ANTI-MONEY LAUNDRING ACT 2010

Presentation at

Karachi Tax Bar Association

11th October 2017

Abid H. Shaban



What is Money Laundering?

Money Laundering can be defined in a variety of ways:

In Lay Man Terms

In lay man terms, **Money Laundering** is a process of "turning dirty or black money into clean or white money".

In other words: "*Money Laundering*" refers to any transaction that aims at <u>concealing and/or changing the</u> <u>identity of illegally obtained money</u>, so that it appears to have originated from legitimate sources, where in fact it has not

Legal Terms

Article 6 The UN office for Drug Control and Crime Prevention defines "Money Laundering" as:-

- (i) "The conversion or transfer of property for the purpose of concealing or disguising the illicit origin of such property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequence of his or her actions;
- (ii) The concealment or disguise of the true nature, source, location, disposition movement or ownership of property;
- (iii) The acquisition, possession or use of property by any person who knows, suspects, or should have known that such property, was derived from crime as defined by the member states."

International Monetary Fund (IMF), describes Money Laundering as 'the process by which a person conceals or disguises the identity or the origin of illegally obtained proceeds so that they appear to have originated from legitimate sources" The **Joint Money Laundering Steering Group** (JMLSG) of the U.K. defines money laundering as "The process whereby criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities, hereby avoiding prosecutions, conviction and confiscation of their criminal funds"

How is Money Laundering done and why it is done?

How is it done?

 Illegal Money is put through a cycle of transactions, so that it comes out the other end as legal or clean money.

Why is it done?

• The Rationale is to put a legal mask on illegally-obtained income through acquisition and use of various products.

The Common Factors in Laundering Operations

The Common Factors in "Laundering Operations" are:-

- 1. The need to conceal the origin and true ownership of the proceeds.
- 2. The need to maintain control of the proceeds.
- 3. The need to change the form of the proceeds in order to shrink the huge volumes of cash generated by the initial criminal activity.
- **Hide**: to reflect the fact that cash is often introduced to the economy via commercial concerns which may knowingly or not knowingly be part of the laundering scheme, and it is these which ultimately prove to be the interface between the criminal and the financial sector
- **Move**: clearly explains that the money launderer uses transfers, sales and purchase of assets, and changes the shape and size of the lump of money so as to obfuscate the trail between money and crime or money and criminal.
- Invest: the criminal spends the money: he/she may invest it in assets, or in his/her lifestyles

Why the expression Money Laundering?

The expression "**Money Laundering**", it is believed, was invented during the Prohibition era in the United States.

In 1920 two Chicago gangsters, Al Capone and Bugsy Moran earning huge sums in cash from extortion, prostitution, gambling and bootlegging liquor used 'Laundry Firms' to 'Rinse' this tainted money. They did this to show a seemingly legitimate source for these ill-gotten moneys.

In 1980, '**Pizza Parlors'** and '**Jewellery Stores**" and in 1990 "**Plastic Surgery Clinics**" were used by American Mafia for this purpose.

The first reference to the term' Money Laundering' actually cropped up during the Watergate scandal. US President Richard 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'.

In a Judicial or Legal context, the expression first appeared in 1982 in America in the case US vs. \$4,55,625,39 (1982) 551 F Supp. 314.

Money Laundering – How big is the Problem?

Different agencies quote different figures. There are no accurate figures for the global money laundering problem.

Scale/size Estimates :

The size of the Money Laundering problem could be between \$900 billion and \$2.2 trillion annually world wide, of which the Asia Pacific alone accounts for 30 per cent.

- 1. KPMG'S Global Anti- Money Laundering Survey 2007 reveals that the amount of money laundered globally exceeds \$1trillion
- 2. Worldwide income from drug-trafficking alone could be as high as £500 billion. For the EU it could be a £131 billion problem;
- 3. As much as 25% of all money in circulation, worldwide, could be 'dirty' money;
- 4. The US Treasury cannot account for half of its \$300 billion currency.
- 5. International Monetary Fund estimates 2% to 5% of Global GDP to be scale of Money Laundering. This come to about \$900 billion to \$2.25 trillion annually worldwide
- 6. The total proceeds of all crime amount to approximately \$600 billion per year

The Money Laundering Cycle

"Money-laundering" is the process that disguises.

