issue as a means of evaluating the money laundering regulations in Ghana. They include extent of nation’s vulnerability to Money Laundering; existing Laws or Regulations; the Conformity of Laws or regulations to international standards and an overview of the new anti-money laundering law.

**Conclusion:** Research and analysis revealed that the nation is susceptible to money laundering though it has existing regulations to combat the menace. The forms of money laundering are many and there seems to be very little public knowledge about money laundering. Financial sector of the economy is expanding and there is a need for a more rigorous means for the combat of laundering as its effect on the sector could be disastrous. The New Anti – Money Laundering law, Anti – Money Laundering Act 2008, Act 749 is timely but it has not been operational, the Financial Intelligence Center is yet to be set up since the enactment of the act in January in 2008; as at the time of writing this conclusion there is a new government in power and this government is yet to constitute a full cabinet of ministers or substantive ministers of state hence it is quite impossible to estimate when the Financial Intelligence Centre; according to France (BoG) during my interview with her, she mentioned that the Center is to be formed under the supervision of Ministry of Finance.

Not withstanding, the yet to be formed Center, there has been some exiting laws or regulations from Bank of Ghana for the financial institutions in combat of money laundering and terrorism financing. 83% respondents agreed that there are existing regulations and Laws but only one respondent representing 17% indicted that those laws can best be cosmetic. The forms of existing regulations identified are as follows: The (KYC) Know Your Client or Know Your Customer Policy; (PEP) Politically Exposed Persons Policy; (CDD) Customer Due Diligence; (EDD) Enhanced Due Diligence and also regulations for banks to adopted a policy of setting threshold for which any cash or
cheque deposit into an account should register to an investigate unit of the bank, such that any amount above the threshold raises an alarm for further investigation and so is any huge withdrawal request. In evaluating the existing regulations, two main assessment points were use as yardstick. They are conformity to international standards and effectiveness of the laws or regulations. Ghana is a member of the Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA) which has formulated some for steps member countries to follow in their design of their internal policies in combat of Money Laundering. These steps are based on the 40 recommendation and the 9 special recommendations. Clearly it is noted that the few regulations or directives from Bank of Ghana conform to the FATF recommendations. For example

- The (KYC) Know Your Customer directive, (CDD) Customer Due Diligence directive and (EDD) Enhanced Due Diligence directive that Bank of Ghana issued to the banks conform with Recommendations 4 to 12 of FATF.
- The (PEP) Politically Exposed Persons directive which enables the banks deal with political figures of other countries is an international co-operation and a need for mutual legal assistance, these two conforms with the FAFT Recommendation 35 and FAFT recommendations 36 to 39 and again of FATF Recommendation 40.
- The policies on threshold level also conforms to FAFT recommendations 17 to 21 as depicted in the literature review.

From the examples given above there are clear indications that the regulations conform to international standards. The effectiveness of the regulation was set to detail or show how wide enough the regulation is in tackling the menace a stake, it should equally involve the institutions that will regulate, implement and enforce the regulations and finally the regulations should be enforced or to be seen a such. However the general picture is that the Laws or Regulations prior to the new Act 749 hasn’t been too effective. The respondents who agreed that there are existing laws or regulations once again agreed there are some lax in the enforcement of the regulations. Roi (SFO) believes that if there is any regulation at all, they can only be said to be just cosmetic.
ACKNOWLEDGMENT

My sincerest gratitude goes to my family, the Tontoh family, particularly to my dear mother Theresa Tontoh, my dear wife Love Afia Tontoh and my daughter Vivien Afia Tontoh, for all the support I received from them during my studies.

To my colleagues at work place, Inspection and Control Services (GH) Limited, I express my gratitude for the peaceful environment I enjoyed during periods of my examinations whiles at work and special one to Elsie Minta who occasionally typed some of my work.

To my six respondents, Frances Sackey, Ernest Bruce-Twum, Samuel Osew-kwatia, Matthew Simons, Stephen K. A. Hammond and Roi Agbleze; I appreciate your time in responds to my thrilling questions.

My heartfelt appreciation goes to my supervisor, Dr. Klaus Solberg Söilen. I thank you for the real time you had for me.

Ultimately I thank the Almighty God, the Prince of Peace, the Alpha and the Omega, for keeping me and for this gift of Knowledge.
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<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ML</td>
<td>Money Laundering</td>
</tr>
<tr>
<td>FATF</td>
<td>Financial Action Task Force</td>
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<tr>
<td>MP</td>
<td>Member of Parliament</td>
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<td>MLR-2007</td>
<td>Money Laundering Regulations – 2007</td>
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<tr>
<td>MSB</td>
<td>Money Services Business</td>
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<td>ICT</td>
<td>Information Communication Technology</td>
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<tr>
<td>BoG</td>
<td>Bank of Ghana</td>
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<tr>
<td>SG-SSB</td>
<td>Société Générale – Social Security Bank</td>
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<td>SFO</td>
<td>Serious Fraud Office</td>
</tr>
<tr>
<td>CAG</td>
<td>Controller and Accountant General</td>
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<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
</tr>
<tr>
<td>UNISCI</td>
<td>Unit on international Security and Cooperation</td>
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<tr>
<td>BOT</td>
<td>Bank of Tanzania</td>
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<tr>
<td>CCA</td>
<td>Capital Cost Allowance</td>
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<td>CRA</td>
<td>Canadian Revenue Agency</td>
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<tr>
<td>OPIS</td>
<td>Offshore Portfolio Investment Strategy</td>
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<td>FLIP</td>
<td>Foreign Leverage Investment Program</td>
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<td>FIU</td>
<td>Financial Intelligence Unit</td>
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<tr>
<td>FIC</td>
<td>Financial Intelligence Centre</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>AML</td>
<td>Anti – Money Laundering</td>
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<tr>
<td>POCA</td>
<td>Proceeds of Crime Act</td>
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<td>SOCA</td>
<td>Serious Organize Crime Agency</td>
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<tr>
<td>NCIS</td>
<td>National Crime Intelligence</td>
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<td>LEA</td>
<td>Law Enforcement Agency</td>
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<td>ARA</td>
<td>Asset Recovery Agency</td>
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<tr>
<td>SAR</td>
<td>Serious Activity Report</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>---------</td>
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<tr>
<td>GIABA</td>
<td>Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa</td>
</tr>
<tr>
<td>NCB</td>
<td>Narcotic Control Board</td>
</tr>
<tr>
<td>KIA</td>
<td>Kotoka International Airport</td>
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<tr>
<td>BIN</td>
<td>Bureau of National Investigation</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<tr>
<td>FDB</td>
<td>Food and Drugs Board</td>
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<tr>
<td>KYC</td>
<td>Know Your Customer</td>
</tr>
<tr>
<td>CDD</td>
<td>Customer Due Diligence</td>
</tr>
<tr>
<td>EDD</td>
<td>Enhance Due Diligence</td>
</tr>
<tr>
<td>PEP</td>
<td>Politically Exposed Person</td>
</tr>
<tr>
<td>PRAAD</td>
<td>Public Records and Archives Administration Department</td>
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<tr>
<td>ELEA</td>
<td>European Law Enforcement Agencies</td>
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<tr>
<td>ALEA</td>
<td>African Law Enforcement Agencies</td>
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<td>ECOWAS</td>
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3.11 Given the various regulations and sanctions; please mention if much has been achieved in the fight against money laundering in Ghana. 

3.12 State any reason why you would be optimistic on money laundering in Ghana in the future. 

3.13 Please state if the theories in the field comply with findings of money laundering in Ghana and give reasons for the differences. 

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EXECUTIVE SUMMARY

This Thesis is in partial fulfillment of Master of Business Administration Program with Blekinge Institute of Technology, Sweden. A research is conducted in Evaluating Money Laundering Regulation in Ghana prior to the enactment of the Anti-Money Laundering Act 2008, Act 749.

Background

The background to the Thesis presents the introduction which is mentions Money laundering the illicit nature of acquiring worth; it also presents the statement problem as to what steps the government of Ghana is taking to control money laundering in Ghana. Ten different questions for answering under the thesis are raised as the objective of the study; this is followed by the organization of the work which is defined under five chapters. The research methodology is by qualitative approach.

Literature Review

The Literature Review presents a collection of five authors (Vaithilingam and Nair; Philip de Andrés; Kegoro; Bagenda; Simser and Bartlett) for the purpose of gaining a useful background to the Definition and Scope of Money Laundering, Factors influencing Money Laundering, the Economic Effect of Money Laundering and an Overview of the UK Anti-Money Laundering Regulation.

Vaithilingam and Nair presented a theory that sake to identify what influence the pervasiveness of Money Laundering in Developing countries; factors include Technology, Quality of Human capital, efficient legal framework and ethic behavior and finally innovation. Philip de Andrés also presents a theory on the new threats to the world security as Drug Trafficking and organized crime dubbed “West Africa under attack”. Kegoro discusses the nature of corruption and violent crimes in Kenya that are so prevalent and serves as an influence on money laundering whiles Bagenda discusses the factors influencing money laundering in Tanzania in two fold, namely the National or Domestic factors and the Transnational factors. Both Kegoro and Bagenda profiled Money Laundering in Eastern and Southern Africa while Kegoro discusses Money
Laundering Patterns in Kenya, Bagenda concentrated on Combating Money Laundering in The SADC Sub – Region: The case of Tanzania.

Simser presented a vital classification of factors affecting money laundering; the “Tax evasion and avoidance typology” of money laundering, where criminals including individuals and institutions take advantage of the thin line between tax evasion and tax avoidance.

Finally Bartlett was reviewed on the presentation, “The Negative Effects of Money Laundering on Economic Development” touching on the potential repercussions of the global menace, money laundering on developing countries.

The FATF has come up with 40 recommendations and 9 special recommendations on terrorism financing. Even though the FATF made recommendations to the international community, these recommendations seems binding all nations particular the member nations and serves as the yardstick for fighting money laundering.

**Research Findings**

The research with six respondents basically in the financial sector revealed that there is enough knowledge about Money Laundering within the sector; it also revealed existing regulations and the criminalization of Money Laundering. An Overview of the Anti-Money Laundering Act 2008 is presented on pertinent areas such as criminalization, reporting and collation & investigation.

Under the presentation of the research findings answers are provided for the Objectives of the study which considered ten questions.

**Analysis**

Existing regulations criminalizes Money Laundering and Terrorism Financing. Indications are that the regulations have not been deterrent enough given the background of lack of enough enforcement of the existing regulations and the nation is susceptible to Money Laundering.

**Conclusions and Recommendations**

Africa seems to be an exciting ground for varying sources of Money laundering, an indication of instability in regulations or a non existence of money laundering
regulations, Ghana is no exception. The recommendations are that there should be Institutional Corporations of LEA and Investigative Agencies; there should be Simple and Understandable Regulations; there should be general Public Education; A Body of Money Laundering Expertise should be formed and finally there should be risk –focus anti-money laundering compliance document for Small and Less complex Institutions.

**Challenges and Limitations**

The whole Thesis was faced with a couple of Challenges and limitations. The author in his quest for gathering the information on the topic was met with disappointment from potential respondents who initially showed some zeal to respond, this also limited the scope of research. Other challenges were, funding of the thesis, time constraints and sensitivity of the topic.
CHAPTER ONE

1.0 BACKGROUND

1.1 Introduction

Money laundering (ML) is a process by which criminals or criminal organizations seek to disguise the illicit nature of their proceeds by introducing them into the stream of legitimate commerce and finance. It can also be defined as an activity of converting funds generated by illegal means into legal funds. The objective of the operation, which usually takes place in several stages, consists of making the capital and assets that are illegally gained seem as though they are derived from a legitimate source, and inserting them into economic circulation.

Money laundering is an old crime, it could be related as far back as the 1930s’ the case of Al Capone and Meyer Lansky. Al Capone was engaged in the business of Laundromats, where money earned from illicit activities like extortion, prostitution, gambling and bootleg liquor, were use to purchase outwardly legitimate business to mix the illegal earnings with legitimate earnings, Steel (2006). Al Capone was rather jailed for tax evasion in his engagement with the Laundromat business. Indeed according to Steel (2006), Meyer Lansky realizing that he was also at risk of the long arms of the law, sorted a ways and means of hiding the source of his earnings in those gangsters business. Lansky eventually discovered what Steel (2006) calls, “the benefits of Swiss Bank Accounts” and thus the concept of Money Laundering is known to have started from that point. According to Steel (2006) the use of the Swiss facility gave Lansky the means to apply one of the first real laundering techniques known as “loan-back” concept where illegal money is given out as loan which helped disguise the origin and to enable tax deduction from the declared revenues, this eventually was to prevent the Lansky from been jailed from Tax evasion whiles illegal money was been washed or laundered.
The forms and dimensions of this type of crime have evolved in recent years. Since the seventies, the escalation of the drug market and globalization of organized crime have led to a collective raised awareness with regard to the problem of money laundering. In recent times the nation Ghana has been hit with three serious drug cases involving a Member of Parliament (MP) of the incumbent government in the USA, MV Benjamin and two British nationals with series of cases involving drugs and the use of institutions.

Many financial institutions in different countries have been used by criminals who try to shield money generated by their illegal activities. Today its definition is often expanded by government regulators to encompass any financial transaction which generates an asset or a value as a result of an illegal act, which may involve actions such as tax evasion or false accounting. As a result, the illegal activity of money laundering is now recognized as potentially practiced by individuals, small and large businesses, corrupt officials, members of organized crime (such as drug dealers/barons or the Mafia) or of cults, and even corrupt states or intelligence agencies, through a complex network of shell companies based in offshore tax havens.

1.2 Statement Problem

The International Monetary Fund has stated that the aggregate size of money laundering in the world could be somewhere between 2 and 5 percent of the world’s gross domestic product. Several international initiatives have been undertaken to prohibit money laundering. The 1980’s witnessed the international trend for the criminalization of money laundering as a discrete crime. The US and the UK did so in 1986 and the 1988 Vienna Convention required State Parties to introduce this crime in their domestic legal systems. In 1989, the Financial Action Task Force on Money Laundering (FATF) was created. Its first report, issued in 1990, recommended the criminalization of money laundering. In 1991, the European Union required its Member States to ‘prohibit’
the laundering of funds derived from drug offences; the original Directive was revised in 2001 and replaced by another in 2005. A neighboring country, Nigeria in 2003 passed the Money Laundering (Prohibition) Act, 2003. This ACT was however repealed and was replaced by the Nigeria’s Money Laundering (Prohibition) Act 2004; (Chukwuemerie, 2006).

Today any deposit of funds into a an inter-bank account in the USA of a foreign bank can be targeted and forfeited by the US Government, regardless of the fact that the crime took place on a foreign soil and the fund were deposited into foreign bank accounts, through an asset forfeiture law drafted in Title III of the USA Patriot Act (Smith 2008). Great Britain has provided its scope of business (Money Service Business – MSB) that need to register under its New Money Laundering Regulations (MLR-2007), effective 15th December 2007 in its quest to monitor and combat Money Laundering activities. Currently Ghana is experiencing an influx of financial institutions and other companies with international links and branches. One of such banks is the United Bank for Africa (UBA), according to the Financial Times (FT) in April 2008 UBA one of Nigeria’s biggest banks was fined a sum of $15 million by the US regulators for “recklessly” disregarding anti-money laundering laws at its Rockefeller Plaza branch. Again Ghana is recording an increase number of narcotics activities and notable among them is the MV Benjamin Cocaine case (Daily Graphic, 2008) and the two UK girls on Ghana drug charges (BBC News, 2008). The President and Parliament of Ghana have now enacted Anti-Money Laundering Act 2008, 2008 Act 749. The Questions one would ask include, what where the measures the Government took to control money laundering in the country? What are the challenges such activities pose on our economy, Did Bank of Ghana (BoG) take adequate measures to curb such activities in the country? Ghana stands at risk of crimes such as money laundering if not checked on time.
1.3 Objective of the study

In this thesis, there will be a careful attempt to answer the following questions through empirical analysis. It has to be noted that the law against money laundering in Ghana was just recently been passed(2008), much of the research work will be based on the period before the act, Anti-Money Laundering Act 2008, 2008 Act 749 but the recommendation will consider Act 749.

1. What is the definition and scope of money laundering in Ghana?
2. What are the various forms or sources of money laundering identifiable in Ghana today?
3. What are the Effects of Laundering activities on the economy of Ghana?
4. What are the major reasons for money laundering in Ghana and how does it differ from other African and Western countries?
5. What are the measures taken by the Government to control money laundering in Ghana up until today?
6. How may the new law, Anti-Money Laundering Act 2008, Act 749 impact on the money laundering activities in Ghana?
7. Has there been any form of sanction to money laundering perpetrators by the banks or their regulators? What form have these sanctions taken?
8. Have the various regulations achieved much in combating money laundering activities in Ghana so far?
9. Is there any reason to be optimistic on money laundering in Ghana in the future?
10. To what extent does the theory in the field comply with findings of money laundering in Ghana? What may explain the differences?

1.4 Organization of work

The whole thesis will be presented in five chapters. Each chapter will contain a unique presentation adding up to an overall coherent presentation or arrangement. The chapters are as follows.
Chapter 1: Background
Chapter 2: Literature Review
Chapter 3: Presentation of Research Findings
Chapter 4: Analysis of Findings
Chapter 5: Recommendation/Conclusion

Chapter 1 contains the introduction of the money laundering, followed by the statement problem which presents the need for the topic of the thesis. The objective of the study is also presented and the how the rest of the work will show up in the organization of work.

Chapter 2 presents a review of some existing literature on money laundering. Chapter 3 will contain the discussions with my resources person whiles chapter 4 will contain the analysis of the various discussions and an overview of the money laundering Act, Act 749 of the republic of Ghana. Finally chapter 5 will present a conclusion and recommendations.

