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# Regulation of Money Laundering Practices by Real Estate Agents Under the Ethiopian AML Regime Revisiting Compliance Practice and Its Effectiveness

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**Regulation of Money Laundering Practices by Real  
Estate Agents Under the Ethiopian AML Regime-  
Revisiting Compliance Practice and Its Effectiveness**

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**Bahir Dar University**

**School of Law**

**August, 2022**

**Title page**  
**Regulation of Money Laundering Practices by Real Estate  
Agents Under the Ethiopian AML Regime- Revisiting  
Compliance Practice and Its Effectiveness**

Thesis

Submitted in Partial Fulfillment of the Requirements for the Degree  
of Bachelor of Laws (LLB)/Degree of Master of Laws (LLM) in  
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August, 2022



### **Thesis approval page**

The thesis titled *“Regulation of Money Laundering Practices by Real Estate agents Under the Ethiopian AML regime- Revisiting Compliance Practice and its effectiveness”* by Mr./ Nigus Zerefu Negede is approved for the degree of Master of Laws (LLM)

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## Declaration page

### Declaration

I, the undersigned, declare that the thesis comprises my own work. In compliance with widely accepted practices, I have duly acknowledged and referenced all materials used in this work. I understand that non-adherence to the principles of academic honesty and integrity, misrepresentation/fabrication of any idea/data/fact/source will constitute sufficient ground for disciplinary action by the University and can also evoke criminal sanction from the State and civil action from the sources which have not been properly cited or acknowledged.

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Signature

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Name of Student

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University Id. Number

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Date

## **Acknowledgment**

The first gratitude goes to the almighty God helping me throughout my life journey and in the accomplishment of this work too. I am also highly indebted to concede my mother Bire kiflew (a brave women) for her immense support. Thirdly, I am really gratefully to my advisor Misganaw Gashaw (Asst. professor) not only for his incredible support on my task but also for his paternal advice beyond the academics. I owe great appreciation for my positive friends to their enormous support.

## Table of Contents

Contents	Page
Title page .....	II
Thesis approval page.....	III
Declaration page .....	IV
Acknowledgment .....	V
Acronyms.....	IX
Abstract.....	X
CHAPTER ONE-INTRODUCTION.....	1
1.1. Background of the Study.....	1
1.2. Statement of Problem.....	4
1.3. Research Question .....	6
1.4. Objective of the Study.....	6
1.4.1. General Objective .....	6
1.4.2. Specific Objectives .....	6
1.5. Research Methodology .....	7
1.5.1. Design of the Study.....	7
1.5.2. Participants of the Study .....	7
1.5.3. Sampling Technique and Data Gathering Tools .....	7
1.5.4. Data Analysis Technique .....	8
1.6. Significance of the Study .....	8
1.7. Scope of the Study .....	8
1.8. Limitation of the Study .....	9
1.9. Organization of the Study .....	9
1.10. Review of Related Literature .....	9
CHAPTER TWO .....	13
CONCEPTUAL UNDERPINNINGS OF MONEY LAUNDERING AND REAL ESTATE MARKET .....	13
2. Introduction.....	13

2.1.	The real estate market (investment) .....	15
2.2.	Vulnerability of real estate agents for money laundering .....	16
2.3.	Processes of money laundering .....	17
2.4.	Socio economic implications of money laundering .....	19
2.5.	Development of anti-money laundering laws: regional and international perspectives.....	22
CHAPTER THREE .....		29
APPRAISAL OF LEGAL, INSTITUTIONAL AND POLICY FRAMEWORKS IN ETHIOPIA FOR COMBATING MONEY LAUNDERING.....		29
3.	The elements of an effective AML-CFT framework in regulation of money laundering.....	29
3.1.	General introduction .....	29
3.2.	Criminalization of Money Laundering.....	30
3.1.1.	Defining predicate offences for money laundering .....	31
3.1.2.	Laws for seizure, confiscation and forfeiture and illegal proceeds .....	32
3.1.3.	Types of Covered Entities and Persons.....	33
3.1.4.	Consistent laws for implementation of FATF recommendations .....	36
3.1.5.	Cooperation among competent authorities.....	39
3.2.	Institutional frameworks- Financial Intelligence Center in focus .....	42
3.3.	Financial Intelligence Center .....	42
3.4.	Duties and function of FIUs.....	43
3.5.	Models of institutional design for FICs .....	44
3.6.	Independence of FICs and its implication over its effectiveness .....	45
CHAPTER – FOUR.....		47
REGULATION OF MONEY LAUNDERING BY REAL ESTATE AGENTS UNDER THE ETHIOPIAN AML/CFT REGIME- REVISITING EFFECTIVENESS OF COMPLIANCE PRACTICES .....		47
4.	Regulation of the real estate sector- General .....	47
4.1.	Registration of real estate Company and Project .....	48
4.2.	Gaps and challenges for ensuring an effective compliance of real estate agents to AML.....	48
4.2.1.	An overview of legal, policy and institutional framework loopholes .....	48
CHAPTER- FIVE .....		56
FINDINGS, CONCLUSION AND RECOMMENDATIONS .....		56
5.	Findings and conclusions .....	56



REFERENCES .....	60
Appendixes .....	65

## Acronyms

AML	Anti-Money Laundering
Art	Article
CDD	Customer Due Diligence
DNFBs	Designated Non-Financial Businesses and Professions
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EFPC	Ethiopian Federal Police Commission
EIC	Ethiopian Investment commission
EPRDF	Ethiopian Peoples' Revolutionary Democratic Front
ERCA	Ethiopian Revenues and Customs Authority
FRBs	FATF style regional bodies
FAG	Federal Attorney General
FEAC	Federal Ethics and Anti-Corruption Commission
FIC	Financial Intelligence Center
FATF	Financial Action Task Force
FinCEN	Financial Crimes Enforcement Network,
FIU	Financial Intelligence Unit
GPML	Global Program Against Money Laundering
GDP	Gross Domestic Product
IMF	International Monetary Fund
IHDP	Integrated Housing Development Program
IGAD	Intergovernmental authority for Development
KYC	Know Your Customer
MOU	Memorandum of Understanding
OECD	Organization for Economic Cooperation and Development
PEPs	Politically Exposed Persons
SOPs	Standard Operating Procedures
STRs	Suspicious Transaction Reports
UNODC	UN Office of Drugs and Crime
WB	World Bank

## **Abstract**

*The real estate sector is hardly vulnerable for money laundering and criminal abuse. Real as it can be traded in order to hide the origin of illicit funds on a non-transparent and speculative market, or they can be used as a final investment, where criminals park their money in business or houses permanently. Given this nature of the sector peoples have been historically trying to launder their dirty money by purchasing real estates. By the same token, in Ethiopia there is rampant problem of money laundering problem in the real estate sector. This is further complicated due to absence of regulation in the sector and the contemporary booming of money laundering in the sector and loosen compliance practices on part of the reporting entities. Based on this problem the study aims to assess regulatory and practical problems of AML Anti-money Laundering regime in Ethiopia affecting compliance practice of real estate agents to the Anti-money Laundering. For that, the research adopts a non-doctrinal research design using a mixed (socio-legal) research approach. The research uses purposive sampling and collect data via semi-structured research questions to the concerned respondents. The result indicates that the Ethiopian Anti-money Laundering regime is ineffective with regard to regulating money laundering practices in the real estate sector and the real estate agents as a reporting entity are not effectively to Anti-money Laundering requirements. This is basically attributable to limited implementation of the rules, gaps with regard to information flow and coordination both at domestic and cross-border level, problems with regard to operational independence of Financial Intelligence Center and other concerned authorities and most critically limitation on the standard operating procedures. Based on these findings the researcher recommends adoption of effective control and supervision, enhanced regulatory and legislative responses to the sector, Capacity building, Cooperation and collaboration and Enhancing the data sharing trends*

# CHAPTER ONE-INTRODUCTION

## 1.1. Background of the Study

There is no universally accepted definition for the term real estate since different jurisdictions define the term pursuant to their legal system. In spite of this, black's law dictionary defines real estate as something that includes the land and anything fixed, immovable, or permanently attached to it such as buildings, walls, fixtures, improvements, roads, trees, shrubs, fences, roads, sewers, structures, and utility systems.<sup>1</sup> Hence it may comprises land and the buildings on it as well as the natural resources of the land and including uncultivated flora and fauna, farmed crops and livestock, water and minerals.

Real-estate business on the other hand can be defined as a business encompassing activities that range from the renovation and re-lease of existing buildings to the purchase of raw land or parcels to developing and selling it.<sup>2</sup> This sector consists of three sub-markets: the business sector (offices, shops, factory halls), the private housing sector (first and second-hand houses), and the public sector (government buildings, prisons).<sup>3</sup>

Development with respect to real estate or property is a process of conversion (development or redevelopment) of land from one use to another. The developer may be defined as an entrepreneur who provides the organization and capital required to make buildings available in the anticipation of the requirements of the market in return for profit. It is the art of building real estate value by managing development risk.<sup>4</sup>

The real estate business was not made part of business during the Ethiopian imperial era. Because in the pre-1974 period land was mainly the property of a few property owners, and

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<sup>1</sup> *Black's Law Dictionary*, 9th ed., s.v. "real estate."

<sup>2</sup> Menen Abera, "*Regulation of real estate business in Ethiopia*" LLM thesis, AAU, college of law and governance, school of law, June 2010, unpublished p.10 (hereinafter Menen Abera)

<sup>3</sup> Brigitte Unger, *Detecting Criminal Investments in the Dutch Real Estate Sector*, Study prepared for the Dutch Ministry of Finance, Justice and Interior Affairs, Utrecht University School of Economics, 19th of January, 2010, p.14

<sup>4</sup> Frew Mengistu and Meine Pieter van Dijk, 'Credibility of institutions in Addis Ababa (Ethiopia), effects of government policies on real estate developers', *land use policy* vol. 79, PP. 913-927, at P. 914 (hereinafter Frew and Meine)

private sector actors and these landowners does not actively engage in developing and selling or renting houses as real-estate developers. In fact, the commercial code considers an act of purchasing movable or immovable with a view to reselling them either as they are or with alteration or adoption as a trading activity. In spite of such legal backup, the real-estate business was not practiced in its full sense and there were no real-estate agents during that time.<sup>5</sup>

After 1974, the socialist oriented military government (Derg) comes in to power and command economy becomes economic policy of the country. The Socialist government had directly involved in the supply of real estates and set cooperatives housing delivery system. The government used to involve in the real-estate business by providing land, building materials, and housing finance on a subsidized manner. In addition, it also nationalized all urban lands and extra houses by issuing real estate proclamation number 47/1974. Hence, unlike the imperial regime, the role of the private sector in real estate development was limited, but the public sector was gloomy.<sup>6</sup>

Even after the overthrow of the military government by (EPRDF) in May 1991, land still remained state property, but new actors were added in the real-estate business, including few providers and real estate developers, emerged as the main actors. After the enactment of Proclamation No. 37/1996, some investors were attracted to the business of estate development and started operations in the residential subsector. Because of these policy changes, the real estate sector became the fastest growing segment of the Ethiopian economy.<sup>7</sup>

Following these, the Ethiopian investment agency issue a license for about 160 real-estate developers up to 2009 to operate throughout the country followed by the growth of real-estate and construction sector by an average of 14.1 percent and 10.4 percent per year respectively in the five years up to 2008/09. Also, in the years 2004/05- 2012/13, the rate of growth has been 10.9 percent and 10.6 percent in 2013-2014.<sup>8</sup>

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<sup>5</sup> Supra note 2. p.14

<sup>6</sup> Zekrayehu Sime Eshete and Kagnew Wolde Teshome, Performance, 'Challenges and Prospects of Real Estate Financing in Addis Ababa: Micro- and Macro Economic Implications,' *American Journal of Economics, Finance and Management* Vol. 1, No. 1, 2015, pp. 1-9 (hereinafter Zekrayehu Sime and Kagnew Wolde)

<sup>7</sup> Frew and Meine 4, p.914

<sup>8</sup> Supra note 4, p.914

In spite of this tremendous development of real-estate business in Ethiopia, it should be born in mind that the real estate sector is a prominent candidate for money laundering and criminal abuse. Real estate objects can be used in two ways for criminal purpose. They can be traded in order to hide the origin of illicit funds on a non-transparent and speculative market, or they can be used as a final investment, where criminals park their money in business or houses permanently.<sup>9</sup>

Real-estate businesses are very attractive to money laundering practices because; it allows large amounts of money to be laundered in one transaction. Secondly, it is relatively easy in some jurisdictions to conceal the identity of the ultimate owner of a property and lastly the overheated property markets in many global cities means that an investment will not lose its value and will most likely appreciate.<sup>10</sup> Throughout history, people have deployed a variety of tactics to ensure that they enjoyed the proceeds of their criminal activities without being prosecuted or having their assets confiscated.<sup>11</sup> In fact, there is a controversy as to the exact time for the origin of the term money laundering; some believe that it was coined in 1920s in USA when AL Capone (the leader of Chicago mafia) concealed the money derived from gambling, rackets, and liquor. Others such as Jeffery Robinson believe the term money laundering was first used in a newspaper report in 1973 related with Watergate scandals.<sup>12</sup>

While the motives for engaging in this malpractice date back a long time, the legal concept and criminalization of money laundering is a fairly recent invention. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna convention) is the first move in this regard. Later on, (FATF) formed in 1989 by G- 7 countries as an intergovernmental body combating money laundering by adopting recommendations

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<sup>9</sup> Supra note 3, p.6

<sup>10</sup> ‘Money laundering and real-estate, why real-estate sector should prepare for regulation,’ p.4 <[https://s3-eu-west-1.amazonaws.com/cjp-rbi-accuity/wp-content/uploads/2018/04/18170247/0051Fircosoft\\_Money-Laundering-and-Real-Estate-Why-the-Real-Estate-Sector-Should-Prepare-for-Regulation-Report.pdf](https://s3-eu-west-1.amazonaws.com/cjp-rbi-accuity/wp-content/uploads/2018/04/18170247/0051Fircosoft_Money-Laundering-and-Real-Estate-Why-the-Real-Estate-Sector-Should-Prepare-for-Regulation-Report.pdf) > accessed on January 28, 2021.

<sup>11</sup> Jojahrt C (2013) Money Laundering: Motives, Methods, Impact, and Countermeasures. In Schoeneberg R (eds) Transnational Organized Crime. Analyses of a Global Challenge to Democracy. Berlin: Transcript Verlag, pp. 17-34.

<sup>12</sup> Kalkidan misganaw Jember (2020) ‘Anti money laundering law in Ethiopia: issues of enforcement with specific reference to bank’, *Mizan Law Review*, p.64

endorsed by member countries to enter in to global alliance to fight the activities of money laundering and criminals.<sup>13</sup>

Ethiopia is not an exception to these international trends and hence it ratified a number of regional and international instruments that directly support its anti-money laundering regime, including the UN transnational Organized Crime Convention, (Vienna Convention) UN Convention against Drugs and Psychotropic Substances and related protocols, Organization of African Unity anti-corruption Conventions etc.<sup>14</sup>

This move forces Ethiopia to undertake legislative measure by enacting laws that strive to combat and criminalize money laundering. Accordingly, Ethiopia criminalized money laundering for the first time under its Criminal Code.<sup>15</sup> Most importantly, Ethiopia designated real-estate agents as part of covered person under its anti-money-laundering regime.<sup>16</sup>

Despite all these national initiatives there are yet limitations with regard to compliance practices in Ethiopia when it is scrutinized in light of international and regional anti-money laundering regimes and requirements.