- (1) The money trail is evidence of their crime: and
- (2) The money itself is vulnerable to seizure and has to be protected.
- (3) STAGES
 - (a) **Placement**, moving the funds away from direct association with the crime;
 - (b) Layering, disguising the trail to foil pursuit; and,
 - (c) **Integration**, making the money available to the criminal, once again, with its occupational and geographic origins hidden from view.

PLACEMENT

- Placement refers to the physical disposal of bulk cash/ proceeds derived from illegal activity.
- This is the first step of the money-laundering process and the ultimate aim of this phase is to remove the cash from the location of acquisition so as to avoid detection from the authorities.
- Many methods are used. They are getting more and more innovative.

LAYERING

Layering is the movement of funds from entities/institution to hide their origin.

- It consists of putting funds, which have entered the financial system, through series of financial operations to mislead potential investigators and to give the funds the appearance of having legal origins.
- Again, obscuring the source is the key.
- Launderers may purchase expensive items such as jewelry, real estate, yachts, or cars in order to change the money's form.
 - FTR (?)

INTEGRATION

- Integration refers to the re-insertion of the laundered proceeds back into the economy in such a way that they re-enter the financial system as normal business funds.
- The funds may be reintroduced in the economy through, for instance, the purchase of luxury items or through investment in assets such as shares in a company or real estate.
 - Foreign remittance (?)

The Chartered Institute of Management Accountants, U.K (CIMA) in their Guide "Anti- Money Laundering—What Every Accountant Must Know-A Guide to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003"

"These three stages are the traditional descriptions of money laundering cycle. However, it is more reasonable to suggest that the cycle begins with the predicate offence. Which in turn gives rise to the money laundering offence. This provides for a **SIX STAGE**.

Stage 1: Creation

The starting point in the cycle is the *predicate offence (the crime)*, which creates the proceeds to be laundered.

Stage 2: Consolidation

Where necessary, the proceeds are prepared for entry into the system.

Stage 3: Placement

This is the introduction of the proceeds into the financial system.

Stage 4: Layering

This is the movement of the funds around the financial system through shell companies or offshore accounts and trusts.

Stage 5: integration

Having successfully distanced the proceeds from the offence and disguised their origins, the money launderer can now take the 'clean' money and spend it.

Stage 6: Realization

Finally, assets are acquired and the proceeds are spent on what is described as the 'criminal lifestyle'."





Fight against Money Laundering International Initiatives

Alarming increase in money laundering and terror financing activities triggered international efforts to devise methods to tackle this cancerous problem.

Post 9/11, effort was accelerated

International Organizations -Initiatives

The Vienna Convention, 1988

 Basel Committee on Banking Regulations and Supervisory Practices—known as The Basel Statement of Principles

The Financial Action Task Force (FATF)

As a result of the Vienna Convention, the **Financial Action Task Force on Money Laundering (FATF)** was established in 1989 in Paris.

- It is a "policy-making body".
- In April 1990 FATF issued 40 recommendations that provided a comprehensive plan of action to fight money laundering, and subsequently in 2001 added 9 special recommendations for combating terrorist financing.
- With effect from Feb 2012, FATF has revised all the Recommendations.
 - OECD has basically adopted FATF recommendations.

The 1990 Council of Europe Convention

The Council of Europe Convention established in November 1990 establishes a **common criminal policy on money laundering, common definition of money laundering**.

The Egmont Group (Financial Intelligence Units)

An FIU the central authority in each country responsible for the receipt, analysis and dissemination of financial information for anti-money laundering and counter-terrorist financing (AML/CFT) purposes.

The Asia Pacific Group (APG)

The Asia/Pacific Group on Money Laundering operating under the principles of the Financial Action Task Force (FATF) is dedicated to the enactment of anti-money laundering legislation and enforcement activity on the proceeds of crime in this geographical area.

European Union (EU)

In 1999, the EU issued a directive on money laundering, compatible with the original 40 FATF recommendations.