1.5 Methodology
Research methodology will involve data collection through a combination of Primary and secondary source of information.

Given the sensitivity of the area of research, the difficulty to measure money laundering and the qualitative method for its primary source of information, data collection and analysis as a better option to quantitative method, a much more explorative and intuitive approach, Ghauri & Gronhaug (2005).

A qualitative data collection and analysis method will consider the gathering of information personally by the researcher including interviews based on structured or semi-structures questions to a potential of four banking financial institutions including Bank of Ghana (BoG), Ghana’s Central Bank; the three others are most possibly these commercial banks, Ghana commercial bank, Intercontinental bank (GH) Ltd and Société Générale – Social Security Bank (SG-SSB) Limited Société Générale Group. An equal attempt will be made to gather information from Serious Fraud office (SFO) and an Investment Firm called
NewWorld Renaissance Securities Limited. The interviews will be based on prepared or structured questions not in the form of traditional questionnaires where there could be optional answers to choices from but normal written down questions without optional answers. The interviewer will present a copy of the questions to the interviewee on the day of interview to understand the trend of question in its bid to find solutions to the questions raised. All answers to the questions will be captured by the interviewer or the researcher as answers to the questions presented.

Again the interview which will be more interactive will seek to again more information may be beyond the structured questions, thus any such opportunity of extra information, which will be referred to as semi-structured will be presented in the over all analysis of the Thesis. Then a step by step procedure will be used to analysis the data in finding answers to the questions raised.

Secondary source of data collection will include the following; articles, text books and internet database. This will provide a better understanding of the subject area and explain the research problems as well as to receive information about the research topic. Theoretically the understanding of how money laundering takes place and procedures to combat such activities will be pronounced citing cases of other countries.
CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 Definition and Scope of Money Laundering

Money Laundering has assumed strong working definition and wider scope in recent times, from various authorities both professional and governmental. A lot of literatures on money laundering do agree clearly that money laundering is about crime, illegal means of acquiring money, concealment of such money in properties and legal businesses (as legal activities) and the financing of terrorist activities (as illegal activities). In this research finding the definition and scope with some selected literatures are influenced by authors’ extent of research and country or territories of research. The definition and scope of money laundering would also enable the author gather enough knowledge in to the research area.

The definition Kegoro (2003) gave is “Money Laundering consists of the concealment of assets generated by crime or to be used in committing or facilitating the commission of crime”. He went further to give a more comprehensive form of the definition of Money laundering as “All activities to disguise or conceal the nature, source of, or entitlement to money or property, or rights to either, when the money or property or rights are acquired from serious crime, as well as all activities to disguise or conceal money or property that is intended to be used in the committing or facilitating the commission of serious crime” Kegoro (2003) in his definition gives a wider scope of the money laundering, this is because for him money laundering activities involves any criminal activities in relation to its source and doesn’t matter what the proceeds have been use for. Corruption which includes poor National Record keeping and then Violent Crimes such as motor-vehicle theft, cattle rustling and violent robbery falls within the scope of money laundering in Kenya, Kegoro (2003).
Bagenda (2003) agrees that money launderers use criminal means in acquiring their money and try to use such dirty money in legally acquiring of properties. He defines Money Laundering as the manipulation and the use of money or property to hide its illegal source or the criminal origin by using it in a legal or illegal activity. Bagenda (2003) further brought into the scope of Money Laundering two dimensions of what constitute money laundering and these are the national or domestic and the transnational. Clearly the domestic dimension includes corruption; misappropriation of public funds; tax evasion; abuse of religious charity; misappropriation of foreign assistance projects; bureau de change; land speculation; stock theft; car theft; drug trafficking; arms and gem smuggling; public procurement and public tender and finally exchange control violations. The transnational dimension includes the tax evasion through over and under invoicing of import and exports; debt conversion; misappropriation of foreign assistance projects, public debt payment and fraud from private economy. The mention of transnational criminal activities suggest that Ghana as an African country has to been minded full of activities across its borders, the research findings will consider the

Goba (2003) and Dordunoo (2006) also define Money laundering to be a criminal process of converting or “cleansing” property for the purpose of disguising its origin, knowing that the property is derived from serious crime. In other words, money laundering is more than just knowingly receiving stolen property, which is a common-law crime, or being found in possession of property believed to be stolen and being unable to give a satisfactory account of how it came into one’s possession. Those who engage in money laundering knowingly—in the sense of actual or legal intent—and those who engage in it when they ought reasonably to be aware that they are doing so, are money launderers’.

Chong and Lopez-De-Silanes (2007) defines money laundering as trying to legitimize the value of the acquired assets. In short, it describes the process by which “Dirty” money is turned into “Clean” money. Obviously, money laundering cannot be done in the open and requires sometimes sophisticated
means to disguise the actual origin of the assets. Chong and Lopez-De-Silanes (2007) therefore identifies money laundering to include trafficking of illicit narcotics, terrorist activities, enterprising criminals of every sort, from stock cheaters to corporate embezzlement to commodity smugglers. Money laundering can therefore occur almost anywhere in the world and it has become a significant global problem with it potential increasing serious social and economic ramification.

Present anti-money laundering efforts date back to the 1980s. In 1986, the US criminalized money laundering as part its war against drugs (Helleiner, 1999) Steeves (2008) puts it that by 1986, laundering and related activities became a federal crime and by further prompting from USA Congress in 1992, banks and others were required to file reports on suspicious activities identifiable by their institutions under the Bank Secrecy Act. The Bank Secrecy Act requires institutions to file Suspicious Activity Reports, which covers 21 categories of activities, including terrorist financing. Simser (2008) therefore argues that Successive laundered money has a concealed provenance.

In 1989, the G7 established the Financial Action Task Force (FATF). Money Laundering was defined as the processing of a large number of criminal acts to generate profit for the individual or groups that carries out the act with the intention to disguise their illegal origin in order to legitimize the ill gotten gains of crime. Any crime that generates significant profit-extortion, drug trafficking, arms smuggling and some kind of white collar crime may create a “need” for money laundering (FATF). This definition gives a wider scope of activities that constitute money laundering.

In 1990, FATF released a set of rules on money laundering, after the September 11th 2001; complimented by a set of rules on the finance of terrorism, Rawlings & Unger (2005), they came up with 40+9 recommendation, which are desired to motivate states to develop their own national anti money laundering rules. However, they do not force state to do so.

Goba (2003) observed that money laundering has over the years become a feature of organized criminal activity. It became increasingly associated with illicit drug
trafficking, and this led to its recognition in the United Nations Convention against Illicit Drug Trafficking of 1988, but developments since then, have led to an international realization that it is not confined to drug trafficking but is associated with other crimes, including common-law crimes of fraud, theft, murder, bribery etc.

According to the international monetary fund the aggregate size of money laundering in the world could be between 2% and 5% of the world’s Gross Domestic product Bankers guide (2002) which amounts to up to US$1.5 trillion (Preller 2008).

Money laundering has a wide scope and transcend borders as reiterated by Mole (2002). Moreover it is claimed that the money laundering business is the third biggest industry worldwide following the international oil trade and foreign exchange, (Preller 2008).

Addo (2006) and Mole (2002) observed that given the global nature of money laundering, geographic borders have become increasingly irrelevant. Launderers turn to move their activity to jurisdictions where there are few or weak anti-money laundering counter measures.

The United Nations Convention against Transnational Organized Crime of 2000, (the Palermo Convention) deals with these issues and other issues relevant to the combating of organized crime.

According to Article 6 of the Palermo Convention States are required to criminalize, through legislation and other measures, the laundering of the proceeds of crime within the context of the fundamental principles of their domestic law. Conduct that must be criminalized when intentional (negligence is not referred to but seems to be contemplated) includes:

- the conversion or transfer of property, while knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his action;
• The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights to property, while knowing that such property is the proceeds of crime
• The acquisition, possession or use of property, while knowing at the time of receipt that the property is the proceeds of crime; and
• Participation in, association with or conspiracy to commit such offences, or aiding and abetting, facilitating, or counseling the commission of such offences.

The tragic events of 11 September 2001 have given new impetus to the broadening of the perception of the nature and scope of money laundering and its characterization. It is now accepted that proceeds of criminal conduct may be laundered and channeled towards the implementation and realization of other criminal goals, for example, terrorism.

Hence the scope of money laundering has been extended to comprises all activities intended to disguise or conceal the nature or source of, or entitlement to money or property, or rights to either, being money or property or rights acquired from serious crime, as well as all activities to disguise or conceal money or property that is intended to be used in committing, or facilitating the commission of serious crime, Goba (2003).

The definitions from the various authors, given the scope of them, will help reach out for a more comprehensive list of criminal activities that constitute money laundering in Ghana in seeking information from my potential respondents.

2.2 Factors Affecting Money Laundering

The aim of this subheading is to identify the known factors that influence money laundering within existing literatures, with the intention of comparing the findings on the field to existing theories.

2.2.1 Factors identified by Vaithilingam and Nair

Vaithilingam and Nair (2007) examined the trend of the pervasiveness of money laundering in developed and developing countries through an empirical
approach and presented and empirical results of Five key factors as influencing the pervasiveness of money laundering in developed and developing countries, in this study of the factors affecting money laundering Vaithilingam and Nair (2007) present an empirical factors that seeks to bridge the gap in literature with other literatures that critically examine factors (traditional) that influence money laundering. The five key factors are as follows;

Technology: The argument is that money laundering is more pervasive in developing countries due to inadequacy of ICT infrastructure, such that an increase in ICT infrastructure in developing countries will bring about positive marginal returns, reducing the pervasiveness by instilling a more transparent anti-money laundering process. This suggests money laundering is more prevalent within developing countries because of its underdeveloped ICT infrastructure and a slight increase in ICT will bring about a positive marginal returns.

The Quality of human Capital: Vaithilingam and Nair (2007) examined and identified that the quality of human capital is a factor that influence Money laundering activities in a country. Increase Quality of human capital seems to have a positive effect in reducing the pervasiveness on money laundering in developing countries due to the fact that there is a low level of stock quality human capital. Meaning money laundering is affected positively in developing countries, including Ghana, where there is a low supply of quality human capital, therefore a small increase in quality of human capital will reduce money laundering activities, compared to the margin effect to developed countries, given an increase in quality of human capital due to the fact that most of the front-end financial transactions are user-friendly, and as such, people with diverse educational background are able to use financial services easily.

Efficiency of the Legal framework and ethical behavior of firms: Again Vaithilingam and Nair (2007) argue that an efficient legal framework and a good ethical behavior of firms have a positive and significant effect on the pervasiveness of money laundering. They argue that legal framework which involves legal and regulatory framework when effective and independent makes
money laundering activities less pervasive. When firms show good ethics and respond positively to the fight against money laundering through efficient and effective legal framework, money laundering would be less pervasive.

Innovation: Lastly capacity for innovation according to Vaithilingam and Nair (2007), has a negative and significant impact on money laundering activities, thus new technology can lead to market failure opening new opportunities for money laundering activities via new technology.

2.2.1.1 Analysis of factors identified by Vaithilingam and Nair

Vaithilingam and Nair in identifying the above points clearly indicated the tools for fighting Money Laundering or making them less pervasive. Virtually all the points mentioned are features of underdeveloped or developing countries. The use of ICT infrastructure in Africa is relative lower probably than any continent in the world. A few Africa countries including Ghana and Nigeria are making strides to catch up with the world of ICT; unfortunately these countries are becoming e-waste dumping grounds for useless computers (Basel Action Network, 2002). This means that it may take Africa countries a long way to fight Money Laundering through the use of ICT, much more so as most government institutions are under stock with this technology. However one can conveniently argue that even though the developed world is more advance in ICT infrastructure, they still suffer and continue to fight this worldly “cancer” Money Laundering.

Even in the areas of Quality of human capital, efficiency of legal framework and ethical behavior of firms, the advance countries like USA which have the one of the worlds finest legal frame work and work ethics coupled all its stock of quality human capital in all disciplines of study, have seen the worse of economic or financial crunch of which elements of Money laundering could not ruled out give the various definitions of money laundering and the scope of it, citing the case of Enron and Arthur Andersen LLP, Enron’s Auditor, who would
have believe that such a energy giant would fall and assume a symbol of corporate fraud and to be mentioned of corruption with Arthur Andersen LLP as its auditors. It may not wholly be prudent therefore to conclude that where the Human capital is of high quality and business have well structured ethics, pervasiveness of money laundering is low; indeed such high brains could also be used otherwise, remember the term “white colour crime” where educated people use their know-how to steal or commit crimes even at work place or “upperworld criminality” where the firm is abused for own profit. Nonetheless Vaithilingam and Nair arguments are necessary ingredients to fighting crime especially where criminals from Europe and the Americas try to take advantage of the lapses of the Africa continent.

Innovation is necessary for any advancement to take place, however just as Vaithilingam and Nair rightly put it, where innovation fails there is an opening for criminals to operate swiftly, taking advantage of the failures, increasing the pervasiveness of money laundering.

In conclusion, Vaithilingam and Nair presented very important points necessary for the reducing the pervasiveness of money laundering in developing countries including Ghana. However one could argue that what about the developed countries who apparently are endowed with technology, efficient legal framework and good ethical behavior of firms coupled with very good pace of innovations and yet they still fight high criminal activities which is also a high pervasion of money laundering. The lesson however is that it is prudent that the points of Vaithilingam and Nair serve as a guide in fighting money laundering in a country like Ghana through the pursuance of national development programs, like education for all, good governance, technological sponsorship, overhauling of state judicial and justice system with logistics, staff and more.

2.2.2 Factors Identified by Philip de Andrés

Philip de Andrés (2008) presented an overview of the current situation in West and Central Africa regarding drug trafficking, organized crime and terrorism.
The issues present by Philip de Andrés (2008) are supported by the definition of money laundering of Kegoro (2003) and Bagenda (2003) and their factors affecting money laundering. According to Kegoro (2003) and Bagenda (2003) serious crimes such as drug trafficking and organized crimes are sources for money or property for laundering and funding terrorism.

Philip de Andrés (2008) identified the following as factors affecting money laundering:

Drug Trafficking: Drug trafficking, according to Philip de Andrés (2008) include; cocaine, heroin and hashish and is nothing but the most visible and affecting the West and Central Africa.

Organized Crime: Philip de Andrés (2008) identified organized crime as a factor affecting money laundering and these organized crime consist of

• Illegal ivory trade by Nigeria, Senegal and Cote d’ Ivoire
• Trade in rough diamond by al Qaeda in Kenya, Tanzania, Sierra Leone and Liberia for raising funds for al Qaeda cells; hide money targeted by financial sanctions; launder profits of criminal activities and to convert cash into commodity that holds its value and easily transportable
• Trafficking of illicit arms and light weapons manufactured locally or imported
• Human trafficking, which is made possible commonly by ethnic affiliation
• Recruitment of mercenaries and Child soldiers to fight civil war particular in Cote d’ Ivoire and countries by the Mano River basin

According to Philip de Andrés (2008) the lack of effective cross-border control and regulations is a major factor for these activities to take place. The movement of persons and goods are inevitable in undertaking these cross-border activities as it is estimated that between 4 and 5 million ECOWAS citizens ply the highways and frontiers of the community’s territory every month.

The table below illustrates what Philip de Andrés (2008) presents as the predominate cross-border or the transnational crimes in West Africa, in terms of Crime patterns of the countries of these crimes, the countries serving as the
actors, major transit points and some recipient countries of the criminal activities. From the table it is clear that a number of criminal activities take place in Ghana.

<table>
<thead>
<tr>
<th>Predominant Border Crimes</th>
<th>Country / Border Zones of activity</th>
<th>Groups / Actors Involved</th>
<th>Transit States</th>
<th>Recipient States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Narcotics/Drug Trafficking</td>
<td>Cape Verde, Ghana, Nigeria and Togo</td>
<td>Narcotics/Drugs Dealers</td>
<td>Ghana/Togo/Be vin/Nigeria</td>
<td>Spain, Portugal, UK, USA and South Africa</td>
</tr>
<tr>
<td>Internet Crime (Advance fee fraud/Money Laundering)</td>
<td>Nigeria, Ghana, Côte d'Ivoire and Sierra Leone</td>
<td>Advance Fee Fraud gangs or syndicates/Weathy businessmen</td>
<td>Syndicates commute from the Western part of West Africa (Senegal) to the eastern part (Benin/Nigeria)</td>
<td>Nigeria and other countries where the ‘419’ fraudsters are Resident</td>
</tr>
<tr>
<td>Human Trafficking</td>
<td>All across West Africa but mainly around Benin/Nigeria/Côte d'Ivoire/Burkina Faso</td>
<td>Traffickers who serve sometimes as middle-men, trade and business partners</td>
<td>Mainly Ghana and Sierra Leone</td>
<td>Other West African countries, and in North America, Europe, and the Middle East</td>
</tr>
<tr>
<td>Fire Arms Trafficking</td>
<td>Ghana/Togo/Benin/Nigeria/Sierra Leone/Liberia/Côte d'Ivoire/Senegal</td>
<td>Rebels, local manufacturers of fire smalls and middle-men</td>
<td>Togo/Benin/Guinea-Bissau and Gambia</td>
<td>Nigeria, Liberia, Sierra Leone, Guinea and Côte d'Ivoire</td>
</tr>
<tr>
<td>Recruitment of Child Soldiers, Mercenarism</td>
<td>Mano River Union States including Liberia, Sierra Leone, Guinea and Côte d'Ivoire</td>
<td>Rebel groups (including LURD, MODEL, RUF, CDF, New Forces, MPCI, MPIGO &amp; MPJ)</td>
<td>Same countries depending on where the conflict spillover</td>
<td>Mano River Union States and Côte d'Ivoire</td>
</tr>
<tr>
<td>Smuggling of illegal goods, minerals and natural resources and cash crops</td>
<td>Côte d'Ivoire, Ghana, Togo, Benin, Nigeria, Liberia and Sierra Leone</td>
<td>Individuals, businessmen and women, warlords/civil wars combatants</td>
<td>Mainly Ghana, Liberia, Sierra Leone and Côte d'Ivoire</td>
<td>In Europe and North America</td>
</tr>
</tbody>
</table>

Source: UNODC, International Relations Institute of the University of Michigan.