## **1.2. Statement of Problem**

The real estate market has characteristics which make it prone to money laundering. This is because real estate transactions can involve large sums and is subject to more limited scrutiny with regard to money-laundering risks than financial sector transactions, as non-financial sector rules are much more limited.<sup>17</sup>

As per an estimation made by economic intelligence units arising from forecasts bases on indicate that globally Money Laundering in real state amounts to more than US\$ 2 trillion to US\$ 2.5 trillion annually (i.e. about 5-6% of World GDP 2006 [44.444 trillion])<sup>18</sup>

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<sup>13</sup>Ashenafi Lakew, *Anti Money-Laundering and Countering the Financing of Terrorism Regime: Practices by the Ethiopian Financial Intelligence Center*, MBA thesis, AAU, Faculty of Business and Economics, March 2016, p.20

<sup>14</sup> Ibid

<sup>15</sup> Criminal code of Federal Democratic Republic of Ethiopia, proclamation number 414/2004, Article 684 of the criminal code (hereinafter the FDRE criminal Code)

<sup>16</sup> Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation, *Federal Negarit Gazeta*, Proclamation No.780/2013, 19<sup>th</sup> Year No. 25, Addis Ababa, 4<sup>th</sup> February 2013, Article 2(10) (hereinafter proclamation number 780/2013.)

<sup>17</sup> Supra note 3.p.13

<sup>18</sup> Agarwal, "Money Laundering: The Real Estate Bubble" key note speech, 15th June 2007, page 8, available at [https://www.academia.edu/50954805/Money\\_Laundering\\_The\\_Real\\_Estate\\_Bubble](https://www.academia.edu/50954805/Money_Laundering_The_Real_Estate_Bubble) last accessed on august 09/2022.

In August 2017, (FinCEN) “Advisory to Financial Institutions and Real Estate Firms and Professionals” has reported that the real estate industry is vulnerable to abuse by illicit actors looking to launder criminal proceeds specifically. This vulnerability is attributed to several factors such as; the value of high-end properties tends to appreciate over time and can shield the owner from currency fluctuations and market instability. Further, illicit actors can also clean large sum of money in a single transaction through the purchase of luxury property.<sup>19</sup>

At regional level the recent (ESAAMLG) typologies report to which Ethiopia is a member brought out among other issues that the Real estate Sector is the vulnerable area where the proceeds from crime are invested and there are weaknesses in the regulation, implementation and enforcement of laws relating to the Real Estate Sector.<sup>20</sup>

Similarly, in Ethiopia from the investigations and prosecutions that were conducted by Federal Police financial crimes investigation, division proceeds of crimes are invested in the real estate sector 9 houses from 2011 – 2012 and 6 houses from 2014 to 2016 were confiscated in relation to the crime of corruption.

There is also a recent money laundering case in real estate as the Federal Attorney-General filed the charge on October 2020, which has eight counts, at the Federal High Court Lideta Division in which the second count claims Azeb Mehreteab (founder of JJ Properties and Boston Real Estate) and Temesgen Yilma (the general Manager at TTH Trading Plc) as defendants were charged for alleged money laundering.<sup>21</sup>

There was no well-organized legal and institutional framework regulating the booming real estate business in Ethiopia so far in spite of the huge contribution of the sector to the economy of the country.<sup>22</sup> And more specifically the government is needed to have efficient (AML) regulatory frameworks and monitor their implementation by all stakeholders in the real estate

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<sup>19</sup> Joel M. Cohen, et al, “international comparative legal guides; money laundering 2020: A practical cross-border insight into anti-money laundering law”, third edition, p.13, available at <<https://www.acc.com/sites/default/files/resources/upload/AML20E-Edition.pdf>> last accessed on May 23/2021.

<sup>20</sup> ESAAMLG 20 years report from 1999-2019 available at <<https://esaamlg.org/reports/ESAAMLG%2020%20YEAR%20REPORT.pdf>>last accessed on May 25, 2021.

<sup>21</sup> Fassika Taddese ‘Attorney General Files Money Laundering, Usury suits’, *Addis fortune magazine*, Vol 21, No 1067, (Oct 11, 2020), p.4.

<sup>22</sup>Menen Abera, p.49



sector to ensure laundering of dirty money through the sector is minimized or to totally stop it if possible.

Then, the study is conducted to examine and assess practical implementation of AML system implementation against real estate agents and the practice of Ethiopian Financial Intelligence Center and other stake holders with regard to ensuring compliance.

### **1.3. Research Question**

To grasp a comprehensive understanding as to practical implementation of Anti-money Laundering regime against real estate agents and the practice by the Financial Intelligence Center and other stakeholders with regard to compliance practices the research raised the following basic questions;

1. How the Ethiopian Anti-money Laundering regime is effective with regard to regulating money laundering by real-estate agents?
2. What are the factors affecting practical implementation of Ethiopian Anti-money Laundering regime against real-estate agents?
3. To what extent real estate business companies comply with the Anti-money Laundering practice and have the knowledge and awareness about Anti-money Laundering regime?

### **1.4. Objective of the Study**

To give a pertinent answer for the research questions, this research is guided by the following general and specific objectives.

#### **1.4.1. General Objective**

The general objective of the study is to assess regulatory and practical problems of Anti-money Laundering regime in Ethiopia affecting compliance practice of real estate agents to the Anti-money Laundering.

#### **1.4.2. Specific Objectives**

The following specific objectives are framed with the view to attain the general objectives set above. These are;

- Assess practical implementation of Anti-money Laundering regime emphasizing on real estate agents;
- Identify the regulatory and practical factors that affect the compliance practice by real estate agents to the Anti-money Laundering regime;
- Assess to what extent that real estate agents are practicing money laundering preventives.

## **1.5. Research Methodology**

### **1.5.1. Design of the Study**

The research design is a non-doctrinal research and it adopts mixed (Socio-legal) research methodology for properly addressing the research questions framed and the objectives set. This is because the study focus on analysis of laws, polices, theories and principles concerning regulation of money laundering in real estate business as well as it corroborates the theoretical analysis with practical evidences regarding practical implications and challenges of implementing laws on the area.

### **1.5.2. Participants of the Study**

In conducting this study there are several stakeholders that participated by giving relevant data serving as an input for this study. The most important participants of this study are those selected officials in institutions entrusted to regulate the real estate agents and money laundering affairs namely Financial Intelligence Center, Ethiopian Investment Commission, and Federal Attorney general and Ethiopian Anti-corruption Commission.

### **1.5.3. Sampling Technique and Data Gathering Tools**

For the purpose of obtaining accurate and relevant data from participants in this study, the researcher employed purposive sampling since the participants' position, experience, expertise and other qualifications are vital for properly addressing research questions of the study. For participants selected by purposive sampling the researcher employed semi-structured interview to enable formal communication with a possible flexibility.

#### **1.5.4. Data Analysis Technique**

The researcher uses both primary and secondary sources of data. Based on this the make a doctrinal analysis of laws, policies and principles to make an in-depth scrutiny of Ethiopian Anti-money laundering regime special emphasis give to real estate agents Then the doctrinal analysis of laws and practices is further substantiated by practical data obtained from primary sources via interview to show the practical situation of enforcement of AML regime of Ethiopia particularly in the real-estate agents.

#### **1.6. Significance of the Study**

Currently real estate is booming business in Ethiopia and has a huge economic contribution the economy. Despite of this, the sector is hardly vulnerable to money-laundering practices. Hence, the current situation is calling for a proper enforcement of AML regime against real estate business and enhancement of compliance practices to international AML regimes by real estate agents.

The study has the following specific significances also;

- ✓ It depicts the existing legal and practical factors affecting effectiveness of compliance to AML by rea estate agents and give an incite towards the remedy.
- ✓ It initiates the concerned organizations/regulatory bodies to reassess the existing practices of implementing AML regime FIC, Police, Courts, attorney general, and other stakeholders.
- ✓ It serves as a reference material for both academicians and practitioners as the issue is studied non-exhaustively in the country;
- ✓ It also initiates other scholars and researchers to carry out more extensive studies in the area;

#### **1.7. Scope of the Study**

The study scope of the study is basically limited at looking the money laundering law of Federal Democratic Republic of Ethiopia. The Ethiopian Anti-money Laundering regimes have two basic categories of covered persons to be regulated under its ambit namely financial institutions and designated non-financial businesses and professions. This study specifically focusses on the

second category especially real estate agents assessing legal and practical issues on money laundering practices by real estate agents.

Geographically, the study is limited in Addis Ababa, because majority of real estate agents are residing in Addis Ababa except other three real estate agents residing in regional states; two in Dire Dawa (Kaah Real Estate and Hamdail Real Estate developer) and one in Mekelle (Yared Manna G/Yhohannes real estate)

### **1.8. Limitation of the Study**

The study had two basic encumbrances these are;

Since this study is relatively new, the first problem is unavailability of written data on the area in a domestic context. Secondly, there is problem of disclosure in the sense that some respondents were not willing to give adequate information because of political reasons, that authorities may not be willing to provide an information in relation to the subject matter to be disposed under this research since there is practice of keeping classified data specially within FIC.

### **1.9. Organization of the Study**

To clearly show the concepts sought from this research efficiently achieve its proposed objectives this study is organized in five chapters. The first chapter presents general background, statement of the problem, objective and questions, research design and methodology, significance of the study, scope, limitation of the study and organization of the study.

The second chapter deals about conceptual underpinnings and historical development of real estate business in Ethiopia. The third chapter is devoted for appraisal of legal, institutional and policy frameworks of Ethiopia for combating money laundering. The fourth chapter is all about the regulation of money laundering by real estate agents in Ethiopia and revisiting compliance practices and its effectiveness. Finally, summary of findings, conclusion and recommendation are formulated in the fifth chapter.

### **1.10. Review of Related Literature**

To the best of knowledge of the researcher this study is of new and original. The study area targets to address areas of very critical problem yet no significant studies are concluded. But

there are several scholarly written and conducted literatures and research's related with the study. The first research was conducted by Ashenafi Lakew, with the title "Anti-Money-Laundering and Countering the Financing of Terrorism Regime A thesis submitted to Economics in partial fulfillment of the requirements for the requirements for degree master's in Public Administration and development management: Practices by the Ethiopian Financial Intelligence Center." In this research, the researcher tries to explore the concept of money laundering and its processes, legal frameworks to prevent money laundering and countering financing terrorism both at global and national level. He also discusses challenges of practical implementation of AML regime of Ethiopia. Finally, he come up to the conclusion that the existence of informal sector and cash-based economy has exacerbating the money laundering offences, further, the finding confirmed that political Exposed Persons, Corruption and implementing CDD & KYC are serious challenges for banks. However, the scope of this research to the money laundering practices of banks which one part of financial institution as regulated by Ethiopian AML regime. Hence, it does not touch money laundering by real estate sector, which is the other part of designated non-financial businesses and profession regulated by AML regime of Ethiopia.

The second research was conducted by M/r Milka Hagos with the title "Analysis of Risks in Residential Real Estate Development Projects of Addis Ababa in partial fulfillment of the requirements of the degree of master of business administration." In this study, the researcher aimed at identifying the risks in real estate development projects in Addis Ababa, assessing their impact on project schedule and cost, and the interrelationship between the risk factors. The study identified basic risk factors such as economic and financial, technical and environmental, legal, contractual and political and the interrelationship amongst them. Finally, the researcher has concluded that economic and financial factors have greater impact on project objectives. Developers can foresee the occurrence of these risks and can assess their impact. This makes the risk response planning easier for developers. Therefore, the researcher recommended that developers plan ahead on how to respond towards such factors. The theme of the study is limited to analyzing risks in residential real estate development projects and it does not make any discussion about money laundering trends in real estate sector.

Menen Abera conducted the other research with the title of "Regulation of real-estate business in Ethiopia." This research has the objective of studying the necessity of having a regulatory

framework on real estate businesses and the need of having a proper legislation and a competent institution on maintaining a good working environment of the real estate business.

With these objectives, the research explores issues such as historical underpinnings of real-estate business in Ethiopia and experiences of some selected jurisdictions with regard to regulation of the same business. In discussing about the lacunas in regulating the business at domestic level, the research identifies several gaps such as problems with regard to minimum requirement at the early stage of real estate Company, problem with regard to registration of company and project capacity of performance and necessary conditions to be met by real estate companies.

However, the research has not addressed issues with regard to money laundering practices by real estate companies/agents at domestic level and the practical scenario.

Another research related to this study is conducted on the title of “Money Laundering and Countermeasures: A Critical Analysis of Ethiopian Law with Specific Reference to the Banking Sector” by M/r Biniyam Shiferaw.

The main objective of this research was to critically examine the anti-money-laundering framework of the country, the mechanisms to fight it and to suggest ways of enhancing the effectiveness of the law in achieving its objective with specific reference to the banking sector.

Under this research, the researcher has explored the concept of money laundering in Ethiopia very broadly. It also discusses covered persons as financial institutions and designated non-financial institutions special emphasis being given to the financial institutions particularly the banking sector. Lastly, he come up with findings showing the prevalence of money laundering practices in Ethiopia and absence or insufficiency of the existing anti-money laundering laws to properly regulate money laundering practices in the country as a whole. Then the researcher has recommended undertakings to be made by the government such as reconsideration of legal frameworks. However, the research mainly focuses on the examining anti-money laundering practices by financial institutions particularly by banking sectors and no discussion is made about designated non-financial institutions and professions except making a passing mention about the two covered persons by the Ethiopian anti-money laundering regime. The research recommends further study on designated no financial business and professions.

Based on this my research is worthy of undertaking for two basic reasons;

In the first place the issues of money laundering by Designated None Financial Business and Professions specially the real estate agents as stipulated under the anti- money laundering proclamation of Ethiopia is not addressed despite the fact that previous researches forward such recommendations.<sup>23</sup>

Second to that, recently money laundering practices by real estate agents is very rampant globally, regionally and at national level. In spite of the enormous implications and problems posed by such practices the issue has been earmarked in the Ethiopian context. Hence, the researcher believes conducting this research now and bringing a way out for these problems is very essential and timely.

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<sup>23</sup> For instance, Biniyam has strongly recommends further study on designated no financial business and professions.

## CHAPTER TWO

# CONCEPTUAL UNDERPINNINGS OF MONEY LAUNDERING AND REAL ESTATE MARKET

### 2. Introduction

Money laundering is the *"process by which one conceals the existence, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate."*<sup>24</sup>

Since long past governments around the world have focused their regulatory efforts to tackle money laundering on the banking sector. Recently money laundering can take many forms in the property sector, it can involve:

- Buying a property asset using the proceeds of crime and letting it to give the criminal an apparently legitimate source of funds
- Criminals hiding behind complex company structures involving multiple countries and multiple bank accounts to disguise the real purpose of a transaction and hide its beneficial ownership
- A more direct method of paying an estate agency business or lettings agent a large amount and reclaiming it later
- The money for a purchase resulting from a mortgage fraud operation

More specifically real estate is vulnerable for money laundering in the since real estate transactions can involve large sums and is subject to more limited scrutiny with regard to money-laundering risks than financial sector transactions, as non-financial sector rules are much more limited.