The Palermo Convention 2003

This convention came into force on the 29th of September 2003. It has been signed by 147 countries and ratified by 82 countries. The Palermo convention is important because its AML provisions adopt the same approach as adopted by the Financial Action Task Force (FATF) in its Forty Recommendations on Money Laundering:

The Wolfsberg Group AML Principles

The Wolfsberg Group is an association of 11 banks. It provides the global Anti-money Laundering guidelines for banking.

International Legislations

A few of the key law relating to money laundering in some major countries are enumerated here below:

Anti-Money Laundering Laws in USA

The United States has passed eight major laws that define how banks and the country as a whole deal with money laundering:

- (1) Bank Secrecy Act, 1970.
- (2) Money Laundering Control Act, 1986; the world's first Money Laundering Act enacted in U.S.A
- (3) Anti-Drug Abuse Act of 1988,
- (4) Annunzio-Wylie Anti-Money Laundering Act, 1992;
- (5) Money Laundering Suppression Act of 1994.
- (6) Money Laundering and Financial Crimes Strategy Act, 1998;
- (7) USA Patriot Act, 2001;
- (8) Intelligence Reform & Terrorism Prevention Act of 2004.

These Acts:-

- Establish requirements for record keeping by individuals, banks and other financial institutions,
- Establish money laundering as a federal crime;
- Introduce civil and criminal forfeitures for the Bank Secrecy Act violations
- Criminalize the financing of terrorism,
- Prohibit financial institutions from engaging in business with foreign shell banks,
- Require financial institutions to have due diligence procedures,
- Provide the secretary of treasury with the authority to impose "special measure" on jurisdictions or transactions that are of "primary money laundering concern".
- Address the prohibition of deposit structuring intended to avoid the \$10,000 reporting ceiling.
- Require car dealers and real estate closing personnel to file CTRs for transactions involving more than \$10,000.
- Require banks to verify and maintain records regarding wire transfers.
- Require sellers of financial instruments of \$3,000 or more to verify the identity of the purchaser.

UK

The UK Legal and Regulatory Framework (Legislation) Terrorism Act, 2000:

The Act is the third key element of the money laundering legislation and relates to the proceeds of terrorist activity and terrorist financing.

Proceeds of Crime Act, 2002

It is a criminal offence to get involved in any manner whatsoever in any activity which is suspected to facilitate someone else in acquiring retaining, using or controlling the proceeds of crime.

(Pakistan AML law is basically derived from here)

• UK Money Laundering Regulations 2007

It is an offence for anyone who is working in a financial firm not to report any act that is suspected to involve the proceeds of crime.

- The Financial Service Authority (FSA)
- Joint Money Laundering Steering Group (JMLSG)

Under UK Laws: key points

All the Acts mentioned above criminalize actions relating to criminally acquired property as well as the failure to disclose suspicious transactions that may indicate money laundering. The Regulations create a regime of Due Diligence, record keeping and reporting that the institutions are required to comply with and also establish penalties (both civil and criminal) for non-compliance.

Australia

- The proceeds of Criminal Act, 1987 makes money laundering a crime.
- The Anti- Money Laundering and Counter Terrorism Financing Act, 2006, covers the financial sector, gambling sector and bullion dealing and any other professionals or business that provides particular 'designated services'.

Malaysia

Anti- Money Laundering Act, 2001

The Act criminalizes money laundering stating that any person who engages in a transaction that involved proceeds of any specified amount unlawful activity commits an offence.

THE ANTI-MONEY LAUNDERING ACT 2010 (PAKISTAN)

Section 3. Offence of money laundering—A person shall be guilty of offence of money laundering, if the person: —

(a) acquires , converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime;

(b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime;

(c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or

(d) participates in, associates, conspires to com mit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c).

Explanation -I.— The knowledge, intent or purpose required as an element of an offence set forth in this section may be inferr ed from factual circumstances in accordance with the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984).

Explanation II. - For the purposes of proving an offence under this section, the conviction of an accused for the respective predicate offence shall not be required.

THE PREVENTION OF MONEY LAUNDERING ACT 2002 (INDIA)

Section 3 - Offence of money-laundering.-Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money-laundering.

Proceeds of Crime Act 2002 (U.K)

The <u>money laundering</u> provisions contained in Part 7 of the Act are supported by the UK Money Laundering Regulations 2007.