Table source: UNISCI Discussion Papers, No. 16 (Enero/January 2008)

The table above suggests that Ghana’s borders have been very active in crimes such as Drug trafficking, Internet crime, Human and arms trafficking and the smuggling of illegal goods or natural resources. Again for most of these aforementioned crimes Ghana has been a transit state for recipient countries like Spain, Portugal, UK, USA and South Africa, other parts of Europe and North.
America, the Middle East and Nigeria. The concern or indication is that Ghana’s borders likewise the ECOWAS are not well kept or monitored.

Figure 2.1:

Cocaine Wholesale prices USD – Source: UNODC

Source: UNISCI Discussion Papers, No. 16 (Enero/January 2008)

Figure 2.1 above shows the prices of cocaine in USD for the period 2005. It tells how much money these criminal activities yield in terms of money which equally has to be laundered, (Philip de Andrés, 2008). Thus from figure 2.1 Colombia has a cocaine whole sale price of 2,100 USD per … which according to Philip de Andrés (2008), will be laundered. West Africa, which includes Ghana, has a cocaine whole sale price of 17,000 USD and this figure will be laundered as part of the overall criminal process. Spain and USA have 41,000 USD and 20,000 USD wholesale prices respectively. What this means is that West Africa is a major player in the game of money laundering and terrorism financing and therefore needs all the effort, in terms of regulation, implementation and supervision to combat such criminal activities.
Figure 2.2: Evaluation of cocaine Seizure in Africa, 1995 – 2007, in Kg – Source UNODC

*As per available official data at July 2007

Source: UNISCI Discussion Papers, No. 16 (Enero/January 2008)

Figure 2.2 shows the extent of seizure across the period by the European law enforcement(ELEA) agencies operating on the international waters and the Africa law enforcement agencies(ALEA), (Philip de Andrés, 2008). From figure 2.2 in the year 1998, 758 kg of cocaine were seize on the international waters by both the ELEA and ALEA, the volume of seizer fell in year 2000 to 461 kg but shot up to 3,596 in the year 2005, a drastic increase in the seizer of cocaine on the international waters, the trend from the years 2004 to 2007 per the figures given indicate that the trade in cocaine on the international waters had gone up or that the both the ELEA and the ALEA have been very much up to their task of fighting cocaine criminals.
2.2.2.1 Analysis of factors identified by Philip de Andrés:

Philip de Andrés overview of the current situation in West and Central Africa regarding drug trafficking, organized crime and terrorism is critical for understanding the series of activities that influence money laundering in Central and West Africa. What makes it critical is the fact that the concentration is on cross-border, and they form part of activities that constitute the “Underworld economy”. It presents a reflection of the political and economic instabilities that gripped the sub-region. Ghana has seen a series of coup d’tats since 1966, Liberia and Cote d’Ivoire did show case struggles for political power. All these situations have immensely contributed to what Philip de Andrés presents as cross border crimes. Small arms are obtained from both local blacksmith and illegal imports fell in the hands of people along the borders, families were dispersed and people are easily trafficked, children for the sake of their lives easily become soldiers for selfish mafias. Drug trafficking hence becomes common and even more complex to deal with.

The critical issue now is that the whole operation is a syndicate, even as Philip de Andrés presents this research finding in year 2008; one will be wondering the components in the syndicate.

A careful look at table depicts that both America and Europe have been a major recipient of trafficking of human beings and drugs, and also smuggled natural resources such as cash crops, where as the African countries are rather the recipients of illegal Fire Arms Trafficking, involved in Child Soldiers and Mercenarism. This information indicates the source for money laundering varies across the continent but the motivation is the same, making “bad” monies and “washing” them. The information that the activities are taking place along the borders indicates that there is full collaboration among the members and the flow of activities is well coordinated right from the borders to the recipient countries. The information also indicates that there is less of border control and legal structures that can militate against such activities long and across the
borders and also that the countries involved are not showing much concern or are poor and weak to control big gangs like al Qaeda.

Since the flow of the illicit activities cuts across the continents, one would be wondering the kind of role the international community like the Drug Enforcement Agency (DEA) of United States of America doing to combat money Laundering in along Central and West Africa borders.

Philip de Andrés presents an international collaboration between ELAE and ALEA in the fight against the drug (cocaine) business in figure 2.2 and their wholesale price in figure 2.1, but that is purely on the international waters, what about land borders on more critical level.

In conclusion, Philip de Andrés presents and warns of the dark state of affairs of the Central and West Africa borders making it very conducive for money laundering. His argument brings to the fore the weakness of border control and legal system governing our borders. It equally tells of how money laundering regulations should go beyond the protection of the financial institutions to every activity of the economy, including the movement of people and goods or services during the creation of wealth. May be the points or arguments raised by Vaithilingam and Nair (2008) is well understood here in terms of Efficiency of the Legal framework for the proper keep of the borders both land and sea, Quality of human Capital and ethical behavior of the LEAs. One typical lesson is that West Africa countries are under the treat of the money laundering activities and they need international cooperation to keep their borders like any advanced country; like the use of DEA of United State of America and HM Revenue and Customs (HMRC) of the United Kingdom. Indeed between November 2006 to November 2007 HMRC in collaboration with the Ghanaian narcotic authority operating under the name Operation Westbridge at the Accra airport in a bid to check and fight drug trafficking made 122 interceptions of 356kgs of cocaine; 2,275kg of cannabis and 1.3kg of heroin (SourceUk.Net, 2007). This kind of collaboration should be extended to the borders for a full cohesion of efforts in achieving results.
2.2.3 Factors identified by Kegoro

Kegoro (2003) researches into the nature and extent of money laundering in Kenya presenting the following as the major factors affecting money laundering in Kenya;

- Corruption, in relation to poor record of law enforcement in Kenya, poor keeping of public records on registered land and businesses, citing the “Goldenberg scandal” of US$210 million from the late 80’s to the late 90’s.
- Violent crime involving motor vehicle theft with an average of 250 motor vehicles stolen every year; cattle rustling which according to “Human Rights Watch”stolen livestock have been sold, often across international borders, rather than being kept in communities” with proceeds going for items like AK-47; and finally violent robbery including trade in narcotics and the movement of small arms in Kenya.

2.2.3.1 Analysis of factors identified by Kegoro:

The argument raised by Kegoro corresponds to his definition of money laundering, that any means of not acquiring money genuinely is a factor that influence money laundering, this is because the criminals will eventually have to use the money and monies will have to be laundered to hide it source.

Kenya is in Eastern part of Africa and Kegoro makes mention of cattle rustling and trade in narcotics with criminals making sales across international borders. This is in accession with the cross border criminal activities in Central and West Africa as mentioned by Philip de Andrés, what is significant to note is that Africa has an enormous task to keeping its borders under proper control. Kenya like most Africa countries needs the collaboration with the international community to keep their territories and also need enforceable policy on arms movement or trafficking.
In conclusion as Kegoro argued money laundering develops and survives in countries with lax legal system, bad governance as in corrupt government, bad institutional practice and poor border control policies.

2.2.4 Factors identified by Bagenda

According to Bagenda (2003) there are two dimensions of factors affecting money laundering in the Tanzanian environment: the national or domestic and the transnational factors.

The following are the major areas from which domestic money laundering profits are derived:

Public procurement and public tender: The public procurement system has been abused and the government has lost tens of billion Tanzanian shillings from such abuse. Bagenda (2003) mentions an example from the CAG report as stating “payment documents submitted by the Ministries and departments for goods, services and utilities amounted to US$106.2 million but after verification the figure dropped to US$88 million”

Public tendering in Tanzania has not been a straightforward procedure; the public procurement case involving the awarding of tender for the importation of maize for food security was brought under scrutiny by the Tanzanian Public account committee which later abrogated the contract awarded to M/S Southern Atlantic Grains Agents (Pty) Ltd of the South Africa. This later brought a civil hearing in Tanzanian High court (case No. 12 of 1999), Bagenda (2003).

Exchange control violation: Tanzania has a foreign exchange control regulations, Bagenda (2003) mentioned of the violation of the regulation by one Captain Aziz, a pilot of the Zanzibar Air Charter Company in 1988, when he was caught red handed carrying and intending to smuggle thousands of US Dollars out of Tanzanian to an unnamed person. The interesting part of it is that Captain Aziz could not account for the origin of the money and pleaded guilty at court, receiving twenty years prison sentence.
However the transnational factors, with its actors externally based using the receiving country as an investment location or transit location, include the following:

**Tax evasion through over-invoicing and under-invoicing of imports and exports of goods:**

**Table 2.2:** Over-invoicing of Imports into Tanzania from the UK

<table>
<thead>
<tr>
<th>Year</th>
<th>Recorded imports: Value in millions of Tanzanian shillings</th>
<th>Data discrepancy %</th>
<th>Value discrepancy in millions of Tanzanian shillings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1987</td>
<td>8,518.00</td>
<td>-34.70</td>
<td>2,955.00</td>
</tr>
<tr>
<td>1988</td>
<td>1,468.00</td>
<td>-20.30</td>
<td>298.00</td>
</tr>
<tr>
<td>1989</td>
<td>23,912.00</td>
<td>-9.30</td>
<td>2,234.00</td>
</tr>
<tr>
<td>1990</td>
<td>34,104.00</td>
<td>+4.7</td>
<td>1,603</td>
</tr>
<tr>
<td>1991</td>
<td>68,002.00</td>
<td>-62.60</td>
<td>3,884</td>
</tr>
</tbody>
</table>

*Table source: Combating Money Laundering in the SADC Sub-Region: The Case of Tanzania (Prince M. Bagenda, 2003)*

**Table 2.3:** Under-invoicing of Exports from Tanzania to the UK

<table>
<thead>
<tr>
<th>Year</th>
<th>Recorded imports: Value in millions of Tanzanian shillings</th>
<th>Data discrepancy %</th>
<th>Value discrepancy in millions of Tanzanian shillings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1987</td>
<td>1,978.00</td>
<td>-29.20</td>
<td>577.60</td>
</tr>
<tr>
<td>1988</td>
<td>3,421.00</td>
<td>-14.10</td>
<td>482.40</td>
</tr>
<tr>
<td>1989</td>
<td>6,267.00</td>
<td>+23.5</td>
<td>1,472</td>
</tr>
<tr>
<td>1990</td>
<td>8,578.00</td>
<td>+2.1</td>
<td>180</td>
</tr>
<tr>
<td>1991</td>
<td>20,244.00</td>
<td>-17.70</td>
<td>593</td>
</tr>
</tbody>
</table>

*Table source: Combating Money Laundering in the SADC Sub-Region: The Case of Tanzania (Prince M. Bagenda, 2003)*
The table above is a depiction of the tax evasion through trade between Tanzania and the United Kingdom (UK) as part of activities of Money Laundering in Tanzania. According to Bagenda (2003), under-invoicing was at 18.7% in 1985 and over-invoicing 8.1% in 1986 of importation from UK.

Debt conversion: This according to Bagenda (2003) is where an unpaid debt is acquired at a discounted rate and paid by the prospective buyer. The Tanzanian Debt conversion scheme; Chavda who is an American citizen, according to Bagenda (2003), obtained an amount of Tsh915 million from a local bank called Co-operative Rural Development bank, to develop eight sisal plantations acquired under the scheme. This was never done and unfortunately he was declared persona non grata as the money could not be retrieved. Money was said to have been converted into foreign currency and remitted overseas as foreign exchange.

Misappropriation of foreign assistance project: This is also related to the internal typologies where funds earmarked for projects are diverted. Bagenda (2003) States that Francesco Tramontano, an Italian national was alleged to have defrauded the Belgium Development Office with a group of criminals of funds. The funds amounting to US$1.8 million were earmarked for development aid in Tanzanian. Tramontano was not extradited by the Tanzanian law court because the Belgian paper seeking the extradition referred to him as “suspect” and not “accused” as required by the conditions of the extradition treaty between Tanzania and Belgium.

Fraud from private economy: Bagenda (2003) admits that it is very difficult to measure the extent of money laundering which take place in the private sector. Internationally criminals are able to hugely fund activities in developing countries like Tanzanian thereby concealing ill-gotten funds. A lot of multinational companies bribe governments, under the name of commissions, to win contracts specially in developing areas of the country. Bagenda (2003) quotes
Peter Reeves, a news correspondent as stating “Bribery and corruption lead to a society where economics and political decisions become twisted. They slow social progress, hamper economic development and drive up prices for product and services”

2.2.4.1 Analysis of factors identified by Bagenda:

Bagenda preferred to presents the factors that influence money laundering in Tanzania in two dimensions, the domestic and transnational factors. Both the domestic and transnational factors are indications that liberalization of ones economy has it own threat as far as money laundering is concern. The period under consideration by Bagenda which most probably ranging from 1997 to 2003, show the era of free-market economy under the leadership of President Benjamin Mkapa (1995 – 2005). The domestic factors indicate the extent of high level of corruption with government officials. Indeed Bagenda could have summed up the series of factors such as Public procurement and public tender; Land speculation; misappropriation of foreign assistance and misappropriation of public funds as one word “corruption” but critically the separation of them shows how serious the matter is and how conducive it is for government or public officials to make illicit money for laundering, at the expense if the state or the people of the state. Interestingly what constitute corruption or crime in one Africa country is about same across the continent, just check out the factors identified by Kegoro and Philip de Andrés.

The factors Bagenda identified as transnational advice that a free-market economy can bring in criminals who have gained some illicit money to support governmental projects and even establish a full time business venture as means of cleaning their dirty monies. Such laundered monies are equally repatriated leaving the country’s finances in bad shape. Fraud from the private economy is a clear indicator where potential investors bribe corrupt officials to win contract and through that mange to invest these ill-gotten money into local businesses a
smart way of washing their ill-gotten money. Under invoicing and over invoicing within international trade has shown a clear way of how trade liberalization can influence money laundering if not closely monitored.

In conclusion, it is generally vivid given the data and literature presented by Bagenda that money laundering has no limitation in terms of where it can take place and who could be involved. Again it has no limitation of the kind of economic activity or political situation of a nation. It is really where laws are lax and the enforcement agencies are seen to be impotent.

2.2.5 Factors Identified by Simser

Simser (2008) accordingly touched on the “tax evasion and avoidance typologies” citing interesting but challenging situations where profits for laundering could be made from available tax laws through the thin line between tax evasion and tax avoidance.

“Taxation is complex and navigating the tax system requires the advice of skilled lawyers, accountants and other advisors” Simser (2008).

The following are the some ways mentioned by Simser (2008) in relation to high monetary gains which could be laundered.

Abusive versus acceptable tax avoidance:
A Canadian taxation case, where the Supreme Court of Canada ruled in favour of a business transaction that made a large gain on Capital cost allowance (CCA) in the year 2005 over the Canadian Revenue Agency (CRA) request of the court to determine a violation of the Canadian general anti-avoidance rule.

Tax haven abuses:
“Offshore tax schemes are no small problem: Americans have $1 trillion offshore” this figure is to avoid tax, “$30-$70 billion in US taxes is annually evaded through offshore tax scheme” Enron Corporation is mention to have established over 144 offshore entities in Cayman Island

Tax Shelter:
This is where generated artificial loss are used to offset real capital gains by particularly tax advisors, like an auditing firm, for a fee when successful. According to Simser (2008) from 1996 to 2003, KPMG, the accounting giant, targeted high-net worth individuals and sold to a tax shelter called an Offshore Portfolio Investment Strategy (OPIS) or Foreign Leverage Investment Program (FLIP) for a fee of US$124 million.

### 2.2.5.1 Analysis of factors identified by Simser:

Simser, unlike the other analyzed authors, presented a rather important typology of money laundering: the Tax typology. The monetary gains are basically through tax evasion and tax avoidance. Simser argues and it is obviously from his presentation that not only do business themselves abuse tax system like the use of the Offshore tax schemes in locations like Cayman Island as in the case of Enron Corporation, but that the abuse is also carried out by the tax advisors including the top range auditing firms for highly profitable institutions.

Payment of tax, though obligatory, is not something any individual would just like to be doing. Hence both individuals and institutions constantly look for avoidable ways of not paying tax. This is where large sums of illegal money could be gained through the thin line between tax evasion and tax avoidance. Generally tax laws differ from country to country, however given the list of abuses and there is a direct motivation for money laundering across countries when it comes to tax evasion and tax avoidance. Supposing KPMG succeeded in making US$124 million after selling a “tax shelter”, it also meant that the company itself would have made huge illegal monetary gains for laundering, because its profit before tax would be heavily reduced by some artificial losses.

Concluding, it is important therefore, that offshore activities are looked at twice and the world class auditing firms are carefully scrutinize for any possible involvement in money laundering. Tax experts could also consider individual and institutional involvement in matters concerning tax holidays, carried
forward losses on current year profits, tax exemption, tax concessions on imported and export duties and the like as any one of these could be abused.

2.3 Anti-Money Laundering Regulations or Laws

The purpose of the literature review under this subheading is to identify with existing international regulations or laws as a means to assessing Ghana’s compliance to or participatory role to combating money laundering within the international settings. The Overview of the UK Anti-Money Laundering Regulations is paramount in assessing certain potent and important areas of Ghana’s existing regulations.