Modern definitions of a real estate focus on defining real estate as the land and fixtures together, as distinguished from real property, referring to ownership rights of the land itself. Currently,

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<sup>24</sup>Duncan E. Alford, *Anti-Money Laundering Regulations: A Burden on Financial Institutions*, 19 N.C. J. Int'l L. & Com. Reg. 437 (1993). Available at: <<http://scholarship.law.unc.edu/ncilj/vol19/iss3/2>>



real estate is a term that encompasses land along with anything permanently affixed to the land, such as buildings, specifically property that is stationary or fixed in location.<sup>25</sup>

In Ethiopia, the time before the military regime was a period when land was mainly the property of a few property owners, and private sector actors in the form of either in the form of Rist or Gult. Most importantly, purchasing movable or immovable property including real estate with a view to reselling them either as they are or with alteration or adoption was recognized as a trade. Despite such recognition, such type of activity was not practiced in the full sense of a real estate business.<sup>26</sup>

Under the socialist oriented military government all land and rental units were nationalized. No person, family, or organization was allowed to obtain income from urban land or house rent. Users have been limited only to usufruct rights. Due to this, the real estate development as an economic activity was aborted. This triggered a shift to a new set of actors and new systems of delivery. The new actors operated as owner-occupiers either individually or as cooperatives. The other main actor was the government, which not only acted as the provider of public infrastructure and as regulator, but was also the supplier of built up spaces.<sup>27</sup>

With the takeover of the military government by the EPRDF in May 1991, land remained state property, but new actors, including insignificant providers and real estate developers, emerged as the main actors. From the time of enactment of Proclamation No. 37/1996 onwards, some investors showed interest in real estate development and started operations in the residential subsector. As a consequence of these policy changes the real estate sector became the fastest growing segment of the Ethiopian economy. Macroeconomic statistics available from a private consultancy firm show that the real estate and the construction sector accounted for 14.9% of the GDP in 2008/09, with the real estate sector comprising of 9.1% and construction comprising of 5.8%.<sup>28</sup>

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<sup>25</sup> Kiros Aquubamicheal, *Factors Affecting the Real Estate Market: the case of Addis Ababa City*, Msc research in accounting, AAU, Faculty of Business and Economics, June 2009, p13.

<sup>26</sup> Menen Abera, p.13

<sup>27</sup> Frew and Meine. P. 914

<sup>28</sup> Ibid

## **2.1. The real estate market (investment)**

Real estate has been a very large and important portion of wealth for thousands of years. Even recently, real estate dominated institutional investments and was classified as property. Hence, the real estate investment take the large part of investments as a business so far.<sup>29</sup>This investment may take several categories basically, residential real estate (Condominiums and houses), commercial real estate (buildings bought or built for offices, retail shops, multi-purpose complexes and others), industrial real estate (buildings for manufacturing, storage, or distributions),and land real estate investment (land for industrial development, land for residential development, land for farming and land for mining).

The real estate investment may take many forms. The first form is government investment, due to the increasing homelessness and the government may undertake the real estate investment besides its traditional role. This may be via construction of residential houses, development of infrastructural facilities, rental of governmental houses, providing land on lease basis.

The second form is cooperative investment. Cooperatives are associations or enterprises established and managed by private individuals having to cooperate voluntarily over common economic and social needs. Cooperatives mainly aim at preventing members from exploitation by private businesses and encroachment by government agents and they bring together finance, knowledge labor and resources of individuals with common interest.

In Ethiopia, there is historically unmet demand for land and house because of the growing demand for land and real estate due to the rapidly growing urbanization and restriction and government control on the accesses to land and housing. This pressing problem stimulates the expanding real estate investment. Different actors have undertaken the real estate investment. For example, the Federal Housing Corporation is allowed by law to participate in the construction sector. The corporation may participate by constructing, causing to contract, renting out, buying, or selling special decision houses to be used for deferent services.<sup>30</sup> The corporation also

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<sup>29</sup>Garay, U. "*Real Estate as an Investment.*", 3rd Edition, H.; Black, K.; and D. Chambers, 2016, pp. 343-358 (Herein after Garay U)

<sup>30</sup> The Federal Housing Corporation Establishment Council of ministers' regulation No 398/2017, Art 5(1)

constructs and rent out houses for government officials and employees in accordance with government direction and budget outline.<sup>31</sup>

Specially beginning from adoption of IHDP since 2003 the government becomes the bold actor in the housing industry via condominium housing. Because of this, the government has constructed and transferred several housing units for the beneficiaries through lottery systems and recent modalities 10:90, 20:80, and 40:60.

Similarly, since the late 1970 cooperatives were the dominant home ownership getting several forms of support from the government (finance, land, education and training) and recently it is backed by cooperative society proclamation number 985/2016 so that any resident may organize him/herself on different bases and construct a house. On the other hand, the role of private real estate developers takes valuable share in the provision of housing and real estate sector. Recently, around 309 real estate developers are established in Ethiopia and constructed several residential real estates.<sup>32</sup>

## **2.2. Vulnerability of real estate agents for money laundering**

In the past times, money-laundering practices were abundant in banking and financial institution but recently as banks and financial institutions strengthen their controls in financial crimes real estate sectors fall in the sight of money launderers. Accordingly, the FATF reported in 2011-2013 that real estate accounted for a third of criminal assets confiscated worldwide.<sup>33</sup> Similarly a report by the OECD in 2014 found that in 44% of its member countries, real estate agents and brokers are not required to perform due diligence on buyers.<sup>34</sup>

The question is why real estate is attractive for money launderers? Among basic ones include; first, real estate is a large and diffuse market with high-valued assets that is simple to enter so that placing large sums in individual assets without arousing suspicion does not require expertise. This is mainly because Real estate transactions can involve large sums so that it allows large amounts of money to be laundered in one transaction and are subject to more limited scrutiny

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<sup>31</sup> Ibid Art 5(7)

<sup>32</sup> List of real estate agents and companies in Ethiopia available at <https://addisbiz.com/business-directory/construction/real-estate?page=5> last accessed on August 17/2022

<sup>33</sup> Supra note 10, p.2

<sup>34</sup> OECD 2014 report available at [https://www.oecd.org/corruption/Illicit\\_Financial\\_Flows\\_from\\_Developing\\_Countries.pdf](https://www.oecd.org/corruption/Illicit_Financial_Flows_from_Developing_Countries.pdf) accessed on October 14/2021 at 10:04 pm

with regard to money-laundering risks than financial sector transactions, as non-financial sector rules are much more limited.<sup>35</sup>

Second to that, real estate is relatively secure investment in the sense that an ‘investment’ won’t lose its value and will most likely appreciate and properties holding their values they are not sensitive to management decisions like that of active businesses and tracing the origin of money laundering funds in this field is becoming increasingly difficult.<sup>36</sup>

### **2.3. Processes of money laundering**

Commonly money-laundering processes can be classified in to three basic stages though there is a possible critic from scholars over such a processes alleging its vagueness about where one stage begins and the other ends.<sup>37</sup>The real estate plays a role mainly in the third and final stage of the money-laundering cycle, after the placement and the layering phases.<sup>38</sup> In fact there is an argument in other side claiming the role of real estate even at the stage of placement. For example, using cash to make mortgage or rent payments and paying cash to contractors for custom-built homes or renovations can be a placement activity.<sup>39</sup>

#### **A. Placement**

Placement is the process of moving money earned from crime into the legitimate financial system. The modality of placement may vary depending on the type of the crime. For example, the money may be placed in currency in case of crimes that did not want paper trail to link the money to the crime. Other crimes, such as fraud, may involve transfers directly between bank accounts or funds that are not in cash form. In both cases, money laundering uses transfers and

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<sup>35</sup> Maureen Maloney et al, ‘Combating Money Laundering in BC Real Estate’, Expert Panel report on Money Laundering in BC Real Estate, March 31, 2019, p.16.

<sup>36</sup>Nelen H, “Real estate and serious form of crime”, *International Journal of social Economics*, volume 35, No 10, pp.751-762,2008.

<sup>37</sup> Paul Fagyal, ‘The Anti-Money Laundering Provisions of the Patriot Act: Should they be allowed to sunset?’ *Saint Louis University Law Journal*. Vol. 50, Number 4, 2006. P.1364. Available at <https://scholarship.law.slu.edu/lj/vol50/iss4/21/> > last accessed on November 14/2021.

<sup>38</sup>Cécile Remeur, European Parliamentary Research Service, understanding money laundering through real estate transactions, briefing, 2019 available at [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BRI\(2019\)633154](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2019)633154) last accessed November 14/2021

<sup>39</sup> Menen Abera, p.18.

transactions to distance that money from the crime and put it in a form that can be used for legitimate transactions.<sup>40</sup>

### B. Layering

The second phase of money laundering is known as “layering.” It is the process of taking money that has been placed into the financial system and further distancing it from any connection with the underlying crime. This is accomplished using a series of transactions that disguise beneficial ownership and look increasingly legitimate.

Several techniques may be used at this stage. This mainly include cross-border transactions (especially in jurisdictions that are tax havens and have strict banking secrecy are jurisdictions in which it is difficult to gather evidence). Currently cross border transaction is easy to due to the growing technological advancement of Electronic Fund Transfer which has contributed a lot for this stage of the laundering process making money transfer a simple click away task .Secondly, trusts and corporations to disguise beneficial ownership, false import, and export invoices to effectively move money across borders, borrowing in one jurisdiction for repayment in another and nominees or straw-owners that make it look like beneficial ownership has changed when in fact there has been no change.<sup>41</sup>

### C. Integration

The third phase of money laundering is integration. This phase makes laundered money available to fund expenditures or activities without giving rise to questions about the source of the funds. Hence, it is the final stage of money laundering by which criminals integrate illegal funds in to a legal business environment. There are many integration techniques. These include; paying wages to employees and dividends to shareholders of corporations used in money laundering, sale of assets purchased or built with dirty money that has been laundered and legitimate returns on investments made fully or in part with laundered money, including returns on real estate investments, such as rents and mortgage payments.<sup>42</sup>

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<sup>40</sup> Menen Abera, p.17.

<sup>41</sup> Ibid

<sup>42</sup> Id, p.18

## **2.4. Socio economic implications of money laundering**

Money laundering occurs in any country be it developing or the developed ones and it has an enormous socio-economic impact for both of them. However, more profusely its impact is strong for developing countries due to unregulated non-formal component of the market economy, which is characterized by attributes such as undeclared labor, tax evasion, and unregulated economic and financial ventures, illegal and criminal activities such as money laundering.<sup>43</sup> Here are some of the critical socio-economic impacts that money laundering brings.

### **2.4.1. Undermining the integrity of financial institutions and markets**

Money laundering has far-reaching impact on overall financial and non-financial systems of many developing countries. It also has transboundary effects since the laundered money eventually flows into the international financial system and ultimately countries that integrate into the global financial systems are exposed to the phenomenon of money laundering.<sup>44</sup>

This hampering problem of money laundering on financial institutions may be describe as reputational, operational, legal and concentration risks. Reputational risks are the risks that affect customers' confidence on the integrity of financial institutions, which consequently make investors cease from doing businesses in such institutions. Operational risks on the other hand refer to overall organization and function of internal system of bank and financial institutions. The other is legal and concentration risks, which refers to legal issues that may arise as a result of financial crimes by the institutions and bring money loss over the customers that may hardly affect integrity of the institution.<sup>45</sup>

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<sup>43</sup>OECD annual report 2009 available at <https://www.oecd.org/newsroom/43125523.pdf> last accessed may 29/2021

<sup>44</sup>Uyoyou Kingsley OGBODO and Ebipanipre Gabriel MIESEIGHA, 'The Economic Implications of Money Laundering in Nigeria', *International Journal of Academic Research in Accounting, Finance and Management Sciences* Vol. 3, No. 4, October 2013, pp. 170–184, p.173

<sup>45</sup>Biniam Shiferaw *Money Laundering and Countermeasures: A Critical Analysis of Ethiopian Law with Specific Reference to the Banking Sector*, LLM thesis, Addis Ababa university law faculty, 2001, p.16

### **2.4.2. Loss of control of the national economic policy (macroeconomic effects)**

Money laundering supposed developing countries to lose control of their domestic economic policies as illicit capital accrued from money laundering crimes are capable of dwarfing government budgets and destabilize domestic markets.<sup>46</sup>

This policy mistake is because of measurement errors in national account statistics, volatility in exchange and interest rates due to unanticipated cross border transfers of funds. Secondly, the threat of monetary instability due to unsound asset structures; effects on tax collection and public expenditure allocation due to misreporting of income; misallocation of resources due to distortions in asset and commodity prices; and contamination effects on legal transactions due to the perceived possibility of being associated with crime.<sup>47</sup>

This will consequently bring economic distortion and investment instability because money launderers, in their quest to disguise the source of their ill-gotten proceeds, divert the proceeds from one economic venture to another without sound economic reasons. In addition, as there is no motive to generate profits, money launderers, most often, invest their illicit funds in economic and commercial ventures that do not primarily benefit the economy of the country where such illicit funds are situated. The basic consideration that investors make during the investment decisions is paying high premiums on the investments that will allow hiding the illicit proceeds from suspicion.<sup>48</sup> That directly means pursuing high profit generating investments are not their necessary business but investments that simply allow the recycling of their illicit proceeds even if it entails taking a low rate of return. Consequently, preferring risky and less productive business than the stable and productive business will reduce the level of investment available to sustain economic growth, resulting in lowered growth rates and investment instability.<sup>49</sup>

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<sup>46</sup>John McDowell & Gary Novis, 'The Consequences of Money Laundering and Financial Crime. Bureau of International Narcotics and Law Enforcement Affairs, US Department of State, Economic Perspectives', *An Electronic Journal of the U.S. Department of State*, Vol. 6, No. 2,2001, p.7.

<sup>47</sup> Peter J. Quirk IMF working paper, Macroeconomic Implications of Money Laundering, 1996, p.19. Available at <[https://www.elibrary.imf.org/doc/IMF001/04385-9781451962123/043859781451962123/Other\\_formats/Source\\_PDF/04385-9781455295791.pdf](https://www.elibrary.imf.org/doc/IMF001/04385-9781451962123/043859781451962123/Other_formats/Source_PDF/04385-9781455295791.pdf)> last accessed October 20/2021

<sup>48</sup> Menen Abera 35, p. 17

<sup>49</sup> Menen Abera, p.17

### **2.4.3. Risk to competitive market and government privatization efforts**

Given the access to illicit fund, money launderers are able to subsidize their front companies' products and services at levels that are well below market price with the ultimate purpose of fusing the proceeds of their illicit activities with legitimate funds, to hide their illicit proceeds. Therefore, the front companies, in this instance, usually have a competitive advantage over legitimate companies or manufacturers that draw capital funds from financial markets. This makes it difficult for legitimate business to compete against front companies with subsidized funding.<sup>50</sup>

Somehow related to the above risk, government privatization efforts as an economic reform in developing countries is likely to attract money launderers in the sense that money launderers capable of outbidding legitimate purchases of previous government corporation and being linked to the high volume of transactions. Money launderers are also able to bid higher prices for these corporations and this will undermine fair and legitimate competition.<sup>51</sup>

Ultimately, money-laundering activities threaten the efforts of many developing countries to reform their economies through privatization, thereby delaying economic growth. This is because, money launderers are not interested in operating these entities as going concerns but rather as conduits for money laundering activities.<sup>52</sup>

### **2.4.4. Effect on rule of law**

Once money launderers create a distance between themselves and criminal activity by producing profit they could enjoy the benefits of their crime without attracting attention and could go to the extent of reinvesting the profits to finance other crimes that affect the country's political and economic system ultimately. Therefore, government need to enact a comprehensive anti-money laundering regime.<sup>53</sup>

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<sup>50</sup> Ibid, p.175

<sup>51</sup> Celarier, M, 'Privatization: A Case Study in Corruption', *Journal of International Affairs*, 1997, Volume 50, No 2.

<sup>52</sup> Schott Paul Allan, *Reference Guide to Anti- Money Laundering and Combating the Financing of Terrorism*. Second Edition and Supplement on Special Recommendation IX, World Bank & IMF, 2006, p.35 Available at

:<<https://openknowledge.worldbank.org/bitstream/handle/10986/6977/350520Referenc1Money01OFFICIAL0USE1.?sequence=1&isAllowed=y>>\_ last accessed October 29/2021

<sup>53</sup> Menen Abera, p.18



## **2.5. Development of anti-money laundering laws: regional and international perspectives**

The development of money laundering laws to fight against money laundering was mainly derived from the need to curb global drug crisis in the 1980's. Since then, due to the increasing monetary and social costs money laundering has become an international concern.<sup>54</sup> The transnational threats that money laundering bring and its multidimensional problems in practice are also key driving factors for the 'internalization' of money laundering. The threats is referring commission of a crime across boundaries of multiple jurisdictions as criminals move illicit funds through several accounts and/or financial institutions attempt to distance the funds from their illegal sources. The multidimensional problem on the other hand refers to the dynamic problems that crime of money laundering creates after flowing of illicit money in to financial institutions in the domestic area.<sup>55</sup>

In response to this growing concern, the international community has confronted money launderers mainly enacting rules that require cooperation in the investigation, prosecution, adjudication and execution of judgments in criminal matters.<sup>56</sup> The basic objectives of all these rules and standards was making the same vision, mission, and strategy among countries and facilitate international cooperation in preventing and combating crime of money laundering<sup>57</sup>.