"money laundering" means an act which falls within section 340(11) of the Proceeds of Crime Act 2002(b);

340 (11) Money laundering is an act which—

(a) constitutes an offence under section 327, 328 or 329,

(b)constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),

(c)constitutes aiding, abetting, counseling or procuring the commission of an offence specified in paragraph (a), or

(d)would constitute an offence specified in paragraph (a), (b) or (c) if done in the United Kingdom.

PART 7

327 Concealing etc

328 Arrangements

329 Acquisition, use and possession

PAKISTAN

In addition to ANTI-MONEY LAUNDARING ACT 2010 vide SRO 57(E)/2015 dated 13 April 2015, THE ANTI MONEY LAUNDERING REGULATIONS, 2015 have been notified.

DEFINITIONS (AML-2010)

Section 2

(f) "financial institution" includes any institution carrying on any one or more of the following activities, namely:-

(h) "FMU" means the Financial Monitoring Unit established under section 6;

(j) "investigating or prosecuting agency" means the National Accountability Bureau (NAB), Federal Investigation Agency (FIA), Anti-Narcotics Force (ANF) or any other law enforcement agency as may be notified by the Federal Government for the investigation or prosecution of an offence under this Act;

(k) "investigating officer" means the officer nominated or appointed under section 24;

(m) "non-financial businesses and professions" means real estate agents, jewelers, dealers in precious metals and precious stones, lawyers, notaries and other legal professionals, accountants, trust and company service providers and such other non-financial businesses and professions as may be notified by the Federal Government;

(n) "offence of money laundering" has the meaning as defined in section 3;

(o) "person" means an individual, a firm, an entity, an association or a body of individuals, whether incorporated or not, a company and every other juridical person;

(q) "proceeds of crime" means any property derived or obtained directly or indirectly by any person from the commission of a predicate offence or a foreign serious offence;

(r) "property" means property or assets of any description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and includes deeds and instruments evidencing title to, or interest in, such property or assets, including cash and monetary instruments, wherever located;

(ra) "property involved in money laundering" means proceeds of crime, property derived or obtained directly or indirectly from the offence of money laundering and property used or intended to be used in commission of the offence of money laundering, a predicate offence or a foreign serious offence;

(s) "predicate offence" means an offence specified in the Schedule to this Act;

(u) "reporting entity" means an entity specified in clause (f) or clause (m) and includes any other entity designated as such by Federal Government by notification in the official Gazette;

(y) "Suspicious Transaction Report" means the report on suspicious transaction specified under section 7; and

VARIOUS IMPORTANT PROVISIONS OF **ANTI-MONEY LAUNDERING ACT 2010**

Section 4 - Punishment

RI for atleast 1 year but can extend to 10 years.

Section 5 – National Executive Committee

- Headed by Finance Minister
- To meet atleast twice a year
- To develop, review and oversee the implementation of national strategy to fight money laundering and financing terrorism.
 Other policy issue section 5(3)
 General Committee (Section 5(4)

- Headed by Secretary Finance to assist National Executive Committee.

- Section 6 Financial Monitoring Unit
 Financial Monitoring Unit housed in SBP.
 They disseminate on confidential basis after analyzing the Suspicious
- Transaction Reports (STR), Currency Transaction Reports (CTR) Maintain database of STR, CTR, establish analytic software and cooperate with other agencies in Pakistan and outside Pakistan.

Section 7 Procedure and manner of furnishing information by reporting entities.

- Reporting entities file with FMU report of STR
- STR sort of has been defined in Section 7

(a) involves funds derived from illegal activities or is intended or conducted in order to hide or disguise proceeds of crime;

(b) is designed to evade any requirements of this section

(c) has no apparent lawful purpose after examining the available facts, including the background and possible purpose of the transaction; or

(d) involves financing of terrorism, including fund collected, provided, used or meant for, or otherwise linked or related to, terrorism, terrorist acts or organizations and individuals concerned with terrorism:

- Government entities/autonomous bodies can also report.
- Report to be filed by reporting entities to FMU immediately but not later than 7 working days
- Record retention 5 years

Section 8

Attachment of Property on basis of report of received from investigating or prosecuting agency with prior permission of court by order in writing ATTACH a property.