Money Laundering became a federal crime by 1986 in the USA, Steeves (2008) and the 1988 Vienna Convention required State Parties to introduce this crime in their domestic legal systems. In 1989, the Financial Action Task Force on Money Laundering (FATF) was created. Its first report, issued in 1990, recommended the criminalization of money laundering. Indeed a lot more Countries, Organizations and Corporate Entities have responded positively to these recommendations, a wake-up call to fight money laundering and terrorism through regulations and the enactment of law. More than 130 countries endorsed the new FAFT 40 recommendation (FATF 1996) and are the international anti-money laundering standards. According to the e-news of FATF *GAFI (2008), issue 5, “FATF now comprises of 32 member jurisdiction and 2 organizations. The Republic of Korea and India are observers and will soon be FATF members. Additionally, the FATF has strengthened engagement with over 140jurisdictions, which are members of FSRBs but not themselves members of the FATF”.

In 1991, the European Union required its Member States to ‘prohibit’ the laundering of funds derived from drug offences; the original Directive was revised in 2001 and replaced by another in 2005. Nigeria in 2003 passed the Money Laundering (Prohibition) Act, 2003. This ACT was however repealed and was replaced by the Money Laundering (Prohibition) Act; 2004.
Today any deposit of funds into a an interbank account in the USA of a foreign bank can be targeted and forfeited by the US Government, regardless of the fact that the crime took place on a foreign soil and the fund were deposited into foreign bank accounts, through an asset forfeiture law drafted in Title III of the USA Patriot Act (Smith 2008).

Great Britain has provided its scope of business (Money Service Business – MSB) that need to register under its New Money Laundering Regulations (MLR-2007), effective 15th December 2007 in its quest to monitor and combat Money Laundering activities.

The FATF*GAFI upon evaluating the United Kingdom in June 2007 on AML and Combating the Financing of Terrorism, it observed the UK has a comprehensive legal structure to combat money laundering and terrorist financing. Its money laundering offences are comprehensive scope “fully covering the elements of the Vienna and Palermo convention” and “appeared to be used frequently”.

Currently Ghana is experiencing an influx of financial institutions and other companies with international links and branches, as well as an increase in case of narcotics activities. The President and Parliament of Ghana have now enacted Anti-Money Laundering Act 2008, Act 749.

FAFT therefore calls on all the countries to take the needed steps to comply with its New FATF Recommendations and to effectively implement these measures.

In October 2001 FATF created the 9 Special Recommendation on Terrorist Financial, serving as a complementary to the New 40 Recommendations, in a bid to or aimed at combating the funding of terrorist act and its organizations, FAFT (2002).

2.3.1 FAFT, 40 Recommendations and the 9 Special Recommendations on Terrorism.

Overview of the recommendations is as follows;

- Scope of the criminal offence of money laundering is contained in the first two recommendations which encourages countries to criminalize money
laundering on the basis of the Vienna Conversion 1998 and the Palermo Conversion

- Provisional Measures and Confiscation is contained in the recommendation 3 which deals with matters that include the Vienna and Palermo Conventions on confiscation of property and proceeds of money laundering.

- Customer Due Diligence and the record-keeping as spelt out in recommendations 4 to 12. Financial Institutions, Non-Financial business and Professionals are advice on special undertakings in dealing their dealing with customers and beneficial owners specific to their identity before or during the course of establishing business relationship and to ensure a minimum recording keeping of 5 years as in recommendation 10 in order to prevent Money laundering and Terrorist Financing.

- Reporting of suspicious transactions and compliance is contained in the recommendations 13 to 16. Countries are encourage to ensure that Financial Institutions are by Law required to report promptly any suspicious transaction to the Financial intelligent Unit(FIU) and again to ensure compliance by developing an internal control systems.

- Other measures to deter money laundering and terrorist financing. Countries are encourage, in recommendations 17-20 to ensure an effective system of reporting currency transactions above a set threshold for both domestic and international deals by financial and non-financial businesses and professionals; countries are also to maintain a computerized database manned by competent and authorized users.

- Measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendation. Recommendations 21 and 22 spells out to complying countries of the FATF recommendations will have to deal with issues coming from business transactions with persons and institutions from countries non comply or insufficiently comply countries.

- Regulation and Supervision is recommendations for complying countries to ensure that financial institutions are adequately regulated and supervised in
accordance with FATF recommendations. These are contained in Recommendations 23-25.

- Competent authorities, their powers and resources these are contained in recommendations 26 to 32, that countries should ensure that adequate powers are given to competent authorities including the policy makers and the FIU, well resource to work.

- Transparency of legal persons and arrangements. In recommendations 33 and 34 countries are to take the necessary steps or measures to prevent the unlawful use of legal persons and legal arrangement by money launders.

- International co-operation is a call by FATF, in recommendation 35, to countries to ensure been a party to the 1) Vienna and Palermo Conventions 2) 1999 UN International convention for the suppression of the Financing of Terrorism 3) the 1990 European convention on Laundering, search, seizure, and confiscation and finally the 2002 Inter-America Conversion against Terrorism.

- Mutual Legal Assistance and Extradition. Recommendations 36 to 39 encourages countries to mutual co-operate in matters of legal assistance and not to prevent conflict of jurisdiction. An authority to be set by countries to assist foreign countries on matters surrounding money laundering, seizure, confiscation and freeze

- Other forms of co-operations. In recommendation 40, countries are to ensure among others that competent authorities provide the widest possible range of international co-operation to their foreign counterparts, such that matters of secrecy and confidentiality do not prevent international co-operation.

According to Preller (2008) judging by the name, these recommendations from FATF are not legally binding but do set minimum standards for countries to implement their specific anti-money laundering (AML) measures into domestic law.
2.3.2 Overview of Anti – Money laundering (AML) Legislation in the UK

(This overview is structured on the matters bordering AML on criminalization, reporting and collation & investigation)

Great Britain has provided its scope of business (Money Service Business – MSB) that need to register under its New Money Laundering Regulations (MLR-2007), effective 15th December 2007 in its quest to monitor and combat Money Laundering activities and terrorism. According to Preller (2008) the UK legal frame works on which the AML regime is abased, consist of the Proceeds of Crime ACT-PoCA, 2002, the Money Laundering Regulation-MLR (2003) and the relevant guidelines of government and industry advisory bodies. PoCA sections 327,382 and 329 defines the scope of money laundering, as concealing criminal property (327), entering into money laundering arrangement (328), and acquiring using or possessing criminal property (329), it also include the “attempt, conspiracy or incitement” of committing an offence under sections 327,382 and 329 of PoCA, Preller (2008), thereby giving out the extent of criminalization of money laundering. Similarly sections 340(11) (c) of PoCA incorporates aiding, abetting, counseling or procuring the commission, into the money laundering definition, Preller (2008). Though these afore mentioned principal money laundering offense (crime) could have defense, where the defense does not apply there is a maximum sentence of 14 years and or a fine, PoCA 2002 section 334(10) (b). The Money Laundering regulation (MLR) 2007, also criminalize a person who fails to comply with any requirement in regulation 7(1) (2) (3) the application of Customer Due diligence (CDD) and on a risk sensitive basis depending on the type of customer. 8 (1) (3) where a relevant person must conduct and ongoing monitoring of the business relationship of a customer and also among others an offense is exist where the direction under regulation 18 is not complied with.
The role of PoCA is also important in the reporting stage. It makes offense the failure to report any suspicious money laundering movement by the regulated sector PoCA 2002 (s.330), by the nominated officers of the regulated sector PoCA2002 (s.331) and by nominated officers outside the regulated sector PoCA2002 (s.332). Section 333 of PoCA, criminalize the act of making disclosure, which might prejudice a money laundering investigation, Preller (2008). According to regulation 24 (2) of the MLR 2007, a supervisory authority in the course of its duties should promptly report to, or inform the Serious Organized Crime Agency (SOCA) of a knowledge or suspicion of a person engaging in money laundering or terrorist financing.

According to Preller (2008), the role of Serious Organized Crime Agency (SOCA) is very vital in the collation of stage of the overview. Serious Organized Crime Agency (SOCA) replaced the National Criminal Intelligence Service (NCIS) and also took over the regimes Financial Intelligence Unit (FIU) and its database of Serious Activity Reports (SARs). The Serious Organized Crime Agency (SOCA) duties are to “co-ordinate the collection, collation, analysis, and dissemination of intelligence” It therefore makes intelligent reports or information available to other Law Enforcement Agencies (LEAs) for investigative purposes, such that money laundering investigations according to the UK regulations could be conducted by Custom officers, police officers and the Asset Recovery Agency (ARA), making the regulations more responsive to Anti-Money Laundering.

Lastly, according to Preller (2008) the accounts monitory orders which helps investigators to obtain subjects’ account information, such as notes, meetings, correspondence and records of transactions, from financial institutions is also one of important investigative tool designed to detect and combat money laundering offences and terrorism financing.
2.4 Economic Effects of Money Laundering on developing countries

Identifying the economic effects of money laundering in this literature review is critical to this Thesis. Ghana is a developing country and prone to the economic detects of the world, it is therefore important to have this review as background information to appreciate the economic consequence of money laundering on an economy like Ghana’s.

According to Bartlett (2002), “Money Laundering facilitates illicit capital flight from developing economies”.

The Financial Sector
The Financial Sector means: Banks, Equity market and the Non-Banking Financial Institutions – NBFI.

Money Laundering erodes financial institutions:
According to Bartlett (2002) financial institutions in the developing countries could be eroded through three main means: the possibility that individual customers could be defrauded by corrupt staff of the institutions; by increasing probability that the institution itself could be corrupted and controlled by criminal interest and thirdly the institution itself been defrauded. These give way to reputational consequences therefore eroding critical investors’ interest in the financial sector and the economy as a whole. These are the operational risk that has the potential of eroding the financial institutions. For instance; an unauthorized staff “rogue trader” who lost approximately $100 million bringing a huge loss to the third largest bank in Croatia.

Money Laundering weakens the financial sector’s role in economic growth:
The financial sector plays a major role the economic growth of an economy and this is vital to developing countries. The financial sector play s the role of capital formation and allocation, Bartlett (2002); money laundering therefore impacts negatively on public funds as most financial institutions depends on public
funds. The public will do less or no savings and the economy will suffer financial crunch. It is therefore prudent to have Anti-Money laundering measures to combat its negative effect on the economy. In the extreme, according to Bartlett (2002) a country with lax anti-money laundering measures can suffer legal sanction from important trade and investment partners.

The Real Sector:
“Money laundering also has a more direct negative effect on economic growth in the real sector by diverting resources to less-productive activity, and by facilitating domestic corruption and crime, which, in turn, depress economic growth” (Bartlett, 2002). The statement made by Bartlett (2002) is supported by the following points:

Money laundering distorts investment and depresses productivity:
Launderers who do not use the financial institutions and do not invest their monies in productive investment for the larger or wider benefits of the public. Such investment is often places at what is known as “Sterile” investment, (Bartlett, 2002). This is because such investments do not generate additional productivity to the broader economy and the launders are actually not interested in profit-maximization. Bartlett (2002) mentioned areas like Real Estates development as the foremost example of sterile investment; others are art, antique, jewelry and expansive luxurious cars.

Money Laundering facilitates corruption and crime at the expense of economic development:
Where there is an efficient channel to launder money there is an incentive for criminal activities because the financial proceeds from crime are less valuable to the criminal (Like an unfinished product) until they are laundered and assume a “clean status”. In effect it creates a multiplier effect where money laundered is transformed into purchasing power and it is reinvested into criminal economy and strengthening it’s very existence thereby weakening the economic
development. “The less expensive the money-laundering “input” to crime is as a result of lax anti-money-laundering policies, the more “productive” (active) the criminal element will be, just as in industry or business” (Bartlett, 2002)

Bartlett (2002) illustrates this negative effect with a simple supply and demand framework, in figure 2.3 below.

**Figure 2.3 Illustration of Negative Effect of Criminal Activity on an economy**

In the left diagram above R is the cost of crime or the returns from crime, Q is the level of crime and it is determined by the interception of criminals’ marginal cost\(^1\) of committing crime MC, which slopes downward from right to left and the criminals’ marginal revenue from undertaking more criminal act MR, sloping downward from left to right, which can be seen as simply the list of crime opportunities ranked from most profitable (on the left of Q) to the least profitable (on the right of Q). The criminal element will continue to take advantage of the crime opportunities until the cost of the committing crime consumes all the crime proceeds. The diagram on the right illustrates the reducing cost of money laundering by lowering its risk to the criminal. The MC line shifts to the right since at the same cost or at a lower cost more crime could be committed. Where

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\(^1\) To simplify the diagram, the risk of being caught and punished is incorporated in this line as a “cost” to the criminal.
MC and MR intercepts means an increase in crime Q and the additional crime opportunities become smaller at the margin. The greater crime revenue than becomes the domestic laundered money, and “reinvested” in further criminal activities. Therefore as more money is held in such circulation it will and not being invested for the broader benefit of the society, the real economic growth will suffer. It is therefore imperative that anti-money laundering regulations are tight to keep this growing menace “money laundering” and “crime” in check.

The External Sector
Outbound capital flow: facilitating illicit capital flight:
Money laundering negatively impact on the External sector of the economy by causes illicit capital flight worsening the scarcity of capital in developing countries, Bartlett (2002).

Inbound capital flows: Depressing foreign investment:
In countries where there is lax in money laundering regulations, there is an incentive for domestic crime and corruption Bartlett (2002). This situation prevent inflow of capital investment as investors fear for their investment and or countries with more tighter regulations will not like to invest in countries with lax money laundering regulations.

Trade: Distorting prices and content:
According to Bartlett (2002) “Mis invoicing” can lead to difficulty in managing the economy particularly in the developing countries. This is because money laundering techniques do not directly use the financial system and the real domestic economy is the use of inaccurate pricing (through under invoicing or over invoicing).
2.4.1 Analysis of Bartlett, on the economic effect of money laundering on developing countries:

Bartlett simply put the factors on three sectors of the economy, that is, the financial sector, Real sector and External sectors. What the factor project is that money laundering could lead to a total collapse of a nation if not check. Bartlett warns of the lucrative and rewarding nature of money laundering which could easily corrupt the financial sector and allow staff compromise with laws. The warning further states that money laundering could prevent the financial sector from performing its role in economic development of a country, which means that individuals and business will be losing the funds in bank and will also not get the funding need to expand or undertake business. Money laundering could therefore lead to financial crunch.

What critics would be wondering about is what happens if monies are not kept in the banks but are used or circulated in the economy and whether those monies are not good for national development for poor developing countries. The answer lies in what Bartlett describes as distorting the prices of goods and services because unregulated money, will be chasing after few goods and services leading to high level of inflation and collapse of the economy. May be Zimbabwe could be use as an example given its current state of inflation at 231% as at July 2007, BBC News (2009).

Again a country perceived to have a high rate of money laundering losses its support with the international world. Bartlett (2008) made such notice under the negative effect on the external sector, when mention is made of distortion of foreign investment; almost all developing nations depend on foreign investment as capital inflow to promote national agenda like Ghana is operating the Export processing Zones under Ghana Free Zone Board(GFZB), with the thrust that potential investors will take advantage of the free zones (special serviced locations) to produce and export the bulk of its produce, employing local citizens, with the investors having full ownership of their business and enjoying tax benefits like 10years tax holidays, no import license requirement and the like; according to a pre-report on Ghana from World Investment News (2007),
between the years 1996 -2006 companies licensed under the GFZB had production worth $2.5billion with a total workforce of 35,621. It is therefore important that developing countries do not created incentives for money laundering to scare off potential foreign and prevent such an opportunity for its citizens.

Other important negative effect for analysis is the suffering of the Real sector. According to Bartlett (2008) the operations of money launderers do not involve the use of the financial institutions. The investment of their monies also do not go into productive venture like manufacturing for the benefit of the society but sterile investment like real estates, art, antique, jewelry and expansive luxurious cars. What this means is that there will be monies in the economy but with very few people and this monies will be chasing the few foods and services to the detriment of the major poor.

In conclusion, Bartlett (2008) is warning developing countries that money laundering which is right at their doorstep is a deadly tool that can derail Financial institutions of its ability to grow and develop by not been able to provide and receive funds from people; again money laundering can prevent the Real sector from seeing real growth, leaving major poor and finally money laundering can cause the external sector of the economy to malfunction as potential foreign investors will loss confidence in the country for fear of losing money should they invest in the country.

2.5 International Report on Criminal Activities and Money Laundering in Ghana

The international Narcotics control strategy report, provides us with a global assessment of money laundering and other financial crimes; a review of actions taken and prescription for future action. It further provides us with a report on the state of the economy and its scale of corruption and checks in terms of their efforts to control /prevent money laundering.

Its 2007 report on Ghana presents the gloomy status on Ghana for its’ recent drug trafficking case. According to the report in the year 2006 South America cocaine
trafficking rings increased their foothold in Ghana, establishing well-developed networks run by Nigerian and Ghanaian criminals. It further reports that because Ghana is economy is attracting foreign investment, a lot more drug barons are entering the country under the pretext of doing legitimate business. The economy therefore became a fatal grounds for drug trafficking. According to the report the most prominent case involves an interdicted ship, MV Benjamin which was said to carry two tones of cocaine of which the security agencies where only able to seize thirty kilograms. The police have been mentioned in such cases and in this MV Benjamin case an Assistant Commissioner of Police and other known traffickers were caught in a secret tape recording of the cocaine scandal; it has also involved two top officials of Narcotic Control Board.

On matters of policy initiative, the Narcotic Control Board (NCB) of Ghana is known to have since 1999 attempted to amend the 1990 narcotic law to fund NCB operations from seized proceeds but to no avail as the Attorneys’ General office has not acted on this proposal.

However in 2006 there was an amendment to the narcotic law to allow a stricter application to the bail bond system. Again according to the report on the case of the MV Benjamin cocaine scandal, as a policy initiative, the Ministry of Interior set up a fact-finding committee to investigate.