### **2.5.1. The United Nations**

The first significant action to fight money laundering was undertaken by United Nations (UN) on a truly world-wide basis. The UN is important in this regard for several reasons. In the first place it is the international organization with the broadest range of membership. The UN is Founded in October of 1945, and currently it has 193<sup>58</sup> member states of the UN throughout the world. Second to that the UN actively operates a program to fight money laundering; the GPML as part of the UNODC.<sup>59</sup>

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<sup>54</sup>Id, p.24

<sup>55</sup> 'The Creation of International Standards that Criminalize the Acts of Money Laundering', available at <<https://repub.eur.nl/pub/37747/G-%20Chapter%204-%20The%20Development%20of%20AMLR-%20Criminalization.pdf>> Last accessed October 29/2021

<sup>56</sup> Menen Abera, p.24.

<sup>57</sup>Ibid, p.17

<sup>58</sup> The current list of member states of UN is available at <<https://www.un.org/en/member-states/index.html>> last accessed on October 30/2021.

<sup>59</sup> Supra note 43, p.40

Thirdly, the UN has the ability to adopt international treaties or conventions that have the effect of law in a country once that country has signed, ratified and implemented the convention, depending upon the country's constitution and legal structure.<sup>60</sup> Consequently, the UN had different agreements and conventions that provide a minimum baseline against money laundering to which serve as a benchmark for countries to assess their own money laundering regime.

## **I. The Vienna Convention**

United Nations Convention against Illicit Traffic in Narcotic Drugs and psychotropic substances (Vienna Convention) was the first move of international community towards combating money laundering. The convention was signed in 1988 and come in to force on November 11, 1990 and it primarily deals with provisions to combat the illegal drug trades and related law enforcement issues.<sup>61</sup> Currently the convention has 191 parties and 87 signatories.<sup>62</sup> Even if the convention does not use the term money laundering, it defines the concept<sup>63</sup> and adopts three-fold approaches to combat money laundering at national and international level.<sup>64</sup>

In the first place, it criminalizes individuals who involved in money laundering.<sup>65</sup> Secondly, the convention calls each party to adopt measures that may be necessary to enable confiscation of proceeds of crime.<sup>66</sup> Lastly, it adopts international cooperation between law enforcement organs and other concerned bodies.<sup>67</sup>

Despite its prominent contribution in the move to combat money laundering this convention is however limited only to drug trafficking offenses as predicate offenses and does not address the preventive aspects of money laundering.

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<sup>60</sup>Ibid

<sup>61</sup>Ahmad Aqeil Mohamad Al-Zaqibh, 'International Laws on Money Laundering', *International Journal of Social Science and Humanity*, Vol. 3, No. 1, pp. 43-47, p.44, 2013.

<sup>62</sup> United Nations, Treaty Series, vol. 1582, available at: <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20VI/VI-19.en.pdf> last accessed on October 30/2021.

<sup>63</sup> The Vienna Convention, Article 3 (b) and (c) (i) available at: [https://www.unodc.org/pdf/convention\\_1988\\_en.pdf](https://www.unodc.org/pdf/convention_1988_en.pdf) last accessed October 30/2021. (Hereinafter the Vienna Convention)

<sup>64</sup> Menen Abera, 35, p.26.

<sup>65</sup> The Vienna Convention, Art 3

<sup>66</sup> The Vienna Convention Id, art 5

<sup>67</sup> Id. Art 6 and 7

## **II. The Palermo Convention**

In order to expand the effort to fight international organized crime, the UN adopted The International Convention against Transnational Organized Crime (Palermo Convention). The convention was adopted 15 November 2000, by general assembly resolution 55/25 and went into force on 29 September 2003; having been signed by 147 countries and currently, it has 190 parties.<sup>68</sup> Unlike Vienna convention it goes further by expanding the scope of the predicate offence beyond drug trafficking. The Palermo Convention deals about criminalizing money laundering that includes the proceeds of all serious crimes and establish regulatory regimes like record keeping, suspicious transaction report and customer identification that are the major tenets of the day to prevent money laundering.<sup>69</sup>

Secondly, it authorize the cooperation and exchange of information among administrative, regulatory, law enforcement and other authorities, both domestically and internationally, and consider the establishment of a financial intelligence unit to collect, analyze and disseminate information.<sup>70</sup> And, lastly, it calls up on states parties to use the relevant initiatives of regional, interregional and multilateral organizations against money-laundering as a guideline to promote international cooperation.<sup>71</sup>

## **III. Financial Action Task Force (FATF)**

Financial Action Task Force on Money Laundering (FATF) was formed in 1989 by the G-7 countries as an intergovernmental body with the purpose of developing and promoting an international response to combat money laundering and terrorism financing. The FATF is a policy-making body that works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.<sup>72</sup>

There are currently 39 members of the FATF; 37 jurisdictions and 2 regional organizations (the Gulf Cooperation Council and the European Commission) and 21 international organizations that

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<sup>68</sup> Supra note 52, p.45

<sup>69</sup> United Nations Convention against Illicit Traffic in Narcotic Drugs and psychotropic substances, Article 6 and Article 7 (1) (a) (hereinafter The Palermo Convention)

<sup>70</sup> Id article 7(1) (b)

<sup>71</sup> Id article 7(3) and (4)

<sup>72</sup> Supra note 52, p.44

have observer status with the FATF.<sup>73</sup>In addition, FATF works in collaboration with a number (FSRBs) that have similar form and functions to those of FATF.<sup>74</sup>

The FATF responds to anti-money laundering by adopting its 40 Recommendations<sup>75</sup>that were originally issued in 1990 and updated periodically. The Recommendations set minimum standards for action that countries must implement by specifying the detail according to their particular circumstances and constitutional frameworks. The Recommendations cover all measures that national systems should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and certain other businesses and professions, and international co-operation.<sup>76</sup>

The 40 recommendations are segmented in to four areas. These are; the general framework of the recommendations, improvements in the national legal system, enhancement of the role of the financial system and strengthening of international cooperation<sup>77</sup>.

In a general statement we can identify three primary functions of FATF with regard to money laundering from these recommendations. These are; monitoring members' progress in implementing anti-money laundering measures, reviewing and reporting on laundering trends, techniques and countermeasures and promoting the adoption and implementation of FATF anti-money laundering standards globally.<sup>78</sup> In this regard all recommendations of the FATF are relevant to carry out the above-mentioned functions. But not all recommendations are going to be dealt under this thesis rather special emphasis is given for recommendations that deals about (DNFBPs) to which real estate agents are a part as stated under article 20 of the FATF recommendation.

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<sup>73</sup> FATF Members and Observers, available at <<https://www.fatf-gafi.org/about/membersandobservers/>> last accessed on November 2/2021.

<sup>74</sup> Asia/Pacific Group on Money Laundering (APG),Caribbean Financial Action Task Force (CFATF), Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), Eurasian Group (EAG), Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) Financial Action Task Force of Latin America (GAFILAT) (formerly known as Financial Action Task Force on Money Laundering in South America (GAFISUD)),Inter Governmental Action Group against Money Laundering in West Africa (GIABA) Middle East and North Africa Financial Action Task Force (MENAFATF) and Task Force on Money Laundering in Central Africa (GABAC)Available at FATF Members and Observers

<sup>75</sup>Recommendation Number 22 and 28 of last updated version FATF (October 2020) deals the issue of Designated Non-Financial Businesses and professions including real estate agents.

<sup>76</sup> Supra note 52, p.45

<sup>77</sup> Menen Abera 35, p. 31

<sup>78</sup> Supra note 43, p.46

### **A. Customer Due Diligences (CDD)**

Sound Customer Due Diligence (CDD) procedures are the critical element in the effective management of money laundering risks. CDD safeguards go beyond simple account opening and record keeping and extend to identifying the customer and verifying that customer's identity using reliable, independent source documents, data, or information and identifying the beneficial owner and taking reasonable measures to verify the identity of the beneficial owner.<sup>79</sup>

Real estate agents should comply with the requirements of CDD with respect to both the purchasers and vendors of the property as part of DNFBs. In dealing with customer due diligence, real estate agents have the obligation to verify a customer's financial activities and the sources of funds. Identifying and verifying customers' financial activities allow for a consistency check with the expected customer's profile. This is done to see whether any of the business activity is linked to money laundering or terrorist financing. Identifying and verifying the source of the funds is done to prevent illicit funds from entering the financial system.<sup>80</sup>

CDD requirements are practically complex in two cases. The first is when the customer is acting on behalf of another. In this case, real estate agents are required to establish the identity of the person on whose behalf the transaction is taking place. The second case has to do with the legal entities. In this case, real estate agents are required to confirm the legal existence of the entity and understand its structure. They must particularly make sure that the corporate vehicle is not used to shield a natural person who desires to act with anonymity.<sup>81</sup>

### **B. Record Keeping**

Next to identification of their customers, the next obligation is keeping these records in storage for at least five years after the transaction has been completed. These documents should be stored in a register number in order to be able to retrieve the identity of clients and of their transactions without undue delay. Such records include the amount and types of currency that could be traced. In addition, these documents should be available for facilitating investigation and prosecution of money laundering cases.<sup>82</sup>

At any formal request by the concerned law enforcement organ or judiciary, these recorded data will be accessible for the purpose of facilitating investigation and rendering evidence in money

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<sup>79</sup> Menen Abera, 35, p.32

<sup>80</sup> Supra note 46, p.68

<sup>81</sup> The Financial Action Task Force recommendations 2012, Interpretative note to the recommendation, No. 10

<sup>82</sup> Supra note 46, p.69

laundering cases. Furthermore, record keeping enables to provide a summary of deterrence and detection procedures of money laundering cases.<sup>83</sup>

### **C. Suspicious Transaction Reports (STRs)**

Transaction reporting is one of the essential elements of the anti-money laundering regime needed to detect financial transactions that can reasonably be suspected to money laundering or terrorist financing. The reporting requirements aim at getting useful financial information concerning suspicious transaction related to money laundering from the private sectors and utilizing the information for real investigations. The suspicious transaction will be reported to the FIU so that the latter will analyze the report and forward it to the law enforcement authorities for further investigation and prosecution and disseminate useful information to the private sectors, law enforcement authorities both in domestic and foreign countries, and in the FIU's counterparts all over the world.<sup>84</sup>

### **D. Politically Exposed Persons (PEPs)**

A politically exposed person is defined by the FATF as an individual who is or has been entrusted with a prominent public function that potentially can be abused for the purpose of committing money laundering offences and related predicate offences, including corruption and bribery, as well as conducting activity related to terrorist financing.

Hence, FATF recommendation 12 call countries to have appropriate risk management system to identify whether the customer is PEP's and take reasonable steps to establish the source of funds and wealth of such persons, obtain senior management approval for establishing (or continuing, for existing customers) such business relationships and conduct enhanced ongoing monitoring of the business relationship.

## **2.5.2. Regional Anti Money Laundering Initiatives**

### **I. FATF-Style Regional Bodies**

FATF-Style Regional Bodies (FSRBs) are very important in the promotion and implementation of anti-money laundering and combating the financing of terrorism standards within their respective regions. The main purposes of these regional initiatives are encouraging enforcement of the FATF recommendations on money laundering, administering mutual evaluation of their

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<sup>83</sup> Ibid

<sup>84</sup> Ibid

members to identify weaknesses so that the member may take remedial action and finally they provide information to their members about trends, techniques and other developments for money laundering in their Typology Reports.<sup>85</sup>

As mentioned previously under page 25 currently there are nine FSRBs. Under this section, the researcher likes to highlight only those regional bodies to which Ethiopia is a member to make the issue precise.

#### **A. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)**

The (ESAAMLG) was established in 1999 currently comprising eighteen<sup>86</sup> members. The Purpose of The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) is to combat money laundering by implementing the FATF Recommendations. This effort includes coordinating with other international organizations concerned with combating money laundering, studying emerging regional typologies, developing institutional and human resource capacities to deal with these issues, and coordinating technical assistance where necessary. ESAAMLG enables regional factors to be considered in the implementation of anti-money laundering measures.

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<sup>85</sup>Supra note 43, p.62

<sup>86</sup>Angola, Botswana, Comoros, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.

## CHAPTER THREE

### APPRAISAL OF LEGAL, INSTITUTIONAL AND POLICY FRAMEWORKS IN ETHIOPIA FOR COMBATING MONEY LAUNDERING

#### 3. The elements of an effective AML-CFT framework in regulation of money laundering

##### 3.1. General introduction

There are a number of steps that each country needs to take to assure that its (AML) institutional and legal framework meets international standards. The basic one is adopting laws that are consistent with its own cultural circumstances, legal precepts and constitution, as well as international standards. This may include;

- *Criminalization of money laundering in accordance with the Vienna and Palermo Conventions;*
- *Laws for seizure, confiscation and forfeiture and illegal proceeds;*
- *The types of entities and persons to be covered by AML laws;*
- *Integrity standards for financial institutions; and*
- *Consistent laws for implementation of FATF recommendations.*
- *Cooperation among competent authorities*
- *Investigations*

The concept money laundering was initially ruled in Ethiopia after the promulgation of the new proclamation No. 657/2009<sup>87</sup> and the initiation of some cases in this respect. Due to the clandestine nature of the crime and absence of consolidated data, it is impossible to extrapolate the amount of money laundered in Ethiopia; however, there are indications that money laundering is breaking out in the country.<sup>88</sup>

Bearing this in mind the Ethiopian government try to ratify several international instruments that directly support its AML/CFT regime, including the UN transnational organized crime Convention, UN Vienna Convention against drugs and psychotropic substances and related

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<sup>87</sup> Currently repealed by Anti-money laundering and terrorist financing proclamation number 780/2013.

<sup>88</sup>Biniyam Shiferaw, p.42



protocols, Organization of African Unity anti-corruption conventions, IGAD mutual legal assistance convention and IGAD extradition convention.<sup>89</sup>

Given this fact at hand, hereunder a meticulous scrutiny of Ethiopian legal system will be made in light of the standards mentioned above at the beginning of this sub title.

### **3.2. Criminalization of Money Laundering**

Criminalization of money laundering is the starting place for a country to establish or improve its AML framework. Criminalization serves three principal objectives. First, it compels compliance with AML preventive measures. Second, it lists an act of processing illegal proceeds by individuals to outright criminal activity and made them a criminal act. Third, criminalization establishes a specific basis for greater international cooperation in this critical law enforcement function. Because of the criminal nature and the international aspects of money laundering offenses, competent authorities within a country have recourse to powerful international tools, especially mutual legal assistance mechanisms and, can more effectively track, enforce, and prosecute international money laundering.<sup>90</sup>

Accordingly, the Ethiopian law criminalized money laundering for the first time under Art 684 of the Criminal Code. As per this article money laundering is defined as the processes of disguising the true origin of ill-gotten money or property in to seemingly money or property and it includes concealing and disguising the nature, source, location disposition or movement of the proceeds of crime knowingly alerting, remitting, receiving or possessing such tainted money. From this definition we can point out elements of money laundering crime. The first one is concealing of offences, which covers concealing, disguising, or transferring criminal property from one's own act through investment, transfer, or remission.<sup>91</sup> The second is an arrangement offence that covers intentional involvement in an arrangement for concealing or disguising the illicit origin of the property, helps any person involved in the commission of the same crime, or conceals the true nature, source, location, disposition, movement or ownership or right with

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<sup>89</sup>Ashenafi Lakew, p. 22

<sup>90</sup>Supra note 43, p.72

<sup>91</sup> FDRE Criminal Code, Art 684(1)

respect to the property.<sup>92</sup>The third one is acquisition, which refers to the use and possession of property or money while knowing the unlawful source.<sup>93</sup>

The rule regarding money laundering under the FDRE criminal code squeezes a range of predicate offences. The code had made such designation in two ways in the first place it incorporates crimes such as corruption, drug trafficking and illegal arms dealing as predicate offences. Secondly, it states all serious crimes to be considered as predicate offences as defined under sub article 7 of the same provision. Serious crime, is defined as a crime punishable with rigorous imprisonment of ten or more years or where the amount of money or the value of the property involved in the crime is at least fifty thousand birr.

