

AN ASSESSMENT OF THE ECONOMIC EFFECTS OF ANTI-MONEY LAUNDERING IN
NAMIBIA

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ABSTRACT

This study provided comprehensive details and assessment on the economic effects of anti-money laundering in Namibia. The mixed method was used to describe and analyse money laundering and financing terrorism in Namibia. The study also used a regression model to analyse the effect of money laundering on the economy. The topic is vital with regards to the main findings that revealed that money-laundered negatively affects economic growth. Corruption and tax evasion were identified as the biggest contributors to the problem. The discussion on the effective implementation of the Financial Action Task Force recommendations were performed. There is therefore a low rate of successful prosecution and convictions on money laundering in Namibia. Namibia has shown significant improvement since the previous mutual evaluation in 2005. The country has also shown commitment in preparation for the upcoming mutual evaluation in 2020. The areas that require improvement relate to the prosecution and convictions on money laundering offenses. Overall, there are significant cases of money laundering in Namibia, and legislations in that regard are already in place. Various cases on money laundering are discussed to provide an overview of the problem, as well as effectiveness of the combating systems and mechanisms. The study provided the statistics mainly from the Financial Intelligence Centre as an overview of the magnitude of the suspicious transaction and activity reports involving money laundering. The risk is noted on the statistics regarding the electronic and international fund transfer and cash transaction reports, which gives an overview and magnitude of the financial flows within financial institutions. Overall, Namibia seems to be in a progressive system to address threats and vulnerabilities; however, there are gaps that negatively impede the effectiveness of the national anti-money laundering and combating the financing of terrorism.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACA	Anti-Corruption Act, 2003
ACC	Anti-Corruption Commission
AIs	Accountable Institutions
AML	Anti-Money Laundering
AUSTRAC	Australian Transaction Reports and Analysis Centre
AMLAC	Anti-Money Laundering Advisory Council
AMLCO	Anti-Money Laundering Compliance Officer
APG	Asia-Pacific Group on Money Laundering
BoN	Bank of Namibia
CAP	Customer Acceptance Policy
CDD	Customer Due Diligence
CFT	Combating the Financing of Terrorism
CTR	Cash Transaction Report
DNFBP	Designated Non-Financial Business or Profession
E-banking	Electronic Banking
E-cash	Electronic Cash
EDD	Enhanced Due Diligence
EFT	Electronic Funds Transfer
ESAAMLG	Eastern & Southern Anti Money Laundering Group
FATF	Financial Action Task Force
FIA	Financial Intelligence Act, 2012 (Act No. 13 of 2012)
FIC	Financial Intelligence Centre
FIU	Financial Intelligence Unit
FSRB	FATF Style Regional Body
GPII	Global Partnership for Financial Inclusion
IMF	International Monetary Fund
IFT	International Funds Transfer
IRD	Inland Revenue Domestic
IRI	Inland Revenue International
KYC	Know Your Client/ Customer
LPA	Legal Practitioners Act, 1995
ML	Money Laundering

NAMFISA	Namibia Financial Institutions Supervisory Authority
NGO	Nongovernmental Organisation
PACOTPA	Prevention and Combating of Terrorist and Proliferation Activities Act
PEPs	Political Exposed Persons
PG	Prosecutor general
POCA	Prevention of Organised Crime Act
RBA	Risk Based Approach
REs	Reporting Entity
RI	Reporting Institution
SBs	Supervisory Body
STR	Suspicious Transaction Report
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TF	Terrorism Financing

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DEDICATION

This thesis is dedicated to my mother, Maria Iipinga. Thank you for being my pillar of strength; without your support throughout my life, I would not have realised my goals and dreams. To my beloved father, Erastus Amukwa, I know you would have been proud of the man I have become. May your soul continue resting in everlasting peace.

DECLARATION

I, Paulus Erastus, hereby declare that this study is a true reflection of my own research, and that this work, or part thereof has not been submitted for a degree in any other institution of higher education.

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CHAPTER 1

INTRODUCTION

1.1 Orientation of the study

Money laundering originated from the Mafia ownership of Laundromats in the United States (Steel, 2006). Gangsters earned huge sums in cash from extortion, prostitution, gambling and bootleg liquor. They needed to show a legitimate source for these monies (Steel, 2006). Steel (2006), further explained that one of the ways in which they could do this was by outwardly purchasing legitimate businesses and mixing their illicit earnings with the legitimate earnings from these businesses. Laundromats were chosen by these gangsters because they were cash businesses, and this was an undoubted advantage to people like Al Capone, who purchased them. Al Capone was, however, prosecuted and convicted in October 1931 for tax evasion. It was for this reason that he was sent to prison, rather than the predicate crimes that generated his illicit income.

Meyer Lansky, the Mob's accountant, was particularly affected by Capone's conviction for something as obvious as tax evasion (Steel, 2006). Lansky discovered the benefits of numbered Swiss Bank Accounts, which is where money laundering would seem to have started because Lansky was one of the most influential money launderers. The use of the Swiss facilities gave Lansky the means to incorporate one of the first laundering techniques, which is the use of the 'loan-back' concept, which meant that, illegal money can be disguised by 'loans' provided by compliant foreign banks that could be declared to the 'revenue' if necessary (Steel, 2006).

This study focused on money laundering, which continuously affects global economies in many ways, resulting in Anti-Money Laundering and combating the financing of terrorism to

become one of the significant focal areas in the current era. It is noteworthy that the topic forms part of the discussions on policymaking, financial sector development, economic forums, financial inclusion, consumer product developments, financial regulations and supervision, and other activities relating to financial institutions and the financial sector in the Namibian context and at a global level.

According to the Financial Action Task Force (FATF) (2012), governments must implement national strategies, laws, policies, and legislative measures to combat money laundering and financing terrorism to protect its economies, maintain a stable financial system, and to mitigate the risk of money laundering and financing of terrorism. The Financial Intelligence Act (FIA) (2007) on combating money laundering and terrorism financing was passed in parliament and became effective on May 5, 2009 by the FIC. Subsequently, the FIA (2007) was repealed by the Financial Intelligence Act 13 of 2012 that was passed by parliament in December 2012. This repeal was to align the Act with international standards, specifically the FATF recommendations.

The Financial Intelligence Act of 2012 was passed for the following reasons: to provide for the establishment of the Financial Intelligence Centre to administer the Act and be the national centre responsible for collecting, requesting, receiving and analysing suspicious transactions and activities that may relate to possible money laundering or the financing of terrorism. Furthermore, to provide for the combating of money laundering and financing of terrorism activities. Moreover, to also administer the registration and regulation of the accountable and reporting institutions in combating Money Laundering (ML) and Terrorism Financing (TF). In addition, the Prevention of Organised Crime Act of 2004 (No. 29 of 2004),

which is administered by the Ministry of Justice, criminalises money laundering under Chapter 3 was passed in parliament in December 2004 and only became effective in May 5, 2009.

1.2 Statement of the problem

Buchanan (2003) asserted that money laundering is one of the obstacles of maintaining an effective operating international financial system. According to legislations enacted, publications and other documentaries, Namibia is not an exception to the problem regarding cases on corruption, tax evasion, organised crime and fraud, trade-based Money Laundering, and cross-border remittances of funds. These sources of ML/TF threaten national and international societies, as well as the global financial system (Bartlett, 2002). This study aimed at explaining criminal activities such as financial crime, and the economic impact of money laundering and activities generating the proceeds of crime. Yikona, Slot, Geller, Hansen and el Kadiri (2011) explored Malawi and Namibia's experiences on the economics of anti-money laundering and made suggestions on the usefulness and effectiveness of AML policies. However, not much research has been conducted specifically on the economic impact and magnitude of AML in Namibia.

The FIC statistics indicated the volumes and values of bribery and corruption transactions which made it evident that such crimes hinder the African economic development, which trigger money laundering. According to statistics on the FIC annual reports (2016), Namibia's vulnerability and exposure to money laundering remains an issue. Corruption is perceived as the supreme source of illegal proceeds in Namibia. Local newspapers have also published several cases on corruption involving abuse of state funds for the past years (*refer to the appendix*). These offenses contributed greatly to how individuals and connected people were involved in organised criminal activities and made millions of dollars every year in Namibia and all around

the world. It is evident that financial institutions are generally exposed and vulnerable to money laundering and terrorism financing. The Namibian newspaper on April 02, 2014 published an article with regards to the Bank of Namibia's 2013 annual report, pointing out that the Bank received 96 intelligence reports and 17 intelligence reports to foreign financial intelligence units of suspected money laundering and terrorism financing in 2013, which were passed on to law enforcement agencies for further investigation. Local newspapers have also published several cases over the years on various predicate offences as an indication of the significance of money laundering in Namibia (*refer to the appendix*).

1.3 Objective of the study

The main objective of the study was to assess the economic effect of anti-money laundering in Namibia. The specific objectives of this study were:

- to estimate the economic effects of anti-money laundering in Namibia;
- to explain AML legislations and regulations in Namibia; and
- to discuss the effectiveness of AML legislation and regulation in Namibia.

1.4 Significance of the study

The study contributed to knowledge related to AML in the global context, with emphasis on how it affects the Namibian economy. The study made a theoretical contribution to the emphasis on how AML impacts the financial system and the global economy. The study is significant because it provides a case study scenario to underpin the impact and implication of money laundering and terrorism financing, as well as the effectiveness of combating efforts.

The research further explored the impact of Anti-Money Laundering initiatives in financial Institutions in Namibia, and the impact of non-compliance with the AML laws and

regulations. Finally, the study provided details on the effectiveness of system implementation by financial institutions.

1.5 Limitations of the study

The findings of the study were limited to cases and aspects in the field of ML/TF, because only such information could be used to fulfil the objectives of the study. The issue of money laundering is sensitive and confidential, as it is only dealt with by the Financial Intelligence Centre within Bank of Namibia. There was also a resource limitation related to the potential access to restricted information. Thus, there was a challenge in obtaining data on crime and the flow of proceeds of crime and accessing data from financial institutions. However, alternative data sources were used, where non-manageable challenges were experienced.

This study focused mainly on Namibia on the cases under investigation for money laundering. Nevertheless, there was no data available about the exact amount of money laundering. The only information available was the number of cases for money laundering. This information does not allow one to explicitly state the percentage of illicit money as a percentage of GDP.

1.6 Delimitation of the study

The delimitations of this study included the impact of AML regulations in Namibia, causes of increased money laundering in the developing economy, the prospects of the Namibian AML/CFT regulatory and compliance framework, and the possible future trends and methods used on money laundering activities that could hinder the development of the Namibian economy.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

This chapter summarised information from other scholars in the field of money laundering of study. The chapter also discussed the theoretical framework. This section involves data collection of related concepts on predicate offences that determine the results of money laundering. Money laundering has not been widely researched in Namibia. Hence, there is a scope for discovering new trends, based on experiences of other jurisdictions that have implemented an anti-money laundering framework. This chapter provides an overview of the Namibian legal framework to combat money laundering, terrorism financing and proliferation financing. Namibia promulgated various AML/CFT policies and laws such as the repealed 2007 Financial Intelligence Act (replaced by the Financial Intelligence Act (Act No. 3 of 2012) as amended, as well as the Prevention and Combating of Terrorist and Proliferation Activities Act (Act No. 4 of 2014), as amended. These laws, including the Prevention of Organised Crime Act (Act No. 29 of 2004), are the main laws criminalising ML/TF/PF in Namibia. The discussions were based on the historic overview of the AML/CFT in Namibia, which ranges from Namibia's commitments to the UN conventions and security council resolutions, and the international standards of the FATF on combating ML/TF. Furthermore, other aspects of institutional framework are also explained with regards to the legislation and the regulation of the financial system on ensuring the financial integrity and soundness of the Namibian economy.

2.2 Money Laundering: Conceptual Introduction

2.2.1 Definition of money laundering

According to FIA (2012) and FATF (2012), money laundering is the movement of criminally derived funds to conceal the true source, ownership or purposes of funds. It is a process by which proceeds of crime are converted into assets that appear to have a legitimate or legal origin. To simplify, money laundering is taking money that was gained illegally (dirty money) and try to clean it by placing it into the financial system for it to appear legitimate. This process involves the concealment or disguise of the true nature, source, location and disposition of the illegal proceeds.

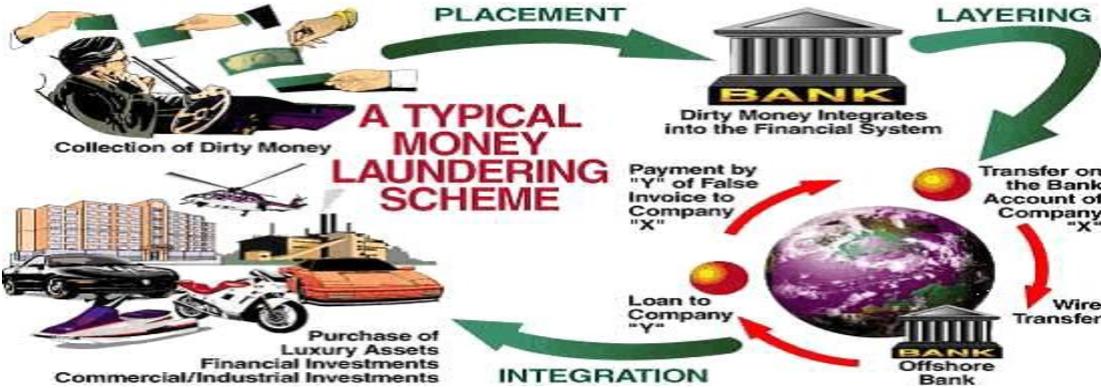
In terms of the predicate offences listed by POCA (2004), some of the predicate offenses or forms of money laundering are: drug trafficking; other blue-collar crimes such as illegal gambling, and human trafficking; white-collar crimes such as embezzlement, fraud and tax evasion; bribery and corruption; and terrorism financing.

2.2.2 The stages of money laundering

Ill-gotten gains are produced by a wide range of criminal activities, which include political corruption, trade-based money laundering, fraud, and tax evasion. Regardless of the crime, money launderers resort to placement, layering, and integration to turn illicit proceeds into legitimate properties (Schott, 2006). Furthermore, Schott (2006) explains that the initial stage involves placement of illegally derived funds into the financial system, normally using or depositing funds into a financial institution. Large amounts of cash are broken into smaller, less conspicuous amounts, and placed in single or multiple financial institutions over time. Illegal funds may be converted into financial instruments and commingled with legitimate funds to divert suspicion.

The second stage of money laundering is layering, which occurs after these proceeds of crime have entered the financial system. At this stage, the funds are converted or moved to other institutions, further separating them from their criminal source. Such funds could then be used to purchase assets or easily transferable investment instruments (Schott, 2006). During layering, there is the first attempt at concealment or disguise of the source of the ownership of funds by creating complex layers of financial transactions to disguise the audit trail, source, ownership of funds and provide anonymity (Schott, 2006). Based on the International Money Laundering Information Bureau (IMLIB) website publication (n.d.), integration is the final stage of the process, where money is integrated into the legitimate economic and financial system, and it is integrated with all other assets in the system.

Figure 2.1: A practical example of cyclical stages of money laundering



Source : www.unodc.org/laundrycycle.html

Money can be laundered in several ways, ranging from small cash deposits into bank accounts (for subsequent transfer) to the purchase and resale of luxury items. Illicit funds can also be transferred through a series of complex international financial transactions (Schott, 2006). There are various commonly encountered methods and processes of laundering the proceeds of crime as described in the typologies prepared by the Financial Action Task Force (FATF).

Money laundering allows criminals to benefit from the proceeds of crimes, and it gives economic power to criminals but taking it from law-abiding taxpayers. In fact, one of the effective methods of detecting and investigating financial crimes is to follow the funds audit trail to escape charges and prosecution that launderers conceal the actual source of funds, thus engaging in laundering activities that would make the money less doubtful and suspicious. Based on the information gathered from IMLIB, one of the reasons to launder the proceeds of crime is to provide greater ownership and security, permitting the offender to use and embrace their ill-gotten gains. The possession, investment and use of such proceeds for legitimate purposes can create a cover for continuing criminal enterprises.

The primary purpose of organised crime is to make profit. Like any business, the purpose of profit is for personal gain or re-invest it in future activities. For the organised criminals, however, profit close to the source of the crime represents a vulnerability, and unless the criminals can effectively distance themselves from the crime, which is the source of the profit, they remain susceptible to detection and prosecution – hence the need to launder their illicit profits to make them appear legitimate.

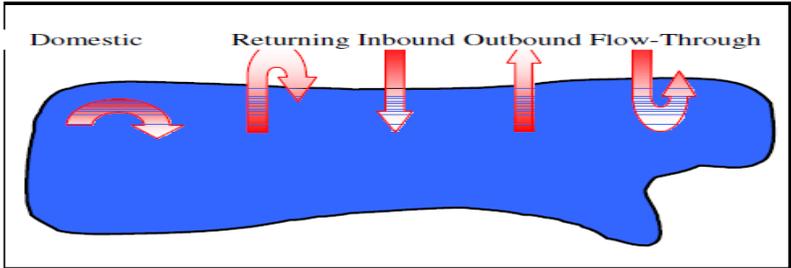
The IMLIB website (n.d) also confirmed that the greatest source of illicit profits comes from the drug trade. The drug industry is a highly cash intensive business in terms of the physical volume and value of notes received. To rid themselves of this large burden, it is necessary to use the financial services industry and deposit-taking institutions (www.imlib.org). According to the IMLIB website (n.d), financial institutions are at the forefront of the battle against money launderers. Financial institutions are affected by money laundering in a legal sense because of the obligations placed on them by legislation. The institutions are also financially affected

because of the need for compliance, and they are required to put systems in place to combat money laundering, and to assist the relevant authorities in so doing.

2.2.3 Stages and directional flow of money laundering

When considering the effect of money laundering on developing economies such as Namibia, it is particularly useful to distinguish among five directions that the money laundering flows may take. These directions, as illustrated in Table 2.1, are: domestic money laundering flows in that illegal domestic funds are laundered within the country's economy and reinvested or otherwise spent within the economy; returning laundered funds derived in the country are laundered either in part or in full to overseas and returned for integration; inbound funds, for which the predicate crime occurred overseas, are either at the starting point of overseas laundering or within the country, and eventually integrated into the economy; outbound funds, which usually comprise illegal capital departure from the economy, do not return for integration in the original economy; and finally, flow-through money enter the country as part of the laundering process, and it mainly disappears for integration in another place, thus performing little or no role in the economy itself.

Table 2.1: Types of money laundering flows through an economy



It is evident that the implications of money-laundering affect the economic growth for developing countries depending on these flows. For the domestic, returning, and outbound flows, the predicate crime occurs within the economy itself, while inbound funds are typically controlled by criminal elements during or after placement.

2.3 Anti-Money Laundering Frameworks

International bodies and specific countries have implemented various legislations to combat ML/TF, and to ensure the effectiveness of such implementations. According to the FATF recommendations of 2012, the mandate of the FATF is to set standards and promote effective implementation of legal, regulatory and operational measures for AML/CFT/CPF and other related threats to the integrity of the international financial system. In collaboration with other international stakeholders, the FATF also works to identify national-level vulnerabilities to protect the international financial system from misuse. The FATF recommendations has set out a comprehensive and consistent framework of measures called international standards that countries should implement to combat ML/TF/PF and to enhance effectiveness.

According to the FATF (2012), the prevention of money laundering is the key focus by the international community. Such preventions point to legislations in terms of obligations imposed upon countries and their financial economies to combat and mitigate money laundering risks. The FATF (2012) prescribed various measures and mechanisms to combat ML/TF. The FATF (2012) and its country/region typologies have identified certain areas where the risk of money laundering is high. With such high-risk areas, enhanced due diligence and other preventative measures are prescribed to mitigate the risk identified. Such preventative measures are required to monitor transactions involving the entry of cash into the financial system, transfers of large funds in different jurisdictions, imports and export transactions (trade-based money laundering), and cross border remittance of funds, including gifts.

2.3.1 The implications of ML/TF and the benefits of AML/CFT

Money laundering and the financing of terrorism have economic and social consequences for developing countries (Schott, 2006). Such markets tend to be small; therefore, they are susceptible to disruption from criminal or terrorist influences. Due to these reasons, ML and TF

also have significant economic and social consequences for countries with fragile financial systems. On the other hand, an effective AML/CFT framework has important benefits. These benefits include lower levels of crime and corruption, enhanced stability of financial institutions and markets, positive impacts on economic development, and reputation in the world community, enhanced risk management techniques for the country’s financial institutions, and increased market integrity. Table 2.2 summarises the economic implications of ML/TF and the benefits of effective AML/CFT framework.

Table 2.2. Implications of ML/TF and benefits of effective AML/CFT

Economic implications of ML/TF	Benefits of effective AML/CFT framework
1. Increased crime and corruption.	1. Fights crime and corruption
2. International consequences and foreign investment.	2. Enhances stability of financial institutions.
3. Weakened financial institutions.	3. Encourages economic development.
4. Compromised economy and private sector.	
5. Damaged Privatisation efforts.	
6. FATF grey-listing and sanctions.	

Source: Reference guide to anti-money laundering and combating terrorism financing (2006)

2.4 Economic impacts of Money Laundering

According to the International Monetary Fund (IMF), global money laundering is estimated between 2 and 5 percent of world GDP. Stated differently, between \$800 billion and \$2 trillion dollars is laundered per year (IMF, 2001). Table 2.3 gives a perspective of this problem and the latest comparison between country GDP as a percentage of World GDP and International Money Laundering (IML) as a percentage of World GDP (2003).

Table 2.3. Comparison of country GDP to IML

Country	(IML) as a % of World GDP
Canada	2%
Russia	2.7%
Italy	3.0%
UK	3.1%
France	3.2%
Africa	3.2%
Germany	4.4%
India	4.8%
N/A	5.0%

Source: IMF Website

Statistical studies had reached estimation of the money involved. However, these are calculations that seems almost impossible to assess (Reuter and Truman, 2004). In 1995, the prototype of Walker Model suggested that 2.85 trillion US\$ were laundered globally (Walker and Unger, 2009). In 1998, International Monetary Fund (IMF) estimate that, “2 to 5 percent of global GDP would probably be a consensus range” to ML. At that time, the value represented 1.5 trillion US\$ (Camdessus, 1998). In 1996, an estimation based on statistics of the year predicted that the total amount of money involved in ML schemes should be between the interval 590 billion US\$ and 1.5 trillion US\$ (Tanzi, 1996).

Table 2.4 Consequences of money laundering

Corruption, bribery and crime at the expense of economic development;	Reduced foreign investment;
Reduction in foreign investment opportunities;	Weakened financial institutions;
Money laundering threatens international relations;	Compromised economy and private sector;
Reputational and integrity of financial institutions;	Damaged privatisation efforts;
The social impact and cost;	Loss of tax revenue;
The contribution to lack of initiative and hard work;	Increased crime and corruption;
Loss of trust in political institutions;	The loss of government revenue;
Losses to the victims and gains to the perpetrator;	Distortion