According to the Ghana 2007 International Narcotic Control Strategy Report the Ghanaian law enforcement agencies in 2006 conducted a joint Police/NCB operation against narcotic cultivators, traffickers and abusers. NCB worked closely with organizations such as DHL, UPS, and FEDEX to intercept packages containing narcotics. Convictions and court sentences of drug cases increased on cases involving 100grams or more and the sentences included both Ghanaian nationals and foreign national such as Nigeria, Cote d’ voire , Togo, Guinea, Belgium and Germany, however the courts had more than 96 drug cases to handle on 100 grams or more.

The Ghana government frowns on corruption, according to the 2007 report on Ghana from the International Narcotic Control Strategy Report, Ghana as a matter of governmental policy, does not encourage or facilitate, among other
illicit activities, the laundering proceed from drug money, however the country was hit with series of drug cases some of them involving law enforcement officials. In October 2005, a supervisor of the Kotoka International Airport (KIA) cargo handling company was arrested for the attempting to smuggle cocaine to the airplane. In January 2006 two officials from the Bureau of National Investigations (BNI) were suspended for an inappropriate dealing with Nigerian Drug traffickers. The same year an Assistant Commissioner of Police and five others were arrested for their direct dealing with the MV Benjamin cocaine scandal. The low rate of convictions of the perpetuators of illicit activities is blamed on a corrupt judicial system by the law enforcement officials.

Ghana has greatly shown interest in the agreements and treaties including the 2006 ratification of the UN Conviction against Corruption and the Africa Union Conviction on Preventing and Combating Corruption. However as at the reporting date, Ghana had not signed the UN Conviction against Transnational Organized Crime.

The NCB organizes series of domestic programs with schools, professional training institutions, churches, local governments and the general public to reduce local drug consumption. In 2006 NCB did series of broadcast on TV programs to explain narcotics, its effect on the individual and the society as a whole.

The US government provides bilateral cooperation to the government of Ghana in the quest to fight crime and corruption. According to the 2007 report on Ghana, in its bid to reduce Ghana’s role as a transit point for narcotic, the US government, in 2002, provided the government of Ghana counter-narcotic assistance in the form of surveillance and detection equipments, worth $64,000 installed at the Kotoka International Airport. Ghana is benefiting from Police training in FY 2002 to suppress corruption and to strengthen the capacity of the police to interdict illegal drugs. Accordingly the 2007 indicates the thought Ghana made a remarkable impact in addressing its legislative and enforcement deficiencies it still has a long road to go. There is the need for a tougher oversight
of the financial transactions in particular to prevent the potential for any narcotic financial network for the funding terrorism and internal corruption.
3.0 Presentation of Research Findings

3.1 Kindly define money laundering and mention the scope of money laundering in Ghana.

Samuel (Intercontinental Bank) said “Money laundering in Ghana refers to the act of person obtaining money through a fraudulent means or through an illegitimate means and using the financial system or any other means closely related to the financial system to “clean” the money or legitimize its usage such that all the doubts and suspicions surrounding the source would be diverted in the eyes of the public. This may include money obtained locally or internationally”.

Simons (SG-SSB) defines ML in Ghana as “To launder money means to take advantage of the banking system to integrate the funds from illicit activities”

Frances Sackey (BoG) says “We define money laundering within the context of the definition in the act”

Roi (SFO) defined ML with an attempt of giving a historic background of Money laundering. He argues that the first reference to the term “money laundering” actually appeared during the Watergate scandal. US President Nixon’s “Committee to Re-elect the President” moved illegal campaign contributions to Mexico, then brought the money back through a company in Miami. It was Britain’s Guardian newspaper that coined the term, referring to the process as “laundering”.

The goal of a large number of criminal acts is to generate a profit for the individual group that carries out the act. Money Laundering is the processing of these criminal proceeds to disguise their illegal identity, source or origin and final destination.

By its very nature, money laundering is an illegal activity carried out by criminals which occurs outside of the normal range of economic and financial
statistics. As such, it is only rough estimates that can be put forward to give some sense of the scale of the problem. The number of complaints received appears to be growing by 50% each year. Its upsurge in Ghana has led to the Anti-Money Laundering Act 2008, Act 749.

Ernest (NewWorld Renaissance) says “It may be defined as the process whereby property or wealth gotten through unlawful means are passed through the financial systems make them appear as lawful, thereby concealing the identity or source of the unlawful property”.

Stephen (GCB)

Money Laundering is the process where ill gotten money, through any defined bad means, are cleaned through the use of either the financial institutions or the use of a fronting business (such as the use of money gotten from armed robbery been use to directly fund a building project).

3.2 **Money laundering is a prominent crime in Ghana, kindly express you view on this.**

All respondents agreed that money laundering is goes on Ghana. Simons (SG-SSB) and Stephen (GCB) both agreed that some of money laundering are very difficult to prove.

Roi (SFO) further explains that Traditionally, ML as a crime was not prominent in Ghana. However with the increasing underground economic activity, developing financial centers and where money launderers tend to seek out countries or sectors where there is low risk of detection due to weak or ineffective structures and programs, Ghana is fast becoming a lucrative base for ML.

3.3 **Please identify the forms or sources of money laundering in Ghana.**

Samuel (Intercontinental bank), noted the following as the extent or scope of Money laundering in Ghana, he actually sounded very particular on his points saying that;
• Government officials of other sister countries who embezzled funds when they were acting as ministers of states to deposit funds into an accounts of a sources.

• Situations were staff (of the treasury) of companies (Bank) deliberately opens an account with name initial same as that of the company in which they work. Because of their position in the treasury department they manage to deposit money in the account for clearing.

Simons (SG-SSB), in his bid to answer the questions gave the following process of money laundering:

The processes are as follows:
• Placement – it is the initial stage of deposit of funds into the accounts in the banking system

• Layering – it is the movement of funds through the various accounts by transfer and or the purchase of investment of the banking products, such as Treasury Bill or and special product of the bank

• Integration – finally when the launders are sure the source of their money could not be identified; launders spend money in genuine investment, especially Real Estate development, Car Rentals.

Frances Sackey (BoG) rather mentioned the following as the sources of money laundering in Ghana

"Turn to the first schedule of the act", act 749; she said, “There you will find what the act refers to as Accountable institutions”. These are institutions where money laundering can really take place, where “dirty” money could be “washed” to look “clean” in the eyes of people to hide the source.

The sources include
• Bribe – bribery in our country is no news, we always hear of bribery and corruption and money obtain from bribery is a one source of Money Laundering

• 10% kick back – contracts are awarded to prospective contractors who are willing to depart a percentage of the value of the contract back to the one
awarding the contract (Kick back) and mostly the percentage we hear of 10%

- Drug money – this is also another source of dirty money, drug related cases are on common these days in Ghana
- Armed robbery proceeds - this is also a major source that needs to be mentioned.
- Wire & Transfer of funds – Launders also use the remittance system to clean their ill gotten money. Such system also includes, Money Gram and Western Union.
- Cross border transactions e.g. foreign exchange act
- Activities of some NGO – some NGO apply for foreign aid to pursue an objectives which are never done. The monies are diverted.

Roi (SFO)
ML in Ghana has taken many forms:

- Small and Large Business - where foreign directors of companies evade tax by not paying on their operations and siphon out the money from Ghana through illegitimate means. For example, cheque supposed to be lodged in bank accounts of companies are exchange for dollars at forex bureau and taken out of the country. In other instances illegal monies (stolen etc.) from outside are sent to relatives and friends in Ghana for other ventures.
- Corrupt Officials through embezzlement, extortion or fraud and speculated impact of capital extracted from legitimate economy, invest the money in the acquisition of property and enhanced lifestyles.
- Members of organized crime groups (such as drug trafficking & prostitution rings) invest their ill-gotten money in Estate development, Buying and selling and property acquisition

Ernest (NewWorld Renaissance) Mentions that the source include vehicle theft, drug dealing, Tax evasion by even people who are known to be prominent in society such as politicians and business owners, armed robbery which is too rampant in our country these days and Transfer of proceeds of unlawful acts
such as prostitution and Corruption such as misappropriation of funds by government officials or people in authority.

Stephen (GCB)

There are know to be different types or source of ML, but I will mention two clear source of ML in Ghana as far as I am concern.

- Foreign remittance, this is because there are many providers of the service and financial institutions are in competition to provide such service, the criminals know how to use the institutions without been noticed. Again not until recent there was no limit as to how much money one can carry on him/her when coming into the country.
- The other is cocaine smuggling, this is almost always in the newspapers or radio or the television

3.4 **Mention the Effects of Laundering activities on the economy of Ghana, if there are any.**

Samuel (Intercontinental Bank)

- Cause collapse of financial institutions when fraudulent large cheque transaction is done by a bank. The bank may be forced to refund or pay the liability incurred due to the banks failure to check the legitimacy of the
- Reputation of a financial institution may be seriously damage when institutions do not check the legitimacy of transactions.
- May have serious consequence when these monies are used to support politics.

Simons (SG-SSB)

- High inflation because of cheap money in the system (demand pull inflation). In further explanation he said “ because those cheap money were acquired without sweat, the holders are able to offer high prices for goods and services without bargaining there by pushing prices high and setting prices for certain
services or goods” putting the people with normal incoming earning into tight situation

- Loss of control of economy (in terms of Monetary Planning) because some of the money do not pass through the financial system they distort the monetary planning of governments. Such action will not capture laundered money out of the banks and this can cause a failure to government monetary policy. This only makes genuine people suffer the more.

- Lack of initiative for hard work / lack of patriotism. Simons argued that where criminals are allowed to look good in society without society questioning their source of income, the youth tend to see them as icons. This means that the youth may resort to cheap cruel means of making money and the issue of patriotism will only be for those who want to talk about it. Indeed the situation of the Member of Parliament for Nkoranza North, Eric Amoateng, is an example where the youth in his constituency saw him as an icon, even when he was arrested for dealing in drugs, because he catered for some of children’s education.

- Lack of Control of the social system: Money laundering can really get hold of the economy to the extent that the control of the society can collapse. Here building on from the preceding point, Simons argues that where hard work and patriotism is relegated there is a break down in societal values, money is what people sort and respect, it therefore does not matter how one makes money (the source) but how much money one has (“cleaned” money).

- High level of corruption: he argues that one of the effects of money laundering is the high level of corruption it presents to the society. The bad money when given the chance sips through the very foundation of society such that even Church Pastors, Politicians, high ranking law enforcement agencies become corrupt to the extent that it becomes difficult to the fight. Recently a church was accused of concealing huge sums of money in car tyres in bid to smuggle it from Ghana to Nigeria.

Frances Sackey (BoG)
• Price hiking - Money laundering puts lot of money in the hands people and such extra money have a greater tendency of pushing prices of goods and services up

• Lost of integrity and blacklisting of a country on the international level. Countries where the money laundering is prominent, loses its integrity at the international level and can even be blacklisted and no country would like to deal with her.

• Capital flight; Money Laundering can also lead to capital flight in the sense that, huge money that should have stayed in the country for development, could be wired out of the country in seconds through various means. This can weaken the capital base of the country.

• Loss of Tax revenue – The government can loss so much in tax where the tax typology of money laundering is high.

• Collapse of Financial institutions – simply I can say Money laundering can deposit huge money in a bank or financial institution and can wire away such huge money such that it can collapse the institution.

Roi (SFO)
The effects these criminal activities are negative. It tarnishes the international relations of a country and it can collapse the financial sector or the country. There is massive tax evasion and capital flight where there is ML. It also has damaging effect on local politics where politician are involved.

Ernest (NewWorld Renaissance)
Money laundering has such negative effect on a country to the extent that it can bring about a total depression of the economy through the collapse of the financial sector; loss of tax revenue; the flight of capital which is expected to be the reserve; social disorder and the loss of international reputation as a country.

Stephen (GCB)
• ML can derail the monetary polices of a country because there will be much money in the hands of people that will not pass through the banks.
• If it pass through the banks and it is not detected, it can collapse the financial institutions when they are suddenly taken away
• It can also create a corrupt society where the youth in particular will not resort to proper means of making money
• It can corrupt nation’s politicians and bad laws will be enacted.

3.5 In your view please state the reasons for money laundering in our country.

Samuel (Intercontinental Bank) argues that it is because of “Opportunity” and this is because of “lax of stringent carefully carved regulation by the governing body i.e. BoG”

Simons (SG-SSB) rather shared in these reasons:
• Desire for prestige: one reason for money laundering is the prestige launders want for themselves and their family. For them what matters most is money and prestige.
• Desire to exert influence and control in society: When people want to show of their power in society they rely on their wealth so they do everything to make the kind of money they need. They try much as they can to control the society with their money

Frances Sackey (BoG) on the other hand thinks that the reasons are as follows
• Self actualization of men - This is explained by the Maslow’s theory where Men are never satisfied until they get to a point of self actualization.
• Easy way to make money

Roi (SFO) Business criminals with their foreign collaborators driven by profit motive are concerned with achieving and maintaining a dominant position within existing economic, political and social structures. On the other hand, the relevant authorities are not involved in establishing financial reporting systems, customer identification, record keeping standards and means for verifying compliance.
Ernest (NewWorld Renaissance) believes that there is a get rich quick attitude of people and that drives them into that.

There are also people with a habit of engaging in criminal activities and they do it till they are caught.

Stephen (GCB)

Prestige is one major factor. I also believe these criminal do get away with offence more often than not so there seem to be an incentive to engaging on ML. There is also the want of getting rich quick through cheap means.

3.6 **Compare why these reasons differ from any other African or Western Countries.**

Samuel (Intercontinental Bank), Simon (SG-SSB), Ernest (NewWorld Renaissance) and Stephen (GCB)

Agreed when they simply said the reasons are same, they all want easy and cheap money.

Frances Sackey (BoG)

Also noted that there are no difference between countries; the reasons for money laundering.

“The major reason for money laundering in Ghana is not different from other African countries and Western countries; perhaps it is the level of sophistication”.

Her argument is that launderers in the advanced countries use a rather sophisticated means to launder money, to disguise or make clean their sources of money other wise she sees no difference in reason.

Roi (SFO)

The reasons are the same throughout the world. The goal of the money launderer is to generate substantial profit by disguising the source, change its form and move funds to a place where it is less likely to attract attention thereby avoiding detection, tax liabilities and punishment.
3.7 Please indicate if Bank of Ghana, the commercial banks or the government of Ghana has been proactive in measures of Combating money laundering in Ghana.

Samuel (Intercontinental Bank) and Simon (SG-SSB) once again agreed there have been some proactive measures in place.

Frances Sackey (BoG) said yes, though the act just came into been, the BoG has given out a couple of directives to the Banks to design internal control measures such as the Know Your Customer (KYC)

Roi (SFO) also thinks that the Bank of Ghana, the Commercial banks and the Government of Ghana, have not been proactive in taking measures to combat ML due to the over liberalization of the financial market in the bid to attract foreign capital and investment. If funds from criminal activity can easily be processed through a particular institution either because its employees or directors have been bribed or the institution turns a blind eye to the criminal nature of such funds, the institution could be drawn into active complicity with criminals and become part of the criminal network itself.

Ernest (NewWorld Renaissance) “Yes”- The bank of Ghana has formulated KYC principles to be used by all financial institutions and the Government has recently enacted the anti-money laundering act, which provides the legal framework for the control of money laundering.

Stephen (GCB) “Yes but much has to be done with the enforcement”.

3.8 Kindly mention any measures in place prior to the enactment of the Anti Money Laundering Act 2008, Act 749

Samuel (Intercontinental Bank)

- Bank of Ghana established the KYC act, where all banks and financial institutions are required to maintain a minimum data about their customers i.e. corporate and individual to confirm their identity
- Also as apart of the prudential reporting, all banks are required to disclose their 20 largest deposits and withdrawals in a week to Bank of Ghana.
• All banks are also required to establish a compliance desk to ensure the full compliance with these regulations

Simons (SG-SSB)
• The current government repelled the Criminal Liable Law – thus giving the media more freedom to operate, question people including the government on all issues; increased questioning of source of funds especially of politicians and public officers and the appropriation of funds for public projects.

• Strengthening of state institutions responsible for handling fraud and corruption. Such institutions include the Serious Fraud Office (SFO), Food and Drugs Board (FBD), Public accounts committee of the parliament and a few more institutions

• In 2004 the central bank introduced the Know Your Client (KYC) to the banks to help in due diligence on both existing and new customers

• The enactment of the Anti-Money laundering (AML) Act 2008, Act 749

Frances Sackey (BoG)

Well, she said the BoG gave directives to the banks to design an internal control mechanism to check Money Laundering.

She says “Hitherto Ghana had no law or Act on Anti-Money Laundering and the banks and other financial institutions had various ways of detecting it and controlling it. Example the application of the Know Your Customer (KYC) policy, Customer Due Diligence and other directives from BoG “

Roi (SFO)

Rather thinks that most people do not know or have not accepted the existence of ML, its criminal nature and its effect and that if there were any measures in place prior to the Anti-Money Laundering Act 2008, Act 749 they can only be said to be cosmetic.

Ernest (NewWorld Renaissance)

People were prosecuted on general laws which already exist. Again banks were using the KYC principles as a control measure.

Stephen (GCB)
For the part of the Banks, Bank of Ghana did direct that all banks ensure internal control through the application of KYC and CDD.

However I know the current Government in his bid to fight corruption has repelled the Criminal Liable Law to enable journalist write and talk as freely on all matters as much as they can. Again there is the committee in parliament (Public Accounts committee) that reviews the accounting records of the Public officials on their revenue accrued and expenses incurred, just to prevent corrupt and recommend prosecution where necessary.

3.9 Given your knowledge in Money Laundering; mention why the AML Act 2008, Act 749 will impact on the current state of Money laundering activities in Ghana.

Samuel (Intercontinental Bank)
The new Act is good and will definitely make a positive impact on money laundering; my hope is that FIC is quickly set up to enhance the effort of BoG and the financial institutions in the fight against Money laundering. At the moment we report to the BoG.