Section 9 Investigation

- An investigating officer after the property has been attached u/s 8(i) or seized u/s 14/15 with 7 days issue a notice in writing providing 30 days to reply explaining source of income etc.
- If the investigating officer on report determines to property attached is property of money laundering he shall apply to court for confirming attachment. Court after providing opportunity of hearing may pass appropriate orders.

Section 12

No Civil or Criminal proceedings against banking companies, financial institutions.

Section 13/14

Power of Survey/Search and Seizure

Section 16 Power to Arrest

• After obtaining warrant of arrest from the court.

Section 21

- Offence under the AML Act is "non-cognizable and non-bailable"
- No person accused of an offence punishable for a term of imprisonment of more than THREE years shall be released on bail or on his own bond (certain exceptions are there)

Section 22

Provisions of Code of Criminal Procedure 1898 shall in so far as inconsistent with provisions of AML Act shall apply.

Section 23

Provides that any person not satisfied with decision of court may file appeal to High Court.
Section 24 - Appointment of investigating officers and their powers

(1) The investigating or prosecuting agencies may nominate such persons as they think fit to be the investigating officers under this Act from amongst their officers.

(2) The Federal Government may, by special or general order, empower an officer not below BPS-18 of the Federal Government or of a Provincial Government to act as an investigating officer under this Act.

(3) Where any person other than a Federal or Provincial Government Officer is appointed as an investigating officer, the Federal Government shall also determine the terms and conditions of his appointment.

(4) Subject to such conditions and limitations as the Federal Government may impose, an investigating officer may exercise the powers and discharge the duties conferred or imposed on him under this Act.

Section 25

Authorities to assist Other Government (Federal and Provincial) officers and Financial institutions shall assist FMU and other authorities.

Section 26 Agreement with Foreign Countries.

Section 27 Letter of request to a contracting State etc

Section 28 Assistance to a contracting State in certain cases

Section 29 Reciprocal arrangements for processes and assistance for transfer of accused persons

Section 30 Attachment, seizure and forfeiture etc., of property in a contracting State or Pakistan

Section 39

Act to have overriding effect.—(1) Subject to sub-section (2), the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

Section 41 - Act not to apply to fiscal offences

(1) Except with prior consultation of FMU, an investigating or prosecuting agency shall not charge any person with the offence of money laundering in relation to a predicate offence punishable under the Sales Tax Act, 1990 (VII of 1990) and the Federal Excise Act, 2005.

(2) In relation to the laws specified in sub-section (1), no offence other than the following shall be notified as predicate offence, namely:-

a. Sub-Sections 11 and 13 of Section 33 read with section 2(37) of the Sales Tax Act, 1990; and

b. Sub-section (3) of section 19 of the Federal Excise Act, 2005."

NOTE: Income Tax Ordinance 2001 is Missing in sub-section(1)

Through **SRO 2(KE) 2011** dated 24 August 2010 Federal Government <u>has notified Directorate General of Intelligence</u> <u>and Investigation FBR to be law enforcement agency</u> for Investigation or prosecution of predicate offence under the AML Act.

Vide **SRO 611(1)/2016** dated 09-06-2016 Federal Government has appointed Director General (Intelligence and Investigation Inland Revenue) FBR as investigation and prosecution agency under the AML Act 2010.

THE SCHEDULE

(sec 2(w) + "predicate offence" means an offence specified in the Schedule to this Act.

Section –VIIA - The Sales Tax Act, 1990 (added vide SRO 104(I)/2016)

33 (entries 11 and 13 of Section 33 of Table) Offences and Penalties

Offences	Penalties	Section of the Act to which offence has reference
 11. Any person who, – (a) submits a false or forged document to any officer of Inland revenue; or (b) destroys, alters, mutilates or falsifies the records including a sales tax invoice; or (c) Knowingly or fraudulently makes false statement, false declaration, false representation, false personification, gives any false information or issues or uses a document which is forged or false. 	Such person shall pay a penalty of twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher. He shall, further be liable, upon conviction by a Special Judge, to imprisonment for a term which may extend to three years, or with fine which may extend to an amount equal to the amount of tax involved, or with both.	2(37) and General
13. Any person who commits, causes to commit or attempts to commit the tax fraud, or abets or connives in commissioning of tax fraud.	Such person shall pay a penalty of twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher. He shall, further be liable, upon conviction by a Special Judge, to imprisonment for a term which may extend to five years, or with fine which may extend to an amount equal to the loss of tax involved, or with both.	2(37)