### **3.1.1. Defining predicate offences for money laundering**

Designating certain criminal activities as predicate offenses for money laundering is necessary to comply with international standards. The designation of an increasingly wider range of criminal offenses as money laundering predicates has occurred as international standards have developed.

So far, in the history there was no clearly stated and comprehensive definition of predicate offences for money laundering. For instance, Vienna Convention the first international legal regime against money laundering provided that the predicate offenses for money laundering relate only to drug trafficking offenses.<sup>94</sup>

The Palermo convention made a move by requiring member states to adopt “*the widest range of predicate offenses*”.<sup>95</sup> On the other hand, the 2020 version of the FATF 40 Recommendations specified that predicate offenses should be “based on serious offenses.”<sup>96</sup> However, the problem is neither the Palermo convention nor the 2020 FATF recommendation clearly defined what the “widest range of predicate offence” and “serious offence” respectively constituted. Hence, the scope of the predicate offense was left to the judgment of each country; subject only to the Vienna Convention’s requirement that drug trafficking should be a predicate offense always.

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<sup>92</sup> Id Art 684(5)

<sup>93</sup> Id Art 684 (2)

<sup>94</sup> Vienna Convention, article 3.

<sup>95</sup> Palermo Convention, article 2(a).

<sup>96</sup> The Financial Action Task Force recommendations 2012, Recommendation Number 4 (hereinafter FATF recommendation)

In Ethiopia predicate offences for money laundering are all serious offences and the criminal code define serious offence as a crime punishable with rigorous imprisonment of ten or more years or a crime that involves a value of at least fifty thousand birrs.<sup>97</sup> Hence, it adopts a different threshold for defining serious crimes in case of money laundering in light of what the FATF recommendation requires. This is because the latter requires all serious offences to be taken as predicate offences whereas the FDRE criminal code under its article 684 come up with short list of crimes that are considered as predicate offences<sup>98</sup> and it is not compatible with the intention of including the widest range of predicate offences under the FATF.<sup>99</sup> Predicate offenses are defined in Ethiopian criminal law as “all serious crimes. In summation it can be submitted that the none exhaustive list of predicate offenses under the Ethiopian law significantly narrows the scope” of predicate offenses and this will ultimately limit the scope for application of the AML law in general and in detecting and investigating proceeds of crime specifically.

### **3.1.2. Laws for seizure, confiscation and forfeiture and illegal proceeds**

Member states to the FATF recommendations are compelled to to adopt legislative measures to enable their competent authorities to freeze or seize and confiscate illegal proceeds without prejudicing the rights of bona fide third parties. These illicit proceeds may include;

*“(a) Property laundered, (b) proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences, (c) property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organizations, or (d) property of corresponding value”*

Authorities identify, trace and evaluate property that is subject to confiscation at first place. Second to that the authority will carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property. Thirdly the authority takes steps that will prevent or void actions that prejudice the country’s ability to freeze or seize or recover property that is subject to confiscation and lastly it will take any appropriate investigative

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<sup>97</sup> FDRE Criminal code art 684 (7)

<sup>98</sup> These includes corruption, drug trafficking, illegal arms dealings, grave endangering or sabotage of communication or transport. Unlawful seizure or control of an aircraft, endangering fixed platform on a continental shelf or an aircraft or a ship, damage to fixed platform an aircraft or a ship, misuse of signals and alarms, unlawful consignment of dangerous goods, provocation and suborning, outrages against foreign heads of state, representatives. and other persons enjoying protections under international law, unlawful departure, entry or residence.

<sup>99</sup> FATF recommendation number 3.

measures. For easy implementation of all the above-mentioned measures countries are strongly required to have Laws for seizure, confiscation and forfeiture and illegal proceeds particularly proceeds of laundered money.

These laws will enable the government to achieve multiple enforcement aims through a single process. First, it enables the government to recoup large amount of illicit proceeds. Secondly, it is an indication of efficiency and effectiveness of the government regarding enforcement of money laundering regime which ultimately contributes to the government's deterrent efforts.<sup>100</sup>

By the same fashion to the international legal instruments, Ethiopia has strived to adopt legal frameworks that properly criminalize money laundering and terrorist financing in general and regulates asset freezing, seizure, and forfeiture in particular. To mention some of such efforts; Ethiopia has created AML framework by enacting proclamation Number 657/2009 later amended by Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation, proclamation number 780/2013. In addition to that it has also ratified a number of regional and international instruments that directly support its AML regime.<sup>101</sup>

### **3.1.3. Types of Covered Entities and Persons**

FATF recommendations impose number of common requirements upon financial institutions and non-financial businesses and professions to prevent money laundering and terrorist financing. save that some discretions are left to each country regarding the details of the requirements. All of the sudden both financial and designated non-financial businesses and professions are subjected to apply preventive measures and requirements.<sup>102</sup>

#### **3.1.3.1. Financial Institutions**

In many countries financial institutions may be knowingly or unknowingly participants in laundering activities. This is because these institutions involved in transactions of transferring individuals' funds among other financial institutions, both domestically and internationally.

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<sup>100</sup> Supra note 3, p.16

<sup>101</sup> These instruments include the UN transnational organized crime convention, the UN Vienna convention against drugs and psychotropic substances and related Protocols, Organization of African Unity anticorruption conventions, the IGAD mutual legal assistance convention, the IGAD extradition convention, and the UN action plan that committed Ethiopia to implement UN Security Council Resolutions 1267 and 1373.

<sup>102</sup> Supra note 46, p.89

These institutions also provide the means to convert currencies and pay for the assets used in the money laundering and terrorist financing process.<sup>103</sup>

By the same logic to these international phenomena, Ethiopia had also incorporated financial institutions including banks as answerable persons in the fight against money laundering. Hence, Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation Number 780/2013 has defined financial institutions as “a bank, an insurance company, a micro finance institution, postal savings, money transfer institution or any other institution designated as such by the National Bank pursuant to the relevant law”. This definition is in fact too specific compared with the definition given for financial institutions under the FATF recommendation. *FATF defined Financial institutions as “any natural or legal person who conducts as a business one or more of the following activities or operations for or on behalf of a customer by; Acceptance of deposits and other repayable funds from the public, Lending, Financial leasing, Money or value transfer services, Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money), Financial guarantees and commitments. Finally, trading in: (a) money market instruments (cheques, bills, certificates of deposit, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate, and index instruments; (d) transferable securities; (e) commodity futures trading”*<sup>104</sup>

The Ethiopian AML seem to prefer narrower definition of financial institutions unlike that of the definition provided under the FATF recommendation. Hence, the definition under FATF recommendation is broader and chooses functional definition rather than an institutional or designation one. Hence, the test is whether an entity or individual carries out any of the above functions or activities for customers, not what the business is called or how the business is designated. The bold lacuna of Ethiopian AML in this regard is it limited itself to the conduct of such activities by licensed financial institutions. This will ultimately let occasional financial activities done by unlicensed institutions to escape from the basket of AML regime.<sup>105</sup>

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<sup>103</sup> Ibid

<sup>104</sup> FATF recommendation 2012, Glossary of terms section, p.119.

<sup>105</sup> A best example of such a case might be a hotel, which offers very limited foreign currency exchange facilities to its guests on an occasional basis or a travel agency, which can wire money to clients overseas in emergencies.

### 3.1.3.2. Non-Financial Institutions

The AML proclamation has come up with enumerated non-financial institutions and entities that are potentially vulnerable to money laundering. Because of the different business environment, these institutions are not subjected to the same requirement as financial institutions except some of the basic rules of money laundering. The following are non-financial institutions mentioned as the covered persons named Designated Non-Financial Business Professions (DNFBPs) as per proclamation number 780/2013;<sup>106</sup>

- ✓ *Real estate agents and brokers;*
- ✓ *dealers in precious metals or precious stones;*
- ✓ *lawyers, notaries and other independent legal professionals when they prepare for, carry out or engage in transactions for their clients concerning: buying and selling of real estate; (2) managing of client money, securities and other assets; (3) management of bank, savings or securities accounts; (4) organization of contributions for the creation, operation or management of companies; or (5) creation, operation or management of legal persons and buying and selling of business entities;*
- ✓ *independent accountants;*
- ✓ *such other businesses and professions as may be designated by the Center;*

A brief discussion of all these non-financial institutions may not be undertaken because, the subject matter will go beyond the scope of this research and it will be very broad to do so. Hence, due emphasis will be given for a discussion about real estate agents.

#### I. Real estate agents

So far, the horrific concerns off Governments around the world have been focused their regulatory efforts to tackle money laundering on the banking sector. Recently, as concerns about the global scale of money laundering need to be extended to real estate agents as the real estate sector is an attractive target for money laundering.<sup>107</sup> Based on this real estate agent are found to be the main bodies to be covered by AML regimes in the fight against money laundering.

The real estate sector belongs to the designated non-financial businesses and professions (DNFBP) category. As part of DNFBPs real agents are required to run customer due diligence and record-keeping requirements based on risk assessment. This is applicable specifically in

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<sup>106</sup> Proclamation number 780/2013, Art 2(9)

<sup>107</sup> Supra note 10, p.8

situations whereby real estate agents involved in transactions for their clients concerning the buying and selling of real estate and also lawyers when preparing or carrying out such transactions for their clients.<sup>108</sup>

Similarly, real estate agents are subjected to the rules of internal controls and foreign branches and subsidiaries in the sense that their foreign branches and majority owned subsidiaries apply AML measures consistent with the home country requirements implementing the FATF Recommendations.<sup>109</sup>

In addition to that, the requirement of reporting of suspicious transactions is equally applicable here in case of real estate agents. so that if the real estate agent suspects that funds are the proceeds of a criminal activity, or are related to terrorist financing, it shall report promptly its suspicions to the financial intelligence unit (FIU).<sup>110</sup>

At national level too, an attempt is made to give a legal coverage for DNFBPs in general and real estate sector in particular. For that proclamation number 780/2013 had at the first place provided the definition for DNFBPs simply by providing the list of activities fall under these designations rather than giving a clear and direct definition for the term. <sup>111</sup>

#### **3.1.4. Consistent laws for implementation of FATF recommendations**

A crucial aspect of any legal system is to have laws and regulations that are internally consistent and work in coordination with each other. Thus, it is important that one law not conflict with another law, unless there is a basis in policy for making an exception, and that the two laws can be read as working together without contradiction. One area where there is potential for conflict is with secrecy laws. Often, countries have general laws protecting the privacy of financial information from disclosure. Such laws may conflict with the specific requirement, for example, that designated nonfinancial business and professions report suspicious transactions. In order to make AML requirements, FATF provides that each country should make sure that its financial institution secrecy laws do not inhibit implementation of the FATF recommendations.<sup>112</sup>

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<sup>108</sup> FATF recommendations, Number 22

<sup>109</sup> Ibid Number 23 cumulatively with number 19

<sup>110</sup> Ibid number 21

<sup>111</sup> Proclamation number 780/2013, Article 2(10)

<sup>112</sup> FATF recommendation number 4

## **I. Proclamations**

In Ethiopia, in addition to ratification of international and regional instruments as discussed previously AML regime was created first in 2009 following the enactment of proclamation number 657. Ethiopia has also established financial intelligence center subsequent to the promulgation of the AML regime and Council of Ministers' regulation number 171. However, proclamation number 657 was suffering from several limitations such as in its provisions on terrorist asset freezing, seizure, and forfeiture when compared to international standards. Due to this and other demands the former law was repealed by proclamation number 780/2013. The later proclamation is accredited for including relatively detailed provisions with regard to criminalizing money laundering and terrorist financing and includes comprehensive provisions on matter such as

- *Politically Exposed Persons;*
- *Restraining property;*
- *Enhancements of the power of the FIC in the fight against money laundering and terrorist financing and collaboration with relevant domestic and foreign agencies;*
- *Procedures to identify, freeze, and confiscate terrorist assets;*
- *issues related to DNFBPs;*
- *Preventive measures such as customer identification and CDD provisions; and*
- *Definitions of terms in order to avoid cross-referencing with other laws, making it self-sufficient and compliant with the revised FATF Recommendations.*

## **II. Revised Federal Ethics and Anti-Corruption Commission Proclamation**

Ethiopian anti- corruption proclamation also contributes a lot in the movement of combating money laundering in general and in the real estate agents particularly. Revised Federal Ethics and Anti-Corruption Commission Proclamation, Proclamation No. 1236/2021 was basically enacted with the purpose of preventing corruption and impropriety and to create a society of good ethical values and moral. It also established the Federal Ethics and Anti-corruption commission as an independent organ.<sup>113</sup>

The commission has the objective of ensuring transparency and accountability in public offices, public enterprises and public organizations by declaring, registering the asset and financial

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<sup>113</sup>Revised Federal Ethics and Anti-Corruption Commission Proclamation, Proclamation No. 1236/2021, 27th Year, No.15 Addis Ababa 19th February, 2021, article 3(1) and Article 4.



interests of their officials and employees.<sup>114</sup> It also verifies and made accessible accuracy of information of the officials. This will ultimately support the AML requirements of Customer Due Diligence and record keeping trends of reporting entities in the money laundering regime. Generally, the anti-corruption proclamation is also a good move with regard to combating money laundering. But, the narrow legal provisions specially the rules regarding the powers and duties of the commission are likely to bring challenges on the cooperation and coordination requirements of the antimoney laundering regime. This is more exacerbated when the anti-corruption commission is member of the national action task force of combating money laundering.

### **III. Regulations and directives**

At regulation level there is Council of Ministers Regulation No. 171/2009, to provide for the establishment of the Financial Intelligence Centre.

The FIC has also enacted “Designated non-financial business and professions' anti-money laundering and countering the financing of terrorism compliance directives number 02/2016” with the goal of;

- *Crating sound know your customer, client or partner policies and procedures which constitute an essential part of internal control and risk management aspects of designated non-financial institutions, businesses or professions including real estate agents;*
- *Strengthening internal control and risk management systems of DNFBPs to prevent them from exposure to undue reputational, operational, legal and attentiveness risks that may result from abuse of money launderers and terrorist financiers;*
- *Ensuring customer due diligence requirements in case of DNFBPs and*
- *Ensuring sound policies, procedures, and controls in place that enable them to identify their new and existing customers.*

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<sup>114</sup> Ibid article 6(5)

### 3.1.5. Cooperation among competent authorities

The FATF recommendation clearly call countries to provide competent authorities with staffs of high integrity that involve in combating money laundering and terrorist financing with their full financial, human and technical capacity.<sup>115</sup>

This means that a country's laws and mechanisms shall always be facilitators of cooperation among the various competent authorities, as well as facilitating coordination among such authorities, involved in AML efforts. Most importantly, a country's laws and mechanisms shall by no means be prohibiting or restricting such cooperative efforts.