Simons (SG-SSB)
The provisions in the act are good and will serve well its purpose if they are fully implemented.
The impact on money laundering will “mainly be based on the implementation”. Citing that in 2004 when the KYC was introduces, they in SG-SSB started implementing the directive fully, especially on their foreign remittance section, and unfortunately they realize a reduction of their clients.

Why? I asked. His answered “well is because whiles we were implementing the policy other banks who were providing the same money gram services were not particular about the policy or directive, so clients would prefer to go to another bank where it was easy to take their money.
Again new clients for new accounts did not feel comfortable giving out details of themselves. Therefore where all banks are given a directive to design and implement a policy, such as KYC, it behoals on the regulators to make sure that all banks are implementing the directive fully, this will create a fair grounds for all to operate.

Frances Sackey (BoG)
The new law AML Act 749 is very recent and therefore has not made any much impact on the money laundering activities in Ghana. The passage of the act has made or created public awareness but unfortunately the financial intelligent center as stated in section 4 to 6 of the act has not yet been established. Secondly the governing body of the center as in section 7 – 13 is not in place; the appointment of the Chief Executive officer as in section 14 is also not in place. Since all these core aspect of the act are not in place then the accountable institutions that should report suspicious activities to the FIC(as required in section 30) which is not in place can only report to BoG.

Roi (SFO)
The AML Act, Act 749 is not only to increase awareness of the phenomenon both within government and the private sector, but also provides the necessary legal or regulatory tools to the authorities charged with combating the problem. Some of these tools include making the act of money laundering a crime; giving investigative agencies like the SFO the ability to trace seize and ultimately confiscate criminally derived assets. It is also important to build the necessary framework for permitting the agencies involved to exchange information among themselves and with counterparts in other countries.

Ernest (NewWorld Renaissance)
The act will serve as a deterrent to criminals, given that the FIC will have full time staff to work on intelligent reports. It will also serve as a legal basis for persecution.

Stephen (GCB)
ML has not been known by many people but for some of us in the financial sector or say the law enforcement agencies, even some people who are probably
been used by criminals do not know what ML is. Hence the Act will provide a very good tool to inform and educate Ghanaians about ML and also provide the tools to fight or prevent such criminal activities mentioned earlier.

3.10 **In your experience kindly mention any application of sanction(s) to Money laundering Perpetuators, what has been the form of sanction(s).**

Samuel (Intercontinental Bank)
Yes there has been some form of Sanction. What I know is that Banks have been asked to pay fraudulently paid Western Union.

Simons (SG-SSB)
What happens is that there is a “block” or “suspension” transactions on account until further information is provided
Where bank is not comfortable with the operation of the account, it may close it or place it under monitoring if necessary.
We have sometimes sanction both staff and customers
How often do the bank encounter money laundering cases?
Simons answered – Once in month when the bank started implementing the KYC procedures. He further said “if you had come here even six months earlier, I probably would have had very little time for you; I probably would have been called to attend to suspicious transaction”. Hmm I said, yes he replied “But the cases have reduced and now there seems to be less of it”

Frances Sackey (BoG)
Yes there are sanctions; the banks often return such funds if they believe or suspects money laundering. The BoG through the SFO freezes the accounts of suspects until further investigation by the banking supervision is done
Bank of Ghana has got not the right to freeze an account of a suspect for a local account; this can only be done through SFO
However in the case of foreign accounts BoG may confiscate the proceeds and halt further transactions.

Roi (SFO)

“Even though the phenomenon of ML has existed over the years, and various countries have adopted various sanctions against their nationals, there has not been any kind of sanction directly related to money laundering in Ghana to the best of my knowledge. It could be said that the law enforcement officers and the Judiciary are now grappling with the concept itself”.

Ernest (NewWorld Renaissance)

“I don’t know about any yet”

Stephen (GCB)

Cases of sanctions I know of are those outside the financial sector. Such as the prosecution and imprisonment of arrested cocaine “pushers”, armed robbers and car theft cases.

3.11 **Given the various regulations and sanctions; please mention if much has been achieved in the fight against money laundering in Ghana.**

Samuel (Intercontinental Bank)

“Yes some amount of measurable achievement; the environment although susceptive to money laundering, it has not been affected with so many money laundering adventures”.

Simons (SG-SSB)

Yes! It has achieved some impact

“However it has impacted negatively on us; in the sense that we since 2004 when we started following the directives from Bank of Ghana we gradually saw a drop in our number of customers, particularly with the money gram (foreign currency) transaction;

How does this happen?

He replied “Note that we are not the only operator of the Money Gram (like the western union), there are a couple of banks operating the Money Gram, so when
customers come to us to collect money sent to them from abroad and you ask them to answer certain questions about the sender and themselves because the money is of certain amount, they feel very reluctant to do so. They therefore leave and before you realize the amount has been cleared. If you check from the system you can see that the money has been cleared some few hours after the customer left.” Such people do not come to us again to do business. Meanwhile competitors are promoting the use of their banks for the receipt of money from abroad with promotional gifts like T-Shirts and other souvenirs for the more money received from abroad.

Please if I may ask what do you make of it; is it because of Money laundering? Well, it may or it may not be. I say so because, you see, there is a culture here in Ghana about disclosure. People do not like the idea of giving out information, particularly disclosure of income or source of funds. It just does not exist and they feel very uncomfortable disclosing it; not even a genuine client.

It will take some time for a full comprehension of this KYC policy. It therefore depend on the Regulator to ensure that all banks comply with the directives, becomes one bank cannot be doing it whiles others are not doing same.

When you have establish the initial KYC with a client does it end there?, “No”. There is supposed to be a continuous monitoring of the customers dealings with the bank. We watch out for change in deposit trends, amount in deposit and frequency deposit and withdrawals. There we can question for any change in customers dealing with us, say to enquire of any change in their business operations or sources of income etc.

How is your monitoring done? Our staffs are trained well enough to realize any suspicion, besides we have a system monitoring procedure in place, where we set the threshold, so that when some one deposit a huge amount up to or above the threshold the system automatically sends a signal to the compliance office and those of us in charge will follow up.
Don’t you think some smart ones can bet this system by depositing just below the threshold, should the threshold be known to the criminal?
You are right, initially I thought our system will not suffer any such limitation but after a second thought I realized that was easy to happen. Once they get hold of the threshold (which should be an insider doing) they can deposit in huge sums but below the threshold and the system will not report that. But thankfully again we are watching the frequency of deposits and withdrawals and the amount of money involved.
Frances Sackey (BoG)
She asked, what do you mean by regulations do you mean the Act or the regulators?
One thing you need to know is that the Act is the law and from the act do the regulators like BoG derive its regulations or strength to direct the various institutions to work and comply
Reply: Well both

If it is the Act, not really since it has just been passed and the FIC and the Board are not in place.
If it is other directives from the regulator which is BoG then the answer is yes!
Such directives include the follow
• The (KYC) Know Your Customer directive enables the banks to know very well who their customers are, so they can be monitored as far as money laundering is concerning.
• The (PEP) Politically Exposed Persons directive which enables the banks to follow closely the dealings of political figures of other countries with the banks.
• The (CDD) Customer Due Diligence directive, here the banks are suppose to conduct due diligence on customers before entering into any business transactions.
• The (EDD) Enhanced Due Diligence is the policy that enables the banks to do further checks using both internal and external source, including the use of the internet on their customers.

Roi (SFO)
“I can say that not much has been achieved as the various regulations and sanctions are yet to be tested. The major problem is that most people including the authorities see the inflow of capital no matter its source as a boost to the investment climate in the country.”

Ernest (NewWorld Renaissance)
“I think minimal results have been achieved so far”. In the sense that ML case are not been reported particularly in the financial sector but people have the feeling that ML is going on in the country.

Stephen (GCB)
“Much is yet to be achieved”.
Just a little example; Ghanaians abroad remit money to their relation here in Ghana and clearly the service providers include a lot of banks and other non banking financial institutions. When a policy is strictly been adhered to by one bank, say the application of KYC, customers move away to another bank which may not be adhering very well to exiting directives and that threatens the fight against ML.

3.12 State any reason why you would be optimistic on money laundering in Ghana in the future.

Samuel (Intercontinental Bank)
I am hopeful, given the advent and usage of electronic cards and the introduction of credit cards and the e-zwich (a new Biometric smart card introduced by BoG which should be acceptable by all banks ATMs and all institutions or individuals who have the special e-zwich machine or the Point of sale (POS) machine). Thereby huge cash held by customers would be minimized.
He further argued that with their bank and other banks using the B system platform, it will even be possible to check on the background of persons they enter into business with as required by law.

He says this is because we use “Passport, Drivers Licenses, Voters Identity card and other acceptable identity to facility the background check through the B System platform” (B System is an IT company that managers a database which contains the details of all registered Ghanaians or foreigners on the Nationals Health Insurance or people possessing a Ghanaian passport, or all registered voters and then all people with Ghanaian Drivers Licenses)

Simons (SG-SSB)

Yes! I am optimistic; with the AML act now in place,

I hope you have seen a copy of the act?

Yes, I responded, Act 749.

With the Act I am optimistic we will have a positive fight against money laundering but it all depends on implementation and enforcement of the provisions in the act.

Frances Sackey (BoG)

Yes - in the sense that the Act is detailed and effective in terms of coverage. She explains that the ACT took into consideration existing AML laws and it also made provisions for their shortcomings.

Again the other Acts such as Foreign Exchange Act, Whistle blowers Act, and Competition bill will enable the FIC and the Accountable institutions to perform efficiently.

Is it possible that the all the 40 +9 recommendations will be followed by Ghana?

Well ,she said, based on the 40 recommendation and the 9 special recommendations; the Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA) of which Ghana is a member has come out with some regulations for member countries to follow, yes, so our regulations follow that of GIABA.

Roi (SFO)
Money Laundering is one of the fastest growing criminal activities in Ghana. The inflow of dubious capital into the Ghanaian economy seems to be the backbone of the economy without the recognition of its attendant effect. Therefore the Anti-Money Laundering campaign when well tackled by the Government including the Bank of Ghana, the Commercial Banks, the Law enforcement Agencies, the Judiciary and general public then will be positive outcome.

Ernest (NewWorld Renaissance)

“Yes there is. This is because with the enactment of the Act, coupled with education people will become alert and aware of this menace and provide support towards the control of such act”.

Stephen (GCB)

Having been in the financial sector for years, I am quite optimistic that ML in the future will face a touch fight. In that fight against ML money will take a new turn when that Act 749 is fully implemented. This is because the act comes in full package (in terms of authority and staffing) to curb the menace of ML not as pieces of directives from or regulators

3.13 Please state if the theories in the field comply with findings of money laundering in Ghana and give reasons for the differences.

Samuel (Intercontinental Bank)

Theory in the field is usually based on knowledge around money laundering. Theories are therefore developed in these directions. However fraudsters always develop means to find loop-holes in the existing regulations. Although there are no sharp contrasting differences, every little loop-hole will be used by fraudsters.

Simons (SG-SSB)
The differences between the theory and findings in the field are virtually zero. This is because the financial sector has become aware of the money laundering and its effect, at least within the banking system. The various directives from the BoG are suggestive enough but what has to be done is the enforcement of those regulations. Lack of enforcement of directives will create the avenue for the criminals to use the banks and other financial system to launder money, example the foreign remittance system.

Frances Sackey (BoG)

The theory in the field is based on what we know about the money laundering; but the criminals are always trying to identify inadequacies to launder money. Findings of money laundering in Ghana are not that different to existing theories. There are rather inadequacies across West Africa in the fight against money laundering and GIABA seeks provides strategies in response to the lapses in the system in the combat of money laundering and terrorist financing.

Roi (SFO) argues that “They do not comply, the theory and practice differ” Roi said;

Therefore the reasons for the differences could be seen as:-

- Corporate Image: - some institutions such as the banks will not disclose any act of ML because of their corporate image, even when they are aware of such activities.
- Confidentiality: - People who know of ML perpetuators are keeping information close to their heart for reasons such as confidentiality. May be they are part of the syndicate.
- Risky Nature of Giving Information (Risky Nature of information disclosure). Divulging of information could be dangerous, especially about criminal activities such as ML. ML these days is about chain of operators(syndicate), therefore people fear giving out information for fear of been killed.
- Accomplices: - where institutions are part of the whole ML deal, the whole practice becomes something different from the theory, because no one will come out to say anything about it. E.g. some banks may be witnessing an
individuals account been credited with millions of cedis a day and yet no one is able to raise questions about it.

- Remittance into the Country: - Here in Ghana until recently when the BoG came out clearly to say that monies being brought into the country should not exceed the threshold of €10 million, no one questioned the amount of money been brought into the country. Even with recent threshold announced, one seeks to other about the source of funds from the other side.

All compatriots do know very well about ML but that total appreciation and the desire to fight it is not there.

Ernest (NewWorld Renaissance)

The theory in the field conforms in all aspect as far as I am concern, because what I know or have read to constitute ML is what pertains on the field. The only difference lies is that, here in Ghana a lot more people need to be educated in the subject matter.

Stephen (GCB)

There is more to the theory in the field in terms of what actually goes on. The criminals are intelligent and they use all means to re-define their mode of operation.

3.14 Answering the Objective of the Study presented in Chapter 1 (1.3)

Having presented the findings from the field, it is important that the answers are carefully found to the questions under the objective of the study as stated in 1.3 under chapter 1.

1. What is the definition and scope of money laundering in Ghana?

Money laundering in Ghana refers to the act of a person obtaining money, property or wealth through a fraudulent means or through an illegitimate means and using the financial system or any other means closely related to the financial system to “clean” the money or legitimize its usage such that all the doubts and
suspicions surrounding the source would be diverted in the eyes of the public. This may include money obtained locally or internationally. To launder money also means to take advantage of the banking system to integrate the funds from illicit activities.

2. What are the various forms or sources of money laundering identifiable in Ghana today?

The reasons or sources of money laundering as identified in Ghana include the following:

There is Corruption from government officials that includes embezzlement or the misappropriation of funds to the advantage of the officials. There are also the elements of collaboration between staff of accountable institutions and criminals; giving and receiving of bribe; deals 10% kickback during the awards of contracts; drug trafficking; prostitution ring; armed robbery proceeds. Others include transfer of funds or foreign remittance; cross border transaction and Tax evasion and Tax avoidance.

1. What are the Effects of Laundering activities on the economy of Ghana?

The effects of money laundering on an economy are depressing and destructive for an economy like which is susceptible to money laundering like Ghana’s, the effects will include the following: demand pull inflation because of cheap money flowing in the economy; Distortion of government monetary policy where monies outside financial institutions will distort government monetary planning because they could not be easily quantified; Lack of patriotism and initiative on the side of the citizenry as people, especially the youth who see money as the ultimate will resort to anything to be come rich; High level of corruption; Collapse of societal valves since the normal routine of making money is eschewed; There is also the lost of country’s integrity and international relation with other countries particularly countries which have strict anti-money laundering laws; again the issue of Capital flight and loss of tax revenue is important to be mentioned because laundered money could easily be repatriated
out of the country leaving the country leaving no capital for any developmental projects or setting up of business and again no benefit in terms of taxation; Money laundering also leads to Collapse of Financial Institutions and the Corrupting political heads who can set bad laws to their benefit.

4. What are the major reasons for money laundering in Ghana and how does it differ from other African and Western countries?

The major reasons for money laundering in Ghana include People taking advantage of weak laws and regulations and the lax in the enforcement of laws and regulations in Ghana. There is also the desire for prestige and exerting of influence and control on society in and around their environment (achieving and maintaining a dominate position in society)

Other reasons are people trying to attain Self actualization as mentioned by Maslow’s hierarchy of needs and here people use criminal ways to do that; also the quest of criminals making easy and cheap money thereby makes abnormal profit.

The major reason for ML in Ghana is not different from other Africa countries and Western countries, perhaps the different lies in the level of sophistication for the laundering of money

5. What are the measures taken by the Government to control money laundering in Ghana up until today?

Prior to the enactment of the Anti-Money Laundering Act 2008, Act 749 in January 2008; the government of Ghana through Bank of Ghana regulated the financial sector in a manner that suggested a good fight against money laundering. Besides that the use of the criminal laws of the country were use to prosecute criminals such as drug traffickers and armed robbers. The regulations set out by Bank of Ghana include the following:

The (KYC) Know Your Client directive: This is a directive from banks of Ghana instructing all Banks and Non-Banking Financial institutions to demand and
keep the details of customers; it calls for identifying clients and ascertaining relevant information about the client pertinent to their dealing with the financial institutions, including names, contacts and address details, proof of address, source of income and a lot more. Accordingly the individual banks were advised to design their own KYC Application forms and implement them. Unfortunately, none of the respondents with the banks could show me a copy of their KYC.

(CDD) Customer Due Diligence also is one of the directive to the Financial institutions both banking and non-banking and it requires them to go beyond the details of the KYC to investigate their client or customers to ascertain the veracity of the details of clients in their dealings with banks. It involves both internal and external investigation procedures. It involves a continuous monitoring of the customers contact with the institution.

(EDD) Enhanced Due Diligence directive that Bank of Ghana issued to the banks enabled the banks to know very well who their customers are, so they can be monitored as far as money laundering is concerning. This directive like the KYC and CDD conform with Recommendations 4 to 12 of FATF. The import of it is rigorous and robust process of investigation particularly where the risk potential associated with customer is high and some suspicion of money laundering. It also involves a continuous monitoring of the customers contact with the institution.