Section XIIA – The Income Tax Ordinance, 2001 (added vide SRO 425(I)/2016 dated 14-05-2016)

Section 192. Prosecution for false statement in verification. — Any person who makes a statement in any verification in any return or other document furnished under this Ordinance which is false and which the person knows or believes to be false, or does not believe to be true, the person shall commit an offence punishable on conviction with a fine upto hundred thousand rupees or imprisonment for a term not exceeding three years, or both.

SRO 425(i)/2016 dated 14-05-2016 "where tax sought to be evaded is ten Million rupees or more"

Section 192A. Prosecution for concealment of income.— (1) Where, in the course of any proceedings under this Ordinance, any person has either in the said proceedings or in any earlier proceedings concealed income or furnished inaccurate particulars of such income and revenue impact of such concealment or furnishing of inaccurate particulars of such income is five hundred thousand rupees or more shall commit an offence punishable on conviction with imprisonment upto two years or with fine or both.

(2) For the purposes of sub-section (1), concealment of income or the furnishing of inaccurate particular of income shall include.

(a) the suppression of any income or amount chargeable to tax;

(b) the claiming of any deduction for any expenditure not actually incurred; or

(c) any act referred to in sub-section (1) of section 111.

SRO 425(i)/2016 dated 14-05-2016 "where tax sought to be evaded is ten Million rupees or more"

Section 194 - Prosecution for improper use of National Tax Number Certificate. A person who knowingly or recklessly uses a false National Tax Number Certificate including the National Tax Number Certificate of another person on a return or other document prescribed or used for the purposes of this Ordinance shall commit an offence punishable with a fine not exceeding fifty thousand rupees or imprisonment for a term not exceeding two years, or both.

SRO 425(i)/2016 dated 14-05-2016 "where tax sought to be evaded is ten Million rupees or more"

Section 199 - Prosecution for abetment. — Where a person knowingly and willfully aids, abets, assists, incites or induces another person to commit an offence under this Ordinance, the first-mentioned person shall commit an offence punishable on conviction with a fine or imprisonment for a term not exceeding three years, or both.

SRO 425(i)/2016 dated 14-05-2016 "where tax sought to be evaded is ten Million rupees or more"

Section 111(I) of Income Tax Ordinance 2001

Unexplained income or assets. — (1) Where —

(a) any amount is credited in a person's books of account;

- (b) a person has made any investment or is the owner of any money or valuable article;
- (c) a person has incurred any expenditure2 or
- (d) any person has concealed income or furnished inaccurate particulars of income including
 - (i) the suppression of any production, sales or any amount chargeable to tax; or
 - (ii) the suppression of any item of receipt liable to tax in whole or in part

Section – XIV The Federal Excise Act, 2005 (added vide SRO 104(I)/2016 dated 03-02-2016)

19(3) Offences, penalties, fines and allied matters

(3) Any person who,— (a) illegally removes, stores, keeps, or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods in the manner other than the manner prescribed under this Act or rules made there under;

(b) is in any way concerned in conveying, removing, depositing or dealing with any goods with intent to defraud the Government of any duty of excise due thereon, or to violate any of the provisions of this Act or rules made there under;

(c) is in any way concerned in any fraudulent evasion or attempt at fraudulent evasion of any duty of excise;

(d) claims, takes or avails adjustment of duty not admissible under this Act or the rules made there under; and

(e) is in any way concerned in the manufacture of any dutiable goods in contravention of the provisions of this Act or rules made there under;

shall be guilty of an offence and for each such offence, shall be liable to fine which may extend to fifty thousand rupees or five times of the duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.