In a cosmetic replica to this stipulation the Ethiopian anti-money laundering proclamations call the competent authorities to provide the widest possible range of cooperation to the competent authorities of other states for facilitating legal assistance that may expedite extradition and criminal investigations and proceedings related to money laundering and financing of terrorism.<sup>116</sup> This may be basically signified by the instrumentality of mutual legal assistance.<sup>117</sup>

The designated non-financial business and professions DNBP's directive more specifically states that DNBP's shall pursuant to the Proclamation and subsisting laws provide relevant information with the Center and other authorities on AML matters.<sup>118</sup>

Despite such a written rule requiring institutionalization that support cooperation in practice, the FIC is too much weak and fragile in discharging its responsibility of cooperation for instance by sharing information with such important agencies as the police, state prosecutor, ERCA, and national intelligence and security service specially in cases of investigations.

The officials of the FIC legal service on the other hand reported that Ethiopia has best opportunities with regard to practicing enhanced cross border cooperation due to positive factors such as; Ethiopia's membership to ESSAMLAG which ultimately strengthens mutual evaluation,

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<sup>115</sup> Recommendation 30

<sup>116</sup> Proclamation number 780/2013, Art 38(1).

<sup>117</sup> Mutual legal assistance may include in particular; taking evidence or statements from persons, assistance by making available detained persons and witnesses for the judicial authorities of the requesting state, effecting service of judicial documents, execution of search and seizure, providing information, confiscation of property and provisional measures of freezing and seizure. See art 39 of 780/2013.

<sup>118</sup> *Designated Non-financial Business and Professions' Anti-money Laundering and Countering the Financing of terrorism compliance directives number 02/2016*, Financial intelligence center, 2016, Art 12.

information sharing, and signing MOU with international bodies such as FSRBs.<sup>119</sup> But the problem is that even though the FIC is attempting to organize meetings of stakeholder representatives formally and regularly, the indistinct demarcation of the roles of each entity (the central bank, criminal investigation, state prosecutor, and so on) have been a big threat.<sup>120</sup>

Beyond that, An Ethiopian AML national task force, which would have facilitated interagency cooperation, is either inactive or nonexistent in contradiction of the recommendations of the ESAAMLG. Reportedly, however, there is an ad hoc inter-ministerial AML Committee chaired by the minister of finance and economic development that is expected to coordinate the development of a national AML strategy pursuant to ESAAMLG recommendations.

### **3.1.6. Investigations and confiscations**

Facilitation of cooperation and coordination among competent authorities who are responsible for money laundering and terrorist financing is the primary role of AML laws and mechanisms. They should facilitate investigations so as to obtain effective international cooperation including mutual legal assistance. And for that it is necessary to develop special investigative techniques and mechanisms and concerned authorities should exert every effort in cooperative investigations with other countries as well.

According to the AML assessments, it was proved that countries are not fully complying with the stated FATF standard although it was generally rated favorably. The relevance of investigation and confiscation laws is pretty clear with regard to fighting against international crime and terrorist financing. The Vienna and the Palermo Conventions define the term “proceeds of crime” and prescribe laws that permit the confiscation of the proceeds of laundering and predicate offenses without mentioning “terrorist financing”.

The revised FATF Special Recommendation II, however, encourages countries to ensure that the financing of terrorism and associated money laundering predicate offenses are designated as money laundering predicate offenses. The FATF also encourages countries to adopt confiscation laws relating to property laundered and proceeds from money laundering or predicate offenses and terrorist assets in accordance with the Vienna and the Palermo Conventions, and the UN Resolutions relating to the prevention and suppression of the financing of terrorist acts.

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<sup>119</sup> Interview with Gebeyehu Gudeta “strategic research analysis team leader at Ethiopian Financial intelligence center” interviewed on March 22.2022.

<sup>120</sup> Ibid

For the enforcement of confiscated property, the Vienna Convention –Article 5 (3) states: In order to carry out the measures referred to in this article, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A Party shall not decline to act under the provisions of the paragraph on the ground of bank secrecy. The international law on confiscation does not preclude the rights of bona fide third parties (the third parties in good faith). The Vienna Convention [Article 5 (8)] and the Palermo Convention [Article 12 (8)] clearly state:

The provision of this Article shall not be construed as prejudicing the rights of bona fide third parties.

There are 2 necessary steps to eliminate the profitability of international money laundering activities:

1. *Establishing an effective confiscation regime for domestic purposes*
2. *Creating cooperative mechanisms for enforcing cross-border confiscation order*

The Vienna Convention [Article 5-5(a) and 5(b)] and the Palermo Convention [Article 14-1, 14-3(a) and 3(b)] state that confiscated proceeds or property shall be disposed of by that party according to its domestic law and administrative procedures. Regarding freezing and confiscation, according to the findings from the AML assessments by the IMF and the WB, the report states:

*Compliance regarding SR III on freezing and confiscation of terrorist assets is weak. No countries were fully compliant, 11 percent largely compliant, 50 percent partially compliant and 39 percent noncompliant. Despite identified flaws in the legal framework, the assessed countries have adopted transitional measures to implement UN Security Council Resolution 1267 and successor resolutions on terrorist financing.*<sup>121</sup>

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<sup>121</sup> The elements of an effective AML-CFT framework available at [https://poshukach.com/redirect?user\\_type=54&type=sr&redir=eJzLKCKpKLbS1y8vL9crzctPSdbLL0rXT8IPLs1NzSspIi\\_OLy3JSE0sLkkszkxMzEspSEzOTMtM1jcyMLDUNzDSD\\_F3dvT18dc3sNB19nAMCHENivf09NQrSEljYDA0MzMwNLAwNTBgSPjzwx26511bO3rmfs\\_tEGANboKhA&src=94634c&via\\_page=1](https://poshukach.com/redirect?user_type=54&type=sr&redir=eJzLKCKpKLbS1y8vL9crzctPSdbLL0rXT8IPLs1NzSspIi_OLy3JSE0sLkkszkxMzEspSEzOTMtM1jcyMLDUNzDSD_F3dvT18dc3sNB19nAMCHENivf09NQrSEljYDA0MzMwNLAwNTBgSPjzwx26511bO3rmfs_tEGANboKhA&src=94634c&via_page=1) last accessed August 09/2022

### **3.2. Institutional frameworks- Financial Intelligence Center in focus**

Money laundering is a transnational phenomenon and a worldwide problem. Money laundering, is commonly committed in association with other criminal offences like financing of terrorism and this will ultimately create a forum for involvement of different actors from different countries which ultimately complicates elimination of the criminal act and pose a transboundary effect on different countries. In response to the cross-border nature of crime of money laundering several measures have been undertaken at international, regional and national levels. Among the basic measures taken at all these levels setting a strong institutional framework is the leading.

Accordingly, some international agencies, organizations and associations have adopted recommendations, standards and principles for controlling money laundering and its predicate offences. At regional levels too, there have been a move to install regulatory and institutional mechanisms tackle money laundering offences in Africa, Asia and South America. In Africa for instance, members of African Union have signed several treaties to fight offences of money laundering by that fact the member states establish competent authorities and set up efficient mechanisms for enforcing national AML laws beyond enacting laws to criminalize, prohibit and penalize money laundering and its predicate offences.<sup>122</sup> The best example here is establishment of ESAAMLG.

By the same fashion Ethiopia had tried to launch institutional frameworks charged with responsibility of combating money laundering offences. Among these, FIC<sup>123</sup> and other law enforcement organs like EFPC the ERCA, and the FEAC and FAG are the first cited.<sup>124</sup> Among these, the FIC is mentioned to be the principal AML authority among others. And it is responsible for coordinating the prevention and countering of money laundering and terrorist financing.<sup>125</sup>

### **3.3. Financial Intelligence Center**

The universal efforts of combating money laundering mandatorily call establishment of FIUs by member states. For instance, the Palermo Convention provides that *each state party to the treaty should “consider the establishment of a financial intelligence unit to serve as a national center*

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<sup>122</sup> Eugene E. Mniwasa, ‘The financial intelligence unit and money laundering control in Tanzania the law, potential and challenges’, *Journal of Money Laundering Control* Vol. 22 No. 3, 2019 pp. 543-562, p.544

<sup>123</sup> Unlike Ethiopia, in many legal systems it is uncommon to use the name Financial Intelligence Centre rather it is mostly stated as Financial Intelligence Unit. Hence, the researcher requests an excuse for any interchangeable use of these two terms since the terms are unlikely to bring different essence naturally.

<sup>124</sup> Palermo Convention, Article 7 (1) (b).

<sup>125</sup> Supra note 117, p. 545.

*for the collection, analysis and dissemination of information regarding potential money laundering”*

The Egmont group<sup>126</sup> has defined FIC/FIU as;

‘A central, national agency responsible for receiving, (and as permitted, requesting), analyzing and disseminating to the competent authorities, disclosures of financial information:

- (i) concerning suspected proceeds of crime and potential financing of terrorism, or
- (ii) required by national legislation or regulation, in order to combat money laundering and terrorism financing.’<sup>127</sup>

From this definition we can understand that FIC is naturally charged with responsibility of Centralized Repository of Reported Information, analytical and domestic information sharing.

Centralized Repository of Reported Information is reception of report of Designated None Financial Institutions business and Professions particularly real estate agents regarding all suspicious activities and other required disclosures (such as cash transaction reports commonly in real estate agents) which we commonly call it Suspicious transactions reports (STRs).<sup>128</sup> The second analytical function refers to examination and detection of criminal financial transactions suspicious transactions.<sup>129</sup>

### **3.4.Duties and function of FIUs**

Commonly FICs do three specialized analytical functions: tactical, operational and strategic analysis. Tactical analysis is the process of collecting the data needed to build a case and to provide the accompanying facts behind the commission of a criminal offense. Operational analysis on the other hand is all about using tactical information to formulate different hypotheses on the possible activities of a suspected criminal with the view to support the investigative process. Lastly, Strategic analysis develops knowledge to be used for the future

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<sup>126</sup> The Egmont Group of Financial Intelligence Units is an international organization formed in 1995 as an informal network of 24 national FIUs with the goal of facilitating cooperation and intelligence sharing between national financial intelligence units (FIUs) to investigate and prevent money laundering and terrorist financing. The Ethiopian FIC is not yet a member except some imitation recently.

<sup>127</sup> Statement of purpose of the Egmont Group of Financial Intelligence Units Guernsey, 23rd June 2004, p.2 available at [http://poshukach.com/redis?user\\_type=8&type=sr&redis=eJzLKCKpKLbS1y8vL9dLTirSKyrVd87PK0nNK9F3yU8uzQUx3DJzUvUNjYwtDMz0g0sSS1JBokYGBiZ6BSlpDAyGZqYWlkZmZhbmDEwc6vfuXWwNeCO8\\_O5q7R\\_xhAO45H8w&src=89e376&via\\_page=1](http://poshukach.com/redis?user_type=8&type=sr&redis=eJzLKCKpKLbS1y8vL9dLTirSKyrVd87PK0nNK9F3yU8uzQUx3DJzUvUNjYwtDMz0g0sSS1JBokYGBiZ6BSlpDAyGZqYWlkZmZhbmDEwc6vfuXWwNeCO8_O5q7R_xhAO45H8w&src=89e376&via_page=1) last accessed march 15/2022

<sup>128</sup> Supra note 49, p.131.

<sup>129</sup> Ibid

work of the FIU aiming at identifying new issues and money laundering trends.<sup>130</sup> Comparatively analytical function of FIUs is a vast which require countries to vest their FIUs with the necessary legal authority, proper human resources, and sufficient technical capacity. In particular, the FIU's analytical functions require extended powers to access information.

The last function of FIUs is Information Sharing which refers transmitting such information to the designated national authorities and law enforcement organs and/or foreign agencies for investigation and prosecution.<sup>131</sup>

### **3.5.Models of institutional design for FICs**

FIUs has four models: the administrative model, law enforcement model, judicial and hybrid models.

**Administrative models** are FIUs typically placed within an existing government agency operating under supervision of an existing ministry commonly ministry of finance, central banks, or other regulatory body. Hence, these types of FIUs operates independently/ separately from judicial or law enforcement authorities.<sup>132</sup> This models of FIUs are acknowledged for acting as a neutral buffer between reporting entities and enforcement/prosecutorial bodies, which ultimately brings trust and confidence between reporting entities' trust and the FIU. But at the same time this model of FIU suffer from closer a direct supervision by political authorities which will pose undue influence and risk over the operational independence. It is also blamed for delays in applying law enforcement measures (for example, freezing assets) since it makes FIU to fall outside the ambit of law enforcement organ.<sup>133</sup>

#### **Law enforcement models**

Under this model, the FIU is placed within the country's law enforcement agency and acts in synergy with the law enforcement agency regarding money laundering- and terrorism-related crimes. This will help FIUs to enjoy wider investigative powers and it also ease access to shared information. But the disadvantage here is reporting entities may be more reluctant to share

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<sup>130</sup> Ibid, p.133

<sup>131</sup> Ibid, p.132

<sup>132</sup> International Monetary Fund/World Bank (2004), Financial Intelligence Units: An Overview, International Monetary Fund/World Bank, Washington, DC. P. 10 Available at [http://poshukach.com/redirect?user\\_type=42&type=sr&redirect=eJzLKckpKLbS18\\_JTCpKlKosTk0sSs7QyyIO1UtM1ivN1i8oyszN102tKMjJL0rVTyvNyUnJLC7ISazUT0lNKS3ILUo3MjMwNDcwNDQx1zcx8QI2jQ8LNWRgMDQztbC0NDIwNGGIaf01z3hNc8abmOk3rfs06gFc9Ci1&src=56a144&via\\_page=1](http://poshukach.com/redirect?user_type=42&type=sr&redirect=eJzLKckpKLbS18_JTCpKlKosTk0sSs7QyyIO1UtM1ivN1i8oyszN102tKMjJL0rVTyvNyUnJLC7ISazUT0lNKS3ILUo3MjMwNDcwNDQx1zcx8QI2jQ8LNWRgMDQztbC0NDIwNGGIaf01z3hNc8abmOk3rfs06gFc9Ci1&src=56a144&via_page=1) last accessed on may/2022

<sup>133</sup> Ibid, p. 11.

information directly with an agency that is also responsible for enforcement and/or prosecutions.<sup>134</sup>

**Judicial model or prosecutorial model** – FIUs in this category operates within the judicial branch of the government under the public prosecutor’s office. These models are mostly found in countries where the public prosecutors are part of the judicial systems and have authority over investigatory bodies, which allow the prosecutors to direct and supervise criminal investigations.<sup>135</sup>

**Hybrid model-** these models of FIUs that contain different combinations of the arrangements described previously. With the motive to obtain the advantages of all the elements put together.<sup>136</sup>

### **3.6.Independence of FICs and its implication over its effectiveness**

It is pretty clear that countries must assure the independence of the FIU from political influence and undue influence from the concerned supervisory body regarding the details of transactions to be analyzed and information’s to be disseminated. The interference on FIUs may come from reporting entities, the private sector more generally and from political authorities.

In short independence of FIUs may be boldly classified as political and operational independence.<sup>137</sup> Political independence of FIUs demands FIUs to be free from any undue political, government or industry influence or interference, which might compromise its operational independence.<sup>138</sup> For instance, the appointment process of the head of an FIU should be transparent and be free from any political affiliation. For that, the head of an FIU should be dismissed only justified reasons of failure to meet the terms of service or for gross misconduct or incapacity and must be documented and transparent.

Similarly, FIUs should be operationally independent. Operational independence at first glance refers to independence of FIUs to have the authority and capacity to carry out its functions freely, including the autonomous decision to analyze, request and/or disseminate specific information. Secondly, it refers availability of adequate financial, human and technical resources,

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<sup>134</sup> Ibid, p.14.