The (PEP) Politically Exposed Persons directive enables the banks to follow closely the dealings of political figures of other countries with the banks. The process allows the financial institutions to track recently former political figures such as people who have been in government as Executive or Judiciary or with the Legislature or served as an executive with in the Departments or Agency of government, as these political figures pose as potential risk to regulated institutions. The process of tracking them involves the judicious use of the KYC, the CDD and the EDD. The PEP is an international co-operation and
conforms to the FAFT Recommendation 35 and given the legality that may arise and the need for mutual legal assistance, it also conform with FAFT recommendations 36 to 39 and again of FATF Recommendation 40. Internally the banks have their policies such as the threshold level, where they are able to monitor electronically huge deposit and withdrawals in to an account, the figure of the threshold is suppose to be known only to the banks. The rational is to identify and monitor customers who make huge deposit and withdrawals. They check on business details of the customer, frequency of deposit or withdrawal, depositor and others to make an informed decision as to the risk level of the customer. This threshold policy also conforms to FAFT recommendations 17 to 21 as depicted in the literature review.

6. How may the new law, Anti-Money Laundering Act 2008, Act 749 impact on the money laundering activities in Ghana?

The new act when fully implemented will serve as a deterrent to criminals, it will also provide a database for references on criminal cases been investigated by LEAs and other interested authorities.

The New Act has the potential of increasing the awareness of the phenomenon of money laundering both with government and the private sector, providing the necessary legal and regulatory tool to the authorities’ in-charge of combating the problem of ML.

7. Has there been any form of sanction to money laundering perpetrators by the banks or their regulators? What form have these sanctions taken?

There has been an argument by a couple of the respondents that, as far money laundering is concern there has not been any directly related sanction to a perpetrators of money laundering which has come forth to the knowledge of the public with in the financial institutions, nonetheless a couple of proceeds were mentioned as the sanctions and basically involve investigations. They include the block or suspension of transactions on an account for further investigation; the
freezing of suspicious accounts by BoG through SFO for investigation by the bank supervision staffs.

In the cases of money laundering through drug trafficking and armed robbery suspects have prosecuted and imprisoned.

8. Have the various regulations achieved much in combating money laundering activities in Ghana so far?

In the case of the financial sector, the argument is that not much as been achieved as there is the believe that criminals shuffle between banks with and the banks themselves have a lot to protect in terms of information and corporate image. However the criminal laws of country which have been used to prosecute criminals have achieve a lot. The set-up of the Operation Westbridge which is collaboration between the government of Ghanaian narcotic authority and HM Revenue and Customs (HMRC) of the United Kingdom is yielding remarkable results in arresting drug traffickers at the airport. Between November 2006 to November 2007, it was noted that 122 interceptions of 356kgs of cocaine; 2,275kg of cannabis and 1.3kg of heroin (SourceUk.Net, 2007).

9. Is there any reason to be optimistic on money laundering in Ghana in the future?

There is a positive level of optimism with the fight against money laundering in Ghana for these reasons; that the introduction electronic cards including the e-zwich biometric smart card system, huge sums of money will not be carried around for transaction and this will bring people close to the financial institutions. As more and more people use the banks, the banks are able to monitor and implement their policies on anti-money laundering. Beside the central bank could also have an effective monetary policy implemented. Another reason is that as more financial institutions get hooked on to the B system platform (which has a collection of details of all registered members on the Ghanaian National Health Insurance Scheme and details of all registered persons with the Ghanaian Driver Vehicle and License Authority) it becomes
easy to verified for veracity of the their completed forms at the banks or Non-banking financial institutions almost instantly. This really brings a lot of hope to the fight against money laundering.

With the New Anti-Money laundering Act, Act 749 in place more professional institutions like the Banks and Law Enforcement Agencies are optimistic about the further against money laundering in Ghana. The act institutionalize the fight against money laundering, it identifies accountable institutions and prescribe the investigative and reporting procedures, sections 5 and section 23.

In all these reasons for the optimism, there is a great dependence on the implementation of the laws or regulations, particularly the implementation and enforcement of the provisions in the Act 749.

10. To what extent does the theory in the field comply with findings of money laundering in Ghana? What may explain the differences?

Indeed given the answers to the thesis questionnaires the theory in the field to some extent complies with the findings of money laundering in Ghana.

Vaithilingam and Nair mentioned the lack of quality human capital, technology, efficiency of the legal system and innovations as means of increasing the pervasiveness of money laundering in developing countries which practically includes Ghana. This makes the theory seemly complying with what is on the field; again Kegoro, Bagenda and Philip de Andrés in their theories mentioned Drug trafficking, corruption, misappropriation of funds as the source or factors influencing money laundering in Ghana. Whiles Simser mentioned the issue of tax evasion and avoidance as another source. The factors mention from the theories in the literature review do to a greater extent comply to what has been mention by the respondents to the thesis structures question 3.3 as shown in chapter 3, as the source of money laundering in Ghana.

However the theory in the field and the findings of money laundering in Ghana also show some differences, Samuel (Intercontinental) mentioned that there could be difference since fraudsters are continuously developing and looking for loop-holes in the existing regulations to launder money. Roi (SFO) also
mentioned that the theory in the field do not comply with findings of money laundering in Ghana in the sense that corporate institutions in the interest of their corporate imagine will not disclose and act of money laundering; again the issue of confidentiality prevents institutions to giving out information about clients who launder money particular in the banks couple with the risky nature of divulging information to a third party, whiles some institutions may themselves be accomplice to the crime.
For these reasons it is important that the theories are frequently updated to comply with findings not only in Ghana but world as a whole.
CHAPTER FOUR

4.0 Analysis of Research Findings

The core of this chapter will be to find meaning to the findings in chapter three in relation to the thesis topic.

To achieve this, four main areas will be used to analysis the findings and these are 1) Ghana’s vulnerability to Money Laundering, 2) Law / Regulations in combat of Money Laundering in Ghana, 3) Conformity of Laws/regulations and directives to international standards and 4) Effectiveness of the Law or Regulations.

Table 4.1 below depicts the Number of respondents and the percentage number of respondents who agreed on issues. For instance, one respondent in relation to the total number of respondents is 17% which means that only one respondent agreed to a particular issue representing 17% of the total number of respondents.

<table>
<thead>
<tr>
<th>Number of Respondent in agreement</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage in agreement (approximated figures)</td>
<td>17</td>
<td>33</td>
<td>50</td>
<td>67</td>
<td>83</td>
<td>100</td>
</tr>
</tbody>
</table>
4.1 Ghana’s vulnerability to Money Laundering:

Ghana can be said to be very open to Money laundering considering the definition and the extent of general knowledge in money laundering, like the forms of money laundering, rate of detection and sanctions of perpetuators, given by my respondents. Throughout the research all the respondents (100%) agreed that money laundering involves the illicit, illegal or the unlawful process of acquiring money, worth or property and it involves the means of “washing” or “cleaning” of the money to make them look good and to make the source look good or disguise the source of their money. All the respondents identified that the cleansing process is done through the Financial Institutions. Simons (SG-SSB) mentioned specifically the banking system as a means of the integration of funds from illicit activities. What this suggest is that all the financial institutions both Banking and Non-banking are at risk of been used to launder money. Secondly given the various forms or types of money laundering mentioned by the respondents (corrupt government officials, corrupt supervising staff, 10% kick back on contracts, Deals in Drugs, Armed robbery, Cross border crimes, Foreign remittance, some activities of NGOs, tax evasion and syndicate activities of organized crimes such as prostitutions) it is obvious that the country needs to be mindful of its vulnerability to the menace. Definitely the afore mentioned sources of money laundering are major sources of worry in most West Africa countries of which Ghana is no exception.

Philip de Andrés (2008) presented the predominate cross-border or the transnational crimes in West Africa and Ghana is mention in a number of criminal activities which coincides with the research findings, such as Narcotic/drug trafficking and fire arms trafficking.

The international Narcotics control strategy report in 2007 on Ghana presented the gloomy status on Ghana for its’ recent drug trafficking case as presented in the literature review.

Roi (SFO) also mentioned that the growth rate of money laundering which comes to their office is at 50% annually and that most people do not even know or have
not accepted the existence of ML, its criminal nature and its effect on the economy; this is not modest for an economy like ours.

Thirdly, it is even more alarming to note that the respondents mentioned the use of the financial institutions for the “cleaning” of the illicit money or worth, however the detection and sanctions on Money laundering perpetuators emerging from the financial sector is nothing to write about. While they all agree that Money Laundering is prominent in Ghana, it is disturbing to not that, real case were not cited in their submissions and that for those that Simons(SG-SSB) mentioned as sanctions, might not have been deterring enough as it involved just a refund or closure of account. These days in Ghana when an account is closed there are more other Banks one can deal with. Clearly Frances (BoG) submitted that her institution had no power on its own to freeze the account of a local account but that may be where monies are been kept. Thus Ghana needs to fully assess its vulnerability to Money Laundering.

4.2 **Law / Regulations in combat of Money Laundering in Ghana**

Even though Ghana has been quite late in enacting an Anti – Money Laundering Law, the AML Act 2008, Act 749 is equally timely upon its enactment. Prior to the Act the Nation seems to have put in place some amount of measures in support of the global fight against Money Laundering and terrorist financing. Bank of Ghana directed that all the banks and other financial institutions pursue the Know Your Client (KYC) or Know Your Customer , (PEP) Politically Exposed Persons , (CDD) Customer Due Diligence, (EDD) Enhanced Due Diligence and to comply with the foreign exchange regulations. These forms of effort by BoG were mentioned by 83% of the respondent. However Roi (SFO) who belongs to the Investigative Agency and respect 17% of the population sampled, rather thinks that the Bank of Ghana, the Commercial banks and the Government of Ghana, have not been proactive in taking measures to combat ML due to the over liberalization of the financial market in the bid to attract foreign capital and investment. He further argued that prior to the Anti-Money Laundering Act 2008, Act 749 if there were any Regulation or Law at all; it can only be said to be
cosmetic. This statement from Roi (SFO) may be of high level of mistrust in the current fight against Money laundering, an indication that something concrete is not been observed or been seen to be done given the increasing rate of crime of 50% of ML reported to SFO office annually.

Another internal regulations the Banks have adopted is to set the threshold for which any cash or cheque deposit into an account should register to an investigate unit of the bank, e.g. internal audit as with Intercontinental bank or the compliance unit of the SG-SSB, such that any amount above the threshold raises an alarm for further investigation and so is any huge withdrawal. This is a good internal regulation to check money laundering activities. However and interestingly Simons (SG-SSB) was quick to admit that a fast criminal who upon getting hold of the level of threshold is more likely to bet the system of internal checks.

Recently the enactment of the Act, on Anti-Money Laundering Act 2008, Act 749, is a bold step taken by the government. Therefore the findings reveal that efforts have been made to ensure that there are enough regulations in the financial sector, even if they are cosmetic, to combat money laundering, and more strongly the new Law, Anti-Money Laundering Act 2008, Act 749 enacted in January 2008, yet to be fully implemented.

4.3 Conformity of Laws/regulations and directives to international standards

The question of conformity to the international standards is very paramount in dealing with a global issue like Money Laundering, a “pandemic”. The international standards could simply be referred to as the 40 Recommendations and the 9 Special Recommendations on Terrorism as enumerated in the literature review. Speaking to Frances (BoG) she noted that Ghana is a member of the Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA). GIABA has formulated the steps member countries have to follow in their design of internal policies in combat of Money Laundering. These steps are based on the 40 recommendation and the 9 special
recommendations. Clearly it is noted that the few regulations or directives from Bank of Ghana conform to FATF recommendations.

Taking a look at the various directives mentioned by the Frances (BoG), of which all the respondents from the financial institutions agreed on, a clear indication is that they conform to recommendations given by FATF

- The (KYC) Know Your Customer directive, (CDD) Customer Due Diligence directive and (EDD) Enhanced Due Diligence directive that Bank of Ghana issued to the banks enable the banks to know very well who their customers are, so they can be monitored as far as money laundering is concerning. These directives conform with Recommendations 4 to 12 of FATF.

- The (PEP) Politically Exposed Persons directive which enables the banks to follow closely the dealings of political figures of other countries with the banks, is an international co-operation and conforms with the FAFT Recommendation 35 and given the legality that may arise and the need for mutual legal assistance, it also conform with FAFT recommendations 36 to 39 and again of FATF Recommendation 40.

- Internally the banks have their policies such as the threshold level, where they are able to monitor electronically huge deposit and withdrawals. This policy also conforms to FAFT recommendations 17 to 21 as depicted in the literature review.

Given these backgrounds, it is more intuitive to admit that the regulations do conform to international standards, given that all nations are going by the FATF Recommendations.

4.4 Effectiveness of the Law or Regulations

For the effectiveness of the regulations to be assessed, the regulation should be detailed or wide enough to tackle the menace a stake, it should equally involve the institutions that will regulate, implement and enforce the regulations and the regulations should be enforced or to be seen a such. This idea of the standard of effectiveness emerged during the research.
Some of the respondents were quite pessimistic about the existence of any regulations or law in the combat of Money Laundering and Terrorism Financing. Roi (SFO) believes that if there is any regulation at all, they can only be said to be just cosmetic. This gives an indication that either the regulations did not involve sensitive institutions such as the SFO, or that the regulations are ineffective hence almost non existence or that the regulations exist for its sake. This may be a source of worry.

Again the respondents who shared that there are regulations have also shown some worries on the effectiveness of the regulations. Ernest (NewWorld Renaissance) argues that minimal results have been achieved with the regulations whiles Stephen (GCB) submits “much is yet to be achieved”. Ernest (NewWorld Renaissance) again does not know of any sanction emitted on any perpetuators of money laundering. France (BoG) admits they the regulators of the financial institutions cannot freeze local accounts unless they use Serious Fraud Office in their pursuit of criminals. Simons (SG-SSB) thinks that there is a lax in the enforcement of the regulations, citing the problems encountered with foreign remittances. Samuel (Intercontinental Bank) stated that though there are regulations, the environment is still susceptible to money laundering.

Therefore going by the afore-mentioned standard for effectiveness, there is a good indication that; yes there are some regulations enough to aid in the combat of Money Laundering, it rather seems not to have involve the Law Enforcement and Investigative agencies in its set up or implementation particularly in the financial sector and again there seem to be very low level of enforcement of the existing regulations.

Roi (SFO) noted “It could be said that the law enforcement officers and the Judiciary are now grappling with the concept itself”.

Simons (SG-SSB) and Stephen (GCB) mentioned that through the Public Account Committee of the Ghanaian Parliament and the Repelled Criminal Liable Law, public officials have been held accountable for the appropriation of public funds; thus these two tools have been effective in the recent regime of governance.
However the general picture is that the Laws or Regulations prior to the new Act 749 hasn’t been too effective.

4.5 **Overview of Ghana’s Anti-Money Laundering Act 2008, Act 749**

(*This overview is structured on the matters bordering AML on criminalization, reporting and collation & investigation*)

The Ghana Anti-Money Laundering Act 2008 came into being in January 2008, as an Act of Parliament, Act 749. The Act as at the time of writing is yet to be possessed by many people and could be purchased only from the Ghana publishing company in Accra.

Act, 749 is structured on 51 sections and two schedules. The Act which took quite a long time to be enacted, according to a financial expert, Simon of SG-SSB one of my respondents, is of great importance in the nation’s quest to join the rest of the word in the fight against the deadly effects of Money Laundering and Terrorism.

The Act, Act 749, provides it scope of offences which constitute a component of the criminalization of the activities that amounts to Money Laundering and the actors involved. In it definition (section 1) it states that a person commits an offence of Money Laundering if the person knows or ought to have known that property is or forms part of unlawful activities and the person,

- converts, conceals, disguises or transfer the property
- conceals or disguises the unlawful origin of the property, or
- acquires, uses or takes the possession of the property

For the purpose of the Act 749, an unlawful activity means conduct which amount to a serious offence, the financing of a terrorist activities or the contravention of a law which occurs after the commencement of Act 749, whether the conduct occurs in or out of this country.

Interesting the scope of the offence or the criminalization is broadened to include what the Act refers to as “Aiding and abetting money laundering activities” (section 2) where a person commits an offence if the person knows or ought to have known another person has proceeds from unlawful activity and enters into
an arrangement or transaction with such person; example, in using proceeds of such ill gotten money to acquire property on behalf of that other person.

The criminalization aspect of the Act is when widen as it also touches on the “Offences in relation to records and Information” (section 39).

Under section 39, a person commits an offence where the person, among others, without reasonable excuse fail to keep record as required by section 23 of the Act, or access the computer system or data held in the computer system which is under the control of the Financial Intelligent Centre (FIC) or an Accountable institutions contrary to section 25, or modifies the computer system contrary to section 26, or fail to verify the identity of customers by betting and gaming operators or keeping detailed records of the transactions as provided in section 27(2) of the Act, or fail to comply with the monitory order contrary to the provision in section 37.

Any such offence committed is liable to summary conviction to a fine of not more that five hundred penalty units or to a term of imprisonment of not more than three years or both.

Section 39 (2) also prescribe a fine of not more than one thousand penalty units where the offence is committed by a company or a group of persons. It further states “in the case of a body corporate, other than a partnership, each director or the officer of the body is considered to have committed the offence” and “in the case of a partnership; each partner or officer of the body is considered to have committed the offence”. Section 39(4) give the law courts the additional option to refer the matter of offence to Bank of Ghana for further administrative sanction, where the offence was committed by a bank, and in section 39(5), Accountable institutions shall be referred to their supervisory body after conviction for administrative sanction. However section 39(3) states that a person shall not be convicted of an offence under subsection (2) of section 39 provided the person proves that their was no knowledge of the offence and that due diligence and due care was taken, to as it were “prevent the commission of the offence having regard to all the circumstances”
Section 44, criminalizes or makes offence non compliance by Accountable institutions that fails to formulate and implement internal rules to conduct due diligence and to keep records of persons and transactions and to make its internal rule available to the FIC or the governing body as prescribed in section 40; and also the failure to appoint a compliance officer and to provide the needed training as enshrined in section 41 of the Act 749.