Section –VI The Customs Act, 1969 (IV of 1969)

Section 2(s) – Smuggle

"smuggle" means to bring into or take out of Pakistan, in breach of any prohibition or restriction for the time being in force, or evading payment of customs-duties or taxes leviable thereon

Section 15 - Prohibitions

No goods specified in the following clauses shall be brought into or taken out of Pakistan, namely

- Section 16 Power to prohibit or restrict importation and exportation of goods
- Section 32 72[False] statement, error, etc
- Section 32A Fiscal fraud
- Section 139 Declaration by passenger or crew of baggage

OTHER LAWS (Select provisions)

- Section I The Pakistan Penal Code, 1860 (Act XLV of 1860)
- Section II The Arms Act, 1878 (XI of 1878)
- Section III The Foreigners Act, 1946 (XXXI of 1946)
- Section III-A Prevention of Corruption Act, 1947 (II of 1947)
- Section IIIB Foreign Exchange Regulation Act, 1947 (VII of 1947)-Illegal forex business
- Section IV The Copyright Ordinance, 1962 (XXXIV of 1962)
- Section V The Pakistan Arms Ordinance, 1965 (W.P. Ordinance XX of 1965)
- Section VIA The Securities Act, 2015 (Act No. III of 2015)
- Section VII The Emigration Ordinance, 1979 (XVIII of 1979)
- Section VIII The Control of Narcotic Substances Act, 1997 (XXV of 1997)
- Section IX The Anti-Terrorism Act, 1997 (XXVII of 1997)
- Section IXA The Pakistan Environmental Protection Act 1997 (XXXIV of 1997)
- Section X National Accountability Ordinance, 1999 (XVIII of 1999)
- Section XI The Registered Designs Ordinance, 2000 (XLV of 2000)
- Section XII The Trade Marks Ordinance, 2001 (XIX of 2001)
 - Section XIII The Prevention & Control of Human Trafficking Ordinance, 2002 (LIX of 2002)

CP No. 1804 of 2017 (Sind High Court)

"Prima facie, the offence of money laundering, which is set out in s. 3, is in relation to "proceeds of crime". This expression is defined in s.2(q) where it is directly and specifically linked to the commission of a predicate offence, which itself is defined under s.2(s) as meaning an offence specified in the Schedule to the Act. Prima facie, therefore, it seems to us that any officer of any prosecuting or investigating agency, if properly and duly authorized and empowered to act under the Act, must first satisfy himself that a predicate offence has been committed which has resulted in proceeds of crime and which could lead or mislead to the offence of money laundering under s.3."

PRIZE BONDS

The prize bonds stock has almost doubled to Rs 681 billion in the past three years.

Significant share of increase is amongst big ticket bonds - bonds of **Rs25,000** denomination has increased from Rs40 billion to Rs102 billion

AND

Rs. 40,000 prize bonds supply has jumped from Rs118 billion to Rs194 billion.

Still these bonds are in short supply in the market.

Immoveable Property loss of Revenue.

Z= 100	market value	Assume Market Value of Property:	Rs. 10,0	000,000
		FBR Notified Rate:	Rs. 4,0	000,000
Y= 40	FBR notified rates	Collector Rate:	Rs. 3,0	000,000
		Diff between FBR rate and Collector R	ate Rs. 1,0	00,000
X= 30	Collector rates	Tax u/s 236W =	Rs.	30,000
		Effective Rate Rs. 30000/10000000 = 0	0.3%	

Y-X=F

3% of F= Rs. 1.26 Billion (this is section **236 W** data is from December 2016 to March 2017=~4 month) Rs. 1.26 Billion/ 0.3% = ~Rs. 400 Billion property sale

Z-X= Rs. 280 Billion = [400 – 120 = 280 Billion]

So approx Rs. 280 billion "black money" being generated in case of buyer and approx Rs 280 billion "black

money" is being generated in case of seller. So total un-taxed money Rs 560 Billion

Tax on Rs. 560 Billion @30%= Rs. 168 Billion

Penalty 100% of Tax= Rs 168 Billion

Total Potential Revenue Loss: Rs 336 Billion in about 4 months

This is conservative estimate as people sell property at FBR rates, hence tax u/s 236 W is ZERO

People sell files (Bahria town ,DHA city etc etc ,tax u/s 236W is ZERO.

Most (80%) of the transactions are in open plots, hence secondary industries do not benefit. Very little if any job creation.

>Do away with this perpetual amnesty. It is destroying the tax structure.