<sup>135</sup> Supra note 117, p. 546

<sup>136</sup> Ibid

<sup>137</sup> Supra note 127, P. 23

<sup>138</sup> The revised Financial Action Task Force recommendations 2012, Interpretative note to the recommendation, No 29, F.12



in a manner that secures its autonomy and independence and allows it to conduct its mandate effectively.<sup>139</sup>

The budget and financial independence of the FIUs is a hot issue that needs discussion here. All FATF member states are expected to be autonomous in budget and finance. This means that the FIUs can decide autonomously on how to spend their budget. This will ultimately bring added certainty over a higher expense than the FIU's planned to cost. Otherwise making budgets of FIU part of the budget of larger institution will give rise to an issue of redistribution which will in return significantly impact the budgetary autonomy of FIUs and the expected benefits thereof.<sup>140</sup>

Coming to the Ethiopian scenario, The FIC has been set up as an autonomous body who is directly accountable to the prime minister.<sup>141</sup> The center is vested with a list of primary functions of: collecting, storing, analyzing, and disseminating financial intelligence and information on money laundering, the financing of terrorism, and other related offenses, ensuring compliance by and conducting inspections and supervision of accountable persons with the requirements of the AML law, enhancing public awareness about money laundering and terrorist financing.<sup>142</sup>

The organizational structure of the FIC consists of a board of directors, a director-general and necessary staffs.<sup>143</sup> The board consists of seven members; the director general (permanent member of the board), chairperson of the board and the remaining five members who are appointed by the government.<sup>144</sup> Regarding budget the establishment regulation clearly states that;

*The budget of the center shall be allocated by the government.*

Given the premises that majority of managerial staffs are directly appointed by the government and that the budget of the center is allocated by the government it can be logically submitted that the Ethiopian Financial Intelligence Center independence is highly questioned. This allegation can be further corroborated by the model ambiguity that FIC has adopted as it is sensational to literally conclude that the Ethiopian FIC adopts an administrative model since it is placed within the supervision of National Bank. All of a sudden the FIC's independence is not independent and that certainly makes itself ineffective with regard to ensuring compliance of reporting institutions in general and real estate agents in particular.

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<sup>139</sup> Interpretative note to FATF recommendation 2012, No 29, E.10

<sup>140</sup> Final ECOLEF report page 146

<sup>141</sup> Financial intelligence center establishment regulation, *Federal Negarit Gazzeta*, Number 5, 12<sup>th</sup> year 2010 article 3(1) & (2) (hereinafter FIC establishment regulation)

<sup>142</sup> Proclamation number 780/2013, Article 13,

<sup>143</sup> FIC establishment regulation, article 7.

<sup>144</sup> *Ibid* article 8.

## CHAPTER – FOUR

### REGULATION OF MONEY LAUNDERING BY REAL ESTATE AGENTS UNDER THE ETHIOPIAN AML/CFT REGIME- REVISITING EFFECTIVENESS OF COMPLIANCE PRACTICES

#### 4. Regulation of the real estate sector- General

The real estate sector remains one of the under-regulated sectors in Ethiopia. There is no single law that regulates the relationship between the real estate developer and prospective buyers and the way the sector shall run. The country has neither a separate code on immovable property nor an act on real estate

The drafting of such laws is likely to have several advantages in regulating the real estate sector. Basically, it is important to establish specific real estate regulatory and supervisory authority given the day today booming real estate business in Ethiopia.

Despite absence of a comprehensive regulatory mechanism to the sector the Ethiopian legal system has tried to put some regulatory stipulations in different legal documents. More specifically rules regulating the investment activities in Ethiopia are applicable here mutants' mutandis. So, the government may set investment objectives so as to make the activities of the real estate sector compatible with the economic objectives of the country as enshrined under the FDRE constitution. By this way the real estate sector has been subjected to the rules of investment permit procedure. The stipulations under articles 10-14 of the investment proclamation 1180/2020 provides for the requirements and related procedures about investment permit which can be taken as part of regulation of the sector.

The second is regulation of the sector by the commercial code. In fact, real estate developers are categorized as traders, under the Ethiopian law and may assume one of the types of business organizations as provided under Art.212 of the Commercial Code in the form of a sole proprietorship. However, most developers in Ethiopia take the form of a share company, private limited company and in some instance a form of joint ventures. Be that as it may, regulation of the real estate sector via the commercial code has been the trend so far as part of a trading activity.<sup>145</sup>

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<sup>145</sup> Interview with Ato Bogale Tumdedo, “Legal affairs directorate director at Ethiopian Investment commission” interviewed on March 14, 2022.

#### **4.1.Registration of real estate Company and Project**

As business form fulfilling all the legal requirements and precondition the next issue will be registration that will be governed by Commercial Registration and Licensing Proclamation, No. 980/2016. This proclamation is applicable on business persons, sectorial associations, commercial representatives and any other persons engaged in commercial activities, except on some business activities which are regulated with a different government organ and by a special law relevant to its nature of business such as banking, mining and air transport.<sup>146</sup>

Given the commercial nature of real estate business it is not part of the exceptions hence it is possible to conclude that registration of real estate developers falls under the ambit of commercial registration and licensing proclamation and need to be registered by ministry of trade.

But practically there are gaps and Cummings of power over registration and licensing of real estate agents and it has been difficult to ascertain whether the responsible organ is Ministry of Trade or that of Ministry of Construction in giving away business licenses. This is because Real estate development business has an element of both construction and also of a simple profit-making business. And currently the license for real estate developers is given by EIC.<sup>147</sup>

#### **4.2.Gaps and challenges for ensuring an effective compliance of real estate agents to AML**

##### **4.2.1. An overview of legal, policy and institutional framework loopholes**

Different countries especially those with strongly fixed criminal law principles has made a vast effort to tackle ever-new emergencies related with money laundering by installing a versatile use of policy and institutional frameworks. As part of this the Ethiopian government had made a good move with regard to setting institutional frameworks basically the Financial Intelligence Center (FIU) and others like Federal Police Commission and Federal Attorney General<sup>148</sup>. The FDRE government has also recently adopted National Anti-money Laundering and Combating the financing of terrorism policy under the authority of ministry of peace, signing international and regional treaties and conventions and also enacting several anti-money laundering

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<sup>146</sup>Commercial Registration and Licensing Proclamation, ProclamationNo.980/2016, *Federal Negarit Gazetta*, 22<sup>nd</sup> Year No.101, 5<sup>th</sup> August, 2016, article 21(4)

<sup>147</sup> Supra note 140

<sup>148</sup> This organ has particularly a department called *Asset recovery and confiscation department* which is assigned for close follow-up of fruits of illicit finances that boldly refers money laundering.

proclamations and regulations. In spite of all these endeavors there are rampant problems of effectiveness and compliance that results from the existing institutional and policy loopholes at national level.

This section explores to what extent the legal and policy response towards money laundering is effective in relation to the money laundering threat the FATF Member States face. It is argued that AML policy response can be captured by several indicators: FATF compliance, legal effectiveness, timeliness of implementation, FIU response, international cooperation, information flows and the number of convictions for money laundering.<sup>149</sup> Based on these parameters hereunder the researcher had endeavored to explore the legal effectiveness of Ethiopian AML policy.

### **I. FDRE National Anti-money Laundering and Combating the Financing of Terrorism policy and its effectiveness**

Awkwardly, Ethiopian AML regime has been suffering from aridness of comprehensive AML policy. Recently, in 2020 the FDRE government has formulated and adopted national AML policy under the authority of ministry of peace based on the findings of the 2015 National risk assessment and the 2015 mutual evaluation report that aims to address Ethiopia's highest risks and institutional weaknesses.<sup>150</sup>

The policy has objectives of protecting integrity of the financial system and the economy at large by having sound and comprehensive legal, institutional and supervisory frameworks. It specifically has the goals of ensuring low crime rate, intolerance to corruption, establishing an efficient judiciary and close international cooperation, establishing culture of effective compliance effective monitoring by the concerned authorities.<sup>151</sup>

Under this policy the Ethiopian Financial Intelligence Center and National Bank of Ethiopia are designated as regulatory and supervisory bodies for Designated Non-Financial Businesses and professions and Financial institutions respectively. Furthermore, the EFPC and FAG are law

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<sup>149</sup> Prof. Dr. Brigitte Unger et,al “ The Economic and Legal Effectiveness of Anti-Money Laundering and Combating Terrorist Financing Policy” 2013, Utrecht University , p. 271-278 available at <https://poshukach.com/search?q=Ioana+Deleanu+%26+Joras+Ferwerda%2C+2014.+%22Effectiveness%3A+threat+and+corresponding+policy+response%2C%22+Chapters%2C+in%3A+The+Economic+and+Legal+Effectiveness+of+the+European+Union%E2%80%99s+Anti-Money+Laundering+Policy%2C+chapter+11%2C+pages+iii-iii%2C+Edward+Elgar+Publishing.+&fr=ps&gp=496724&altserp=1> last accessed on July/25/2022 07:07 LT

<sup>150</sup> FDRE National Anti-money Laundering and Combating the Financing of Terrorism policy, 2020, p.3.

<sup>151</sup> Ibid

enforcement and prosecutorial organs.<sup>152</sup> Reestablishment of National Anti- money laundering Committees and other competent authorities is another good move.

Havin this at hand, the policy document setout policy outcomes of; Improved international domestic cooperation amongst stakeholders, improved awareness of Money laundering risks amongst stakeholders and the public at large, improved culture of compliance with AML laws, policies and procedures amongst reporting entities and improved criminal asset forfeiture regime. The substantive norms in the preventive AML/CTF policy are to large extent harmonized with the FATF recommendations. But the issue here is the time priority issue in the sense that the existing proclamations and directives are not fetched out of the policy rather the policy itself is driven by the stipulations of inferior sources as it is adopted recently after enactment as well as amendment of several anti-money laundering proclamations and directives. This will ultimately defeat the assertion Anti-Money Laundering frameworks should be guided by a national AML strategy and policy.<sup>153</sup>

## II. Low level of FATF compliance score

Our first indicator for policy response is a FATF compliance score, because these recommendations were actually the starting point of the research. The FATF evaluate all countries on to what extent they are compliant with each of the forty FATF Recommendations. Based on these the table below shows a data indicating the lower compliance and effectiveness rate of Ethiopia to FATF recommendations. More specifically, the real estate agents had failed to comply with the requirements because of lack of effective supervision, monitoring, and regulation of Designated Non-Financial Businesses and Professions for compliance with AML requirements commensurate with their risks and adequately applying AML preventive measures commensurate with their risks, and report suspicious transactions. There is also common problem of international and domestic cooperation to combat money laundering.

### Effectiveness ratings Table

*This table shows the extent to which a country's measures are effective. The assessment is conducted based on 11 immediate outcomes, which represent key goals that an effective AML/CFT system should achieve.*

Country	Report	Report	Assessment	IO	IO2	IO	IO	IO5	IO	IO7	IO8	IO	IO1	IO11
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<sup>152</sup> Ibid, p. 8.

<sup>153</sup> FATF Recommendations, No. 2.

	type	date	Body	1		3	4		6			9	0	
Ethiopia	MER+F UR	Sep/1 9	ESAAMLG/ WB	LE	ME	LE	LE	ME	LE	LE	LE	LE	LE	LE
Ethiopia	MER	Jun/15	ESAAMLG/ WB	LE	ME	LE	LE	ME	LE	LE	LE	LE	LE	LE
Ethiopia	FUR1	Nov/1 8	ESAAMLG	LE	ME	LE	LE	ME	LE	LE	LE	LE	LE	LE
Ethiopia	FUR2	Sep/1 9	ESSAMLG	LE	ME	LE	LE	ME	LE	LE	LE	LE	LE	LE

Source- 4<sup>th</sup> round rating of member countries by FATF available at <https://www.fatf-gafi.org/publications/mutualevaluations/documents/assessment-ratings.html> last accessed July 25/2022 8:30 AM LT

### **Explanation of the table**

#### Level of Effectiveness

HE-High level of effectiveness - The Immediate Outcome is achieved to a very large extent. Minor improvements needed.

SE-Substantial level of effectiveness - The Immediate Outcome is achieved to a large extent. Moderate improvements needed.

ME-Moderate level of effectiveness - The Immediate Outcome is achieved to some extent. Major improvements needed.

LE-Low level of effectiveness - The Immediate Outcome is not achieved or achieved to a negligible extent. Fundamental improvements needed.

#### Immediate outcomes

IO1-Money laundering and terrorist financing risks are understood and, where appropriate, actions co-ordinate domestically to combat money laundering and the financing of terrorism and proliferation.

IO2-International co-operation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets.

IO3-Supervisors appropriately supervise, monitor, and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks.

IO4-Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.

IO5-Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments.

IO6-Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.

IO7-Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.

IO8-Proceeds and instrumentalities of crime are confiscated.

IO9-Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.

IO10-Terrorists, terrorist organizations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

IO11-Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.

### **III. Limitations as to effectiveness of implementation**

There are several encumbrances affecting the timely implementation of rules of AML which basically includes factual difficulties such as limited resources available at the authority or authorities responsible for the implementation. For example, lack of specialized man power,

corrupted practices, institutional infancy such as recent installation of directorates, dispersed asset recovery laws are the top cited problems.<sup>154</sup> Furthermore, Relatively high costs of compliance for small firms and one-person practices, extensive consultation procedures, formal responsibility of more than one authority for the implementation and the resulting gaps and cummings of power amongst responsible organs such as ministry of trade, Ethiopian investment commission and ministry of house construction and development are mentioned as additional challenges.<sup>155</sup>

#### **IV. Gaps on information flow and organizational cooperation**

As per the stipulation under FATF Recommendations no. 2, Ethiopia is obliged to have a mechanism to facilitate cooperation and coordination on AML efforts both nationally among policymakers, the FIC, law enforcement, regulatory bodies, and other relevant authorities and at international level. But, there are limitations in this regard since there is no official or formal mechanism in place, supported by a guideline, outlining clear roles and responsibilities among all responsible organs except signing of Memorandum of understanding for some of them very recently. And most importantly the forum for meeting of FIC is commonly limited to banks and financial institutions neglecting cash-based entities basically real estate agents.<sup>156</sup>

The coordination between the public prosecutor and FIC need to be appraised here among others. The main task of the public prosecutor here is prosecuting cases where the offences of money laundering and terrorism financing took place. In doing so it used information on suspicious transactions (as well as other information relevant to money laundering case) provided by FIC. Then, the information will be used to detect money laundering, to investigate a money laundering case, to build a case file against a suspect, and finally it can be used to deliver evidence and proof to the courts.<sup>157</sup> Further, information on suspicious transactions provided by the FIC must be cross checked with other information (i.e. tax records, police data, real estate records etc.) to confirm the suspicion of money laundering. All this information will thereafter be compiled into a case file against the suspect. At this stage the public prosecutor comes in and decides whether or not to prosecute on the basis of the file. Then the case file is placed in court

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<sup>154</sup> Interview with Yalemtarik Shimelis, Asset investigation and recovery directorate general, interviewed on March 18/2022, he has consented to be communicated further via [yalemtarik@gmail.com](mailto:yalemtarik@gmail.com)

<sup>155</sup> Interview with Gebeyehu Gudeta Strategic research analysis team leader at Ethiopian Financial Intelligence Centre (FIC), interviewed on March 25, 2022.

<sup>156</sup> Ibid

<sup>157</sup> Supra note 146.



and if the court takes the case the trial procedures may commence. The prosecutor is thus dependent on information effectively reaching them from FIC.<sup>158</sup> and this implies the need to have a strong internal cooperation between the federal prosecutor and the FIC and this hardly affects the effective implementation and the move of ensuring compliance. In spite of all these facts seeking vibrant domestic coordination there are several factors hindering this. Among these, the weakened functioning of FIC in its role, lack of awareness about the threats posed by the new typology of money laundering in real estate among the general public, practitioners, law enforcement authorities and DNFBPs.<sup>159</sup>

By the same fashion cross border cooperation and collaboration in Ethiopia is weak for practical reasons such as sticking of concerned authorities (international relations directorate within the attorney general) to specific areas such as extradition cases, absence of referrals of cases to the relevant authority and others. Furthermore, AML national task force, which is responsible to facilitate interagency cooperation, is inactive in contradiction of the recommendations of the ESAAMLG.<sup>160</sup>

The other problem here is absence of specialized public prosecutors on money laundering offences. In fact, public prosecutors have a generally ability to be able to prosecute any offence. However, sometimes different crimes require different degrees of specialization and some cases of money laundering might require special training and expertise. But for an efficient and effective implementation of the laws it is mandatory to special expertise in the area and for that an extensive capacity building and training forums are hardly needed.<sup>161</sup>

#### **V. Standard operating procedures.**

Due to the absence of centralized repository (data recording) about information of reporting entities the FIC suffered from absence of detailed SOPs specially for basic operations, such as data and information management (collection, analysis, retention, and dissemination); inspections; compliance supervisions<sup>162</sup>; investigations; information and intelligence sharing with other FIUs or relevant authorities; and identification and freezing of illicit assets<sup>163</sup>. The

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<sup>158</sup> Ibid

<sup>159</sup> Ibid

<sup>160</sup> Ibid

<sup>161</sup> Ibid

<sup>162</sup> For instance, the respondents in FIC has reported that they supervise of only two real estate agents (Zenebe Frew and sunshine real estates) in the budget year

<sup>163</sup> As per the interview with Ato Yalemtarik Shimelis problems relating to identification and freezing of illicit asset is not wholly attributable to the problems of data recording but also absence of a separate investigating unit on real

FIC has a shortcoming in receiving all-inclusive Suspicious Transaction Reports (STRs) and other compliance reports from real estate agents basically due to infancy of newly organized compliance officer and its ineffectiveness to fully discharge its function and absence of reporting guidelines for real estate agents. It is shocking that there are even real estates who are strangers about their duties of combating anti-money laundering crimes particularly by making STRs.<sup>164</sup> This FIC's inability to receive reports from real estate agents is significantly hampering ongoing AML efforts and more specifically effective compliance of real estates. The problem is more execrated due to dominant cash-based transaction and recent tendencies of attractiveness of real estates to money laundering and DNFBPs in general.

The AML regime's operational effectiveness and efficiency is also critically affected by limited capacity within the FIC as there is lack of expertise, awareness problem resource limitation. Externally, the public at large lacks awareness, there is no report submission on part of the real estates.

There are also coordination problems among regulatory bodies. For instance, the Federal Anti-Corruption Commission who is the member of national task force has delimited itself only to preventive actions against corruption and earmarked issues of the nexus between money laundering in real estates and corruption particularly in the case of ownership identification of real estates.<sup>165</sup>

The judiciary too is blamed for ordering a prolonged adjournment specially in authorizing investigative authorities as stipulated under proclamation 780/2013.<sup>166</sup> The FIC and law enforcement and regulatory agencies suffer from limited capacities primarily with regard to the technical skills required to analyze reports, detect and investigate suspected cases, apply risk management principles, and carry out inspections and supervisory visits of the sector.<sup>167</sup>

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estate agents, rent seeking and corrupt behaviour of officials, lack of independence and loosen composition of the asset recovery unit in the Attorney general as it is sought to have multidisciplinary manpower holding at least financial investigator, asset evaluators but not true in reality

<sup>164</sup> Supra note 147.

<sup>165</sup> Interview with Ato Tesfaye Bekele, legal affairs directorate director at Ethiopian Anti-corruption Commission, interviewed on March 21/2022.

<sup>166</sup> Supra note 146

<sup>167</sup> Supra note 147

## **CHAPTER- FIVE**

### **FINDINGS, CONCLUSION AND RECOMMENDATIONS**

#### **5. Findings and conclusions**

Real estate agents offer an attractive opportunity for money launderers. This is because it allows large amounts of money to be laundered in one transaction. Secondly, it is relatively easy in some jurisdictions to conceal the identity of the ultimate owner of a property and lastly the overheated property markets in many global cities means that an investment will not lose its value and will most likely appreciate. More specifically criminals invest their illicit proceeds during purchase of real estates. Hence, purchase of real estate is the critical point where the illicit proceed is laundered and get purity and ultimately this calls a multidimensional government endeavors which among others include setting and properly enforcing a contextual anti-money requirement on real estate agents and ensuring an effective compliance practice of the real estate agents.

Ethiopia is not an exception to this global phenomenon hence there is a rampant problem of money laundering in real estate sector. Money laundering have multifaceted social, economic and political impacts which includes; undermining the integrity of financial institutions and markets, loss of control of the national economic policy (macroeconomic effects), risk to competitive market and government privatization efforts, and its negative effect on rule of law. Based on these spillover effects there have been historical endeavors at international, regional and domestic level basically by enacting legal regimes, installing institutional frameworks and enforcement mechanisms. By the same token, Ethiopia has made tangible and determinate progress since April 2011 in strengthening its AML regime. Among others. enactment of anti-money laundering proclamation, regulations and directives, signing of international and regional instruments. In spite of this the regulatory mechanisms of money laundering at national level are found to be full of gaps particularly with regard to real estate sector. The real estate sector is recently serving as a haven for criminals to launder their illicit proceeds. Hence, it really casts attention of the researcher. For one thing, the Ethiopian real estate sector is very fragile in terms regulation which creates a chance to criminals to launder their dirty money. On the other hand, the money laundering regime is somehow lenient regarding money laundering practices in the real estate sector that

utterly demand scholars say more specifically by examining the Ethiopian AML regime in regulating money laundering revisiting the real estate sectors compliance practice in that regard. Hence, this thesis is basically pushed by these pressing agendas and has finally come up with the findings that;

Ethiopian AML regime is ineffective with regard to regulating money laundering by real-estate agents measured in light of elements of effective AML regimes such as; gap in the criminalization of money laundering in accordance with the Vienna and Palermo Conventions; gaps in seizure, confiscation and forfeiture and illegal proceeds, Consistent laws for implementation of FATF recommendations, gaps in ensuring cooperation among competent authorities and practical complications on the investigation process.

This ineffectiveness is basically attributable to factors such as; limited implementation of the rules, gaps with regard to information flow and coordination both at domestic and cross-border level, problems with regard to operational independence of FIC and other concerned authorities and most critically limitation on the standard operating procedures.

In most of the member countries FATF and other instruments, it was established that they must have functional FIUs and that Real Estate Agents are designated as reporting institutions with an obligation to obey compliance requirements by reporting STRs to the FIUs and adopting enhanced customer identification mechanisms. However, they are yet in an infant stage in that regard to complying with these requirements. For instance, the Real Estate Agencies do not bear an obligation to establish beneficial ownership relating to transactions they handle. It was also noted that the sector is not adequately monitored or supervised for AML purposes, as the concerned regulatory bodies for the Sector are not functioning in synergy. Awkwardly, the sectors regulation very fragile yet and the real estate agents including the reputable ones are either unaware of the legal requirements for them to implement the AML/CFT laws as reporting institutions or are simply not complying with the law because the authorities are not enforcing it.

### **5.1.Recommendations**

Based on the finding the following recommendations have been forwarded

- \* Financial Intelligence Center shall enforce effective control and supervision-The FIC is highly expected to install an all-inclusive reporting mechanism to enable all real estate agents to regularly provide reports as provided by the law and ensuring its effective

implementation. By; engaging in awareness creation to reporting entities and other stakeholders; facilitating basic reporting infrastructures; providing technical training on identifying and reporting suspicious transactions to real estate agents; allowing compliance inspections and supervision by the FIC.

- \* The FDRE government shall initiate regulatory and legislative responses to the sector- Regulatory and legislative improvements should be made by the federal government with regard to regulating the real estate sector as a business type in general and undertaking complimenting measures to combat money laundering real estate agents. These measures will in return help regulators specifically the FIC, reporting entities and concerned authorities such as the Federal Attorney General to collect and analyze reports of suspicious transactions from real estate agents, provide information to the prosecutorial bodies specifically the attorney general and finally to provide feedback to reporting entities (real estate agents). This will in summation help the move towards combating money laundering by identifying money laundering preventive activities by real estate agents and their effectiveness.
- \* The financial intelligence unit shall undertake capacity building- All-inclusive and strong AML measures require multidisciplinary capacities and capabilities. Hence, there shall be a continuing capacity building schemes to all competent authorities in fighting money laundering specifically national intelligence and security service, attorney general, anti-corruption commission and Ethiopian Revenue and Customs Authority as mandated under anti-money laundering proclamation, proclamation number 780/2013. It is also better to launch awareness-raising schemes for the real estate sector, media, and the public about the nature, methods, and impact of recently booming money laundering in the real estate sector and legal obligations and consequences of non-compliance.
- \* Enhancing cooperation and collaboration- the government shall work on enhancement of collaboration amongst the concerned authorities specifically by articulating memorandum of understanding and other relevant working procedures between the Financial Intelligence Unit and Federal Ethics and anti- Corruption Commission, Federal Police commission and Federal Attorney General.
- \* Enhancing the data sharing trends- Data is the key to effective AML prevention and detection efforts so data on beneficiaries and customers of real estates shall be available

in a form that is easily accessible to the public and usable for investigative purposes. This shall be done in a way that does not contravene restrictions for protection of considerable government data that is not public due to a complex set of data-sharing arrangements and limitations in the Financial Intelligence Center, Improving the ability to access and share data would enhance the authority's ability to combat money laundering in the sector. This can be done by adopting online platforms by developing software systems like that of UNODC's GoAML that will certainly support the full functioning of AML/CFT regime.

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## **Appendixes**

### **Appendix one**

#### **Bahirdar University**

#### **School of Law**

#### **Semi Structured interview questions for Attorney General**

The purpose of this questionnaire is to collect data for the research to be conducted on Regulation of Money Laundering Practices by Real Estate Agents Under the Ethiopian AML Regime- Revisiting Compliance Practice and Its Effectiveness

The research is to serve for partial fulfillment of Degree of Master in Business and corporate law.

I respectfully request your kind cooperation in providing an answer to the questions that follow as clearly and frankly as possible and your response will be highly confidential, I can assure you that the information you provide will be completely unspecified and will not be used for any other purpose it will use only for academic purpose.

#### **Thank You in advance for your cooperation and willingness!**

1. How do you see the vulnerability of real estate sector to money laundering activities emphasizing on the real estate case flow?
2. What specific indicators (techniques) of money laundering activities in real estate do you identify from practical experiences?
3. Do we have a designated independent investigation unit charged with investigating real estate cases in Ethiopia?
4. If your answer for the above question is no, are real estate cases investigated as normal criminal investigations by law enforcement agencies?
5. If your answer is yes for the above question, what are the possible challenges faced by investigators?

6. May you explain about the methods associated with laundering illicit proceeds into the Real Estate Sector?
7. What is the trend about investigating cases based on public reports in addition to Suspicious Transaction Reports disseminated by the Financial Intelligence Units?
8. What legal and practical challenges are there particularly with seizure and confiscation of real estate's so far?
9. How do you evaluate the coordination activity by the government particularly with regard to creating cooperative mechanisms for enforcing cross-border confiscation orders?
10. Can we sort out a general practical challenge affecting compliance behavior of real estate agents to the Ethiopian anti-money laundering as a whole?
11. How so you see internal cooperation between government bodies in Ethiopia responsible to combating money laundering.?

## **Appendix -two**

### **Bahirdar University**

#### **School of Law**

#### **Semi Structured interview questions for Ethiopian Financial Intelligence Center**

The purpose of this questionnaire is to collect data for the research to be conducted on Regulation of Money Laundering Practices by Real Estate Agents Under the Ethiopian AML Regime- Revisiting Compliance Practice and Its Effectiveness

The research is to serve for partial fulfillment of Degree of Master in Business and corporate law.

I respectfully request your kind cooperation in providing an answer to the questions that follow as clearly and frankly as possible and your response will be highly confidential, I can assure you that the information you provide will be completely unspecified and will not be used for any other purpose it will use only for academic purpose.

**Thank You in advance for your cooperation and willingness!**

1. How do you explain performance of the center with regard to the mandates of receiving, analyzing, and disseminating information entrusted to it under the law? Statistical data.

2. What challenges do face in discharging these core responsibilities?
3. Do we have a centralized repository of reported information at a country level?
4. How do you evaluate the performance of the center with regard to ensuring that due diligence and submission of suspicious transaction reports (STRs) to the concerned investigating organ?
5. Do you thing the center is conducting adequate checks on politically exposed persons and their associates, including national PEPs?
6. To which government authority do the center has a stronger attachment in is operations? Regulatory and supervisory authorities, police and prosecutor, judiciary or all.
7. What are activities done so far by the center to ensure compliance to the AML by real estate agents? Have you ever ordered any sanction against non-complying real estate agents?
8. What is the status of the center with regard to acting independently over activities of capacity building, employment of workers and confidentiality issues?
9. Independence, accountability, and its implication over efficiency of the center.
10. The Main Policy Tension: Privacy versus Efficiency
11. How do you evaluate reporting practices by real estate agents as reporting organ mentioned under the law? How many of them submit STRs to the center? And the practical efficiency of the center with regard to giving feedback.
12. Cross border and domestic cooperation and coordination issues. May you elaborate over that mainly about the practice?
13. The issue of FATF style regional bodies and good experiences of Ethiopia in its membership to that body and the failures too.
14. In the whole work, what legal and practical challenges have suffered in ensuring compliance of real estate agents to the AML regime?

## **Appendix – three**

### **Bahirdar University**

#### **School of Law**

#### **Semi Structured interview questions for Ethiopian Investment Agency**

The purpose of this questionnaire is to collect data for the research to be conducted on Regulation of Money Laundering Practices by Real Estate Agents Under the Ethiopian AML Regime- Revisiting Compliance Practice and Its Effectiveness

The research is to serve for partial fulfillment of Degree of Master in Business and corporate law.

I respectfully request your kind cooperation in providing an answer to the questions that follow as clearly and frankly as possible and your response will be highly confidential, I can assure you that the information you provide will be completely unspecified and will not be used for any other purpose it will use only for academic purpose.

#### **Thank You in advance for your cooperation and willingness!**

1. How do you see the progress of real estate investment in Ethiopia currently? Refer statistical data if any.
2. In what forms the real estate investments are being undertaken in Ethiopia? Do we have statistical data over each category of investment in real estate?
3. How do evaluate the status of real estate investment regulation in Ethiopia?
4. What prerequisites and follow-up mechanisms are set for development of sound real estate markets and their role to thwart money-laundering objectives?
5. What do you think the role of real estate agents in this regard?
6. How do you see the coordination and cooperation of responsible organs in regulating the real estate investment?
7. What measures are taken EIC once a certain real estate sector is found to engage in money laundering activities?
8. What practical complications exist with regard to undertaking possible measures as mentioned above?

9. What possible solutions do you recommend in that regard?

**Appendix- four**

**Bahirdar University**

**School of Law**

**Semi Structured interview questions for Ethiopian Anti- Corruption Commission**

The purpose of this questionnaire is to collect data for the research to be conducted on Regulation of Money Laundering Practices by Real Estate Agents Under the Ethiopian AML Regime- Revisiting Compliance Practice and Its Effectiveness

The research is to serve for partial fulfillment of Degree of Master in Business and corporate law.

I respectfully request your kind cooperation in providing an answer to the questions that follow as clearly and frankly as possible and your response will be highly confidential, I can assure you that the information you provide will be completely unspecified and will not be used for any other purpose it will use only for academic purpose.

**Thank You in advance for your cooperation and willingness!**

1. How do you assess the coordination role of the national task force on money laundering to which the commission is the member?
2. What practical mechanisms the commission adopts with regard to piercing identity of real estate customers?
3. Where does the nexus between corruption and money laundering in real estate's begins?
4. What are the practical challenges that hinder coordination and collaboration of the commission with other relevant authorities regulating money laundering?
5. What practical challenges do you face in the due course of investigation and ownership identification?