Thus the Act, apart from defining the scope of criminal activities that constitute money laundering, it also brings into the criminalization the persons and corporate bodies that do not comply with the provisions of the act in the fight of money laundering and terrorism. The Act can be said to have responded positively to the FATF first and second recommendations.

The Act makes provisions for proper record keeping in all matters related to Anti-money laundering and Terrorism financing. The Act establishes a body to be known as Financial Intelligence Centre Section 4(1) (which corresponds to the Financial Intelligence Unit (FIU) in the FATF 40 recommendations). As part of the FIC functions, it is required to retain the information in the manner and for the period required under the Act, section 6(bl); Section 23 requires of Accountable institutions to keep records of identity of person or agents of person they transact with and to keep records of report of suspicious transactions made to the centre. This means that the FIC needs a database to contain and retain all information that flows from the Accountable institutions to it. Again Accountable institutions are to keep records on computer systems and other electronic devices capable of storing information and final records keeping applies to all single transaction of an Accountable institution. Section 24 of Act 749; prescribe the duration of keeping record by Accountable institutions as “not less than six years after the date on which a relation is terminated in the case of a business relation” or “not less than six years after the date on which a transaction is concluded”. At the end of a six year period, the Act requires under section 24 (4) that the Accountable institutions shall send the records to the Public Records and Archives Administration Department (PRAAD). This means that the record

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2The Center means FIC
will virtually be available any time upon request. Section 24 (3) and (4) encourages Accountable institutions to appoint persons for the record keeping on its behalf and that the FIC shall be informed of any such appointment in writing. The Act 749 section 30(1) also encourages, individuals or institutions to report any suspicious act with any transaction involving Accountable institutions or persons that constitute money laundering shall with twenty four hours after the knowledge or on the grounds for suspicion of the transaction submit a suspicious transaction report to the Center.

AML Act, Act 749; ensures the collation of data for effective investigation, like the UK system where a special body like the Serious Organized Crime Agency (SOCA) plays that vital role of keeping a data base of serious crimes, including money laundering and making them available for further investigation, The Ghanaian AML Act, Act 749 request Accountable institutions under section 23 to keep records of business relationship that has been established with persons and corporate bodies, stored in a computer system and or electronic devices. Ultimately all data after the period of six years after keeps with the Accountable Institutions will be kept by PRAAD, Section 24. (Thus creating a database of a kind that SOCA in UK will be maintaining), such availability of a database will serve as a great source of information for investigation by the Centre and other authorized bodies like the Intelligent Agencies and Revenue Agencies. Section 5 of Act 749, stipulates the objectives of the Centre including the making of information available to investigative authorities, with support from section 6 (a) (c), requiring the Centre to process, analyses, disseminate and interpret information it receives and also inform, advice and co-operate with investigations with investigative authorities, intelligence agencies, revenue agencies, supervisory bodies of Accountable Institutions and foreign counterparts.

4.6 Conclusions / Further Research

Generally the chapter has revealed that Ghana is susceptible to Money Laundering despite the existing regulations. The regulations seem good for what
it is and there is a need for its enforcement. The New Anti-Money Laundering Act 2008, Act 749 is timely and when fully implemented will serve a very good purpose.

Given the above overview coupled with the enthusiasm surrounding the Money Laundering Act 2008, Act 749 and the role of FATF in conducting periodic compliance assessment of member nations, it would be prudent that a further study is conducted into the compliance nature of Ghana’s Anti-Money Laundering policy (given Act 749) to that of FATF recommendations, particularly in the areas of Reporting, Data collation and Investigation as a means of global effort to combat the global terror, Money Laundering and Terrorism Financing.
CHAPTER FIVE

5.0 Conclusion and Recommendations

5.1 Introduction
The study under this single Thesis unveiled the extent of regulations and the effectiveness of such regulations in the fight against Money Laundering and Terrorism Financing in Ghana. It also brought about the scope of coverage of such regulations and the actors or players involved in the implementation of the existing regulations. The thesis questions raised in chapter one find their answers within the context of the research findings such that the analysis thereof provides a reasonable background of the Evaluation of Money Laundering in Ghana.

5.2 Conclusion
The Issues of Money laundering seems to have gained the firmest root in Africa. Philip de Andrés (2008) illustration on the cross border crimes across West Africa is worrisome. It is becoming increasingly clear that criminals seek to identify territories less regulated or not regulated to carry out their illicit activities. West Africa seems to be an exciting ground for Money laundering with varying sources, an indication of instability in regulations or a non existence of money laundering regulations.

The Study under literature review reveals that there is an apparent need to regulate businesses and particularly the financial institutions on matters relating to Money Laundering and Terrorism Financing. The forms of ML are enormous which means more other businesses are been used for the purposes of Money Laundering.

Ghana and particularly the financial sector is aware of the need to regulate against Money Laundering, this is demonstrated in the BoG series of regulations
to the financial institutions for compliance prior to the enactment of the Anti-

However the concentration of the regulations, within the pure aim of tackling
Money Laundering, seems to involve only the financial sector as submitted by
the respondents to the research. Meanwhile a number of illicit monies could be
generated and consumed outside the financial institutions and such a situation
could not be easily regulated by the existing regulations and can have a direct
effect on the monetary policy of the government.

The New Anti-Money laundering Act 2008, Act 749 has come at a time when the
FATF is particular about complying countries to its recommendations. The
coming of the act is a good indication that the nation is ready to join the global
effort to fight Money Laundering and Terrorist Financing through use of
regulations, sections 40 to 44 of Act 749 and through the use of specialized and
dedicated body corporate such as the Financial Intelligent Center as spelt out in
sections 4 to 13 of the Act 749.

The New Anti – Money Laundering law, Anti – Money Laundering Act 2008, Act
749 is timely but it has not been operational, the Financial Intelligence Center is
yet to be set up since the enactment of the act in January in 2008; as at the time
of writing this conclusion there is a new government in power and this
government is yet to constitute a full cabinet of ministers or substantive ministers
of state hence it is quite impossible to estimate when the Financial Intelligence
Centre; according to France (BoG) during my interview with her, she mentioned
that the Center is to be formed under the supervision of Ministry of Finance.

Not withstanding, the yet to be formed Center, there has been some exiting laws
or regulations from Bank of Ghana for the financial institutions in combat of
money laundering and terrorism financing. 83% respondents agreed that there
are existing regulations and Laws but only one respondent representing 17%
indicted that those laws can best be cosmetic. The forms of existing regulations
identified are as follows:

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3 Time here means 19th January, 2009
The (KYC) Know Your Client or Know Your Customer Policy; (PEP) Politically Exposed Persons Policy; (CDD) Customer Due Diligence; (EDD) Enhanced Due Diligence and also regulations for banks to adopted a policy of setting threshold for which any cash or cheque deposit into an account should register to an investigate unit of the bank, such that any amount above the threshold raises an alarm for further investigation and so is any huge withdrawal request. In evaluating the existing regulations, two mean assessment points were use as yardstick. They are conformity to international standards and effectiveness of the laws or regulations. Ghana is a member of the Inter-Governmental Action Group against Money Laundering and Terrorism Financing in West Africa (GIABA) which has formulated some for steps member countries to follow in their design of their internal policies in combat of Money Laundering. These steps are based on the 40 recommendation and the 9 special recommendations. Clearly it is noted that the few regulations or directives from Bank of Ghana conform to the FATF recommendations. For example

- The (KYC) Know Your Customer directive, (CDD) Customer Due Diligence directive and (EDD) Enhanced Due Diligence directive that Bank of Ghana issued to the banks conform with Recommendations 4 to 12 of FATF.
- The (PEP) Politically Exposed Persons directive which enables the banks deal with political figures of other countries is an international co-operation and a need for mutual legal assistance, these two conforms with the FAFT Recommendation 35 and FAFT recommendations 36 to 39 and again of FATF Recommendation 40.
- The policies on threshold level also conforms to FAFT recommendations 17 to 21 as portrayed in the literature review.

From the examples given above there are clear indications that the regulations conform to international standards. The effectiveness of the regulation was set to detailed or show how wide enough the regulation is to tackle the menace a stake, it should equally involve the institutions that will regulate, implement and enforce the regulations and finally the regulations should be enforced or to be seen a such. However the general picture is that the Laws or Regulations prior to
the new Act 749 hasn’t been too effective. The respondents who agreed that there are existing laws or regulations once again agreed there are some lax in the enforcement of the regulations. Roi (SFO) believes that if there is any regulation at all, they can only be said to be just cosmetic.

5.2.1 The Existing Laws / Regulations

As part of the conclusion, it paramount to mentioned that Ghana has some laws or regulation in place to combat money laundering. Five of my respondents agreed that there regulations from Bank of Ghana, while one respondent argued, that if there any laws they are cosmetic laws. The identified laws or regulations are as follows:

- The (KYC) Know Your Client directive: This is a directive from banks of Ghana instructing all Banks and Non- Banking Financial institutions to demand and keep the details of customers; it calls for identifying clients and ascertaining relevant information about the client pertinent to their dealing with the financial institutions, including names, contacts and address details, proof of address, source of income and a lot more. According to France (BoG) the individual banks were advised to design their own KYC Application forms and implement them. Unfortunately, none of the respondents with the banks could show me a copy of their KYC. This is because Clients are normally encourage to fill out forms in the banking hall and are not allow to carry the forms away, the rational been that not all details of the form could not be memorize even after filling them, thus preventing criminals from all potential alteration of the form.

- (CDD) Customer Due Diligence is one of the directive to the Financial institutions both banking and non-banking and it requires them to go beyond the details of the KYC to investigate their client or customers to ascertain the veracity of the details of clients in their dealings with banks. It involves both internal and external investigation procedures. It involves a continuous monitoring of the customers contact with the institution.
• (EDD) Enhanced Due Diligence directive that Bank of Ghana issued to the banks enable the banks to know very well who their customers are, so they can be monitored as far as money laundering is concerning. This directive like the KYC and CDD conform with Recommendations 4 to 12 of FATF. The import of it is rigorous and robust process of investigation particularly where the risk potential associated with customer is high and some suspicion of money laundering. It also involves a continuous monitoring of the customers contact with the institution.

• The (PEP) Politically Exposed Persons directive enables the banks to follow closely the dealings of political figures of other countries with the banks. The process allows the financial institutions to track recently former political figures such as people who have been in government as Executive or Judiciary or with the Legislature or served as an executive with in the Departments or Agency of government, as these political figures pose as potential risk to regulated institutions. The process of tracking them involves the judicious use the KYC, the CDD and the EDD. The PEP is an international co-operation and conforms to the FAFT Recommendation 35 and given the legality that may arise and the need for mutual legal assistance, it also conform with FAFT recommendations 36 to 39 and again of FATF Recommendation 40.

• Internally the banks have their policies such as the threshold level, where they are able to monitor electronically huge deposit and withdrawals in to an account, the figure of the threshold is suppose to be known only to the banks. The rational according to the respondent Simon (SG-SSB) is to identify and monitor customers who make huge deposit and withdrawals. They check on business details of the customer, frequency of deposit or withdrawal, depositor and others to make an informed decision as to the risk level of the customer. This threshold policy also conforms to FAFT recommendations 17 to 21 as depicted in the literature review.
5.3 **Recommendations**

It is now obvious that the New Anti-Money laundering Act 2008, Act 749 when fully implemented or functional will help tremendously in the reporting, collation and investigation of information on Money Laundering and related cases. It is equally apparent that the existing regulations had problems with enforcement and the involvement of the institutions such as the Investigative Agencies. To aid the entire regulatory process, including enforcement and investigations, the following recommendations would be of great help, using the literature review and research findings as backgrounds.

Institutional Corporation: The need for institutional corporation is very crucial for the success of money laundering regulations in Ghana. The existing regulation may be suffering from non corporation from institution such as the Law Enforcement Agencies and Investigative Agencies like Serious Fraud Office which are very much needed in for its full operations. Steeves (2008) mentions that involvement of the key parties, particularly in reviewing reports on financial crimes played a key role in the prosecution of criminal activities, these key parties include IRS, FBI, Department of Homeland Security, Regional U.S Attorneys’ Office and local Police.

The New Act, 749 in section (21) gives the list of accountable institutions and in section (49) mentions co-operation by officers of public agencies but interestingly it does not stipulate the form of co-operation and the level of involvement of public officers, which include officers of the both the law enforcement and investigative agencies. Therefore to achieve a high level of corporation, these institutions and all stakeholders have to be involve in a special corporate training, on issues like; what is Money Laundering; The effects; the forms; the laws combating them; the need for special desk for rapid response; and others. This will enable them appreciate their role in the fight against Money Laundering in a more effective way and for an active participation.

Building a Body of Expertise: It is often said in Ghana that it is easy to get away with a crime by politicizing it, the politicians will take over and that will be the
end of the case. It is therefore important that given this new era of Act, 749, a body of expertise will be set for an effective operation of the FIC and co-ordination of Money Laundering and Anti-Money Laundering activities. This will make up for a possible loss of expertise on the board due to change of board members and change of Chief Executive Officer by a new government. Such changes can give criminals who are closely watching the chance to pull a fast one. The Act itself establishes by section (4) the FIC as a body corporate to be governed by a board mentioned under section (7); section (9) says that the tenure of office of a member of the board is a four year period after which that member could be re-elected but not for the a second re-election. Among the list of the board the only permanent member is the Chief Executive Officer (CEO) of the center. What this means is that the CEO will be the only expertise on the board after a period in time.

The question is what will be the level of expertise on the board if there is a change of government after every four years or eight years. In Ghana Directors and Deputy Directors and CEOs of state institutions are appointed by government in power, these players are more likely to be changed by a new government. The gap that will exist when there is a change of government is where there is the need to have a body of expertise firmly rooted in the FIC to manger affairs till a board is established.

Understandable Laws/Regulations: Laws and regulations for Anti-Money Laundering need to be simple and easier to read and understand. This is crucial if the contribution of the working staff of all accountable institutions is important in this ensuing fight against money laundering. It could be reduced in volume of message to clear, precise notes and presented in a form brochures or hand bills for staff. With accountable institutions that are system based, an occasional pop ups on their computers of what to watch for when dealing with a customer could also be of help. A stitch in time saves none. Steeves (2008) mentioned that the US Treasury Department as part of its four-prong plan to ease the demands of
complying with anti-money laundering laws and regulations made anti-money laundering regulations easier to understand.

Small and Less Complex institutions: Money laundering also takes place in less complex institutions and small institutions. Therefore the FIC and Regulators need to develop a more risk-focus anti-money laundering compliance document for these institutions for effective oversight to the call of duty. This procedure is what Steeves (2008) captured as one of the four-prong plan to ease the demands of complying with anti-money laundering laws and regulations by the US Treasury Department.

General Public Education: There is the need for the public to be informed generically about what money laundering is, its effect on their lives, families, economy, ways to identify money laundering and prevention tips, and then about the long arms of the law. This will inform and caution the public about the menace and reduce the rate of crime if not eliminate crime. Roi (SFO) cautioned about the extent of low knowledge of Money Laundering even among the Law Enforcement Agencies, this argument can easily be inferred to apply to the general public.

Increase on collaboration: It is recommended that the narcotic control authority increase their effort with HM Revenue and Customs (HMRC) to expand Operation Westbridge to the borders of the country to arrest and prosecute criminals, thus serving as a deterrent to others as it is happening at the airport of Accra.

5.4 Challenges / Limitations

Writing up this thesis has not been without challenges or limitations, some of which are worth mentioning. They include the following:
Scope of Research: Research was primarily conduct with the financial sector, a limitation to scope of study. The only exception is the research in conduct with Serious Fraud office. The main reason was the availability of information and willingness of respondents to help with the research.

Disappointment: The author was face with challenges of disappoints from potential respondents to the research, who initially showed the zeal and readiness to help in the project but later decided to withdraw their help when help was most needed.

Sensitivity of Topic: The sensitivity of the topic also prevented the respondent from giving example of typical encounters with money laundering, even where they could.

Time: Time was of essence in this project. The author was faced with time constraints given the deadlines set for the completion of the thesis and the slow rate of receiving research information from respondents.

Funding: The Funding of this thesis was another major challenge and a limiting factor. Transportation to respondents was quite expensive given the frequency with which commuting and again the cost of obtaining research material was also expensive, particularly with assessing the internet, printing and binding of printouts.
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Appendix A

Structured Thesis Questionnaires

This survey is to help in the gathering of information for the gaining of Knowledge on Money Laundering and Policies designed for the combat of Money Laundering in Ghana.

Answered questions will aid in assessment of Money Laundering Regulations in Ghana.

1. Kindly define money laundering and mention the scope of money laundering in Ghana
2. Money Laundering is a prominent crime in Ghana; kindly express your views on this.
3. Please mention the Effects of Laundering activities on the economy of Ghana, if there are any.
4. Please identify the forms or sources of money laundering in Ghana
5. In your view please state the reasons for money laundering in our country
6. Compare why these reasons would differ from that of other African or Western countries.
7. Please indicate if Bank of Ghana, the commercial banks or the government of Ghana has been proactive in measures of Combating money laundering in Ghana.
8. Kindly mention any measures in place prior to the enactment the Anti Money Laundering Act, Act 749.
9. Given your knowledge in Money laundering, mention why the AML Act, Act 749 will impact on the current state of Money laundering activities in Ghana.
10. In your experience kindly mention any application of sanction(s) to Money laundering Perpetuators, and the forms of sanction(s).
11. Given the various regulations and sanctions; please mention if much has been achieved in the fight against money laundering in Ghana.

12. State any reason why you would be optimistic on money laundering in Ghana in the future.

13. Please inform me if the theories in the field comply with findings of money laundering in Ghana and give reasons for the differences.
Appendix B

Names and Addresses of Respondents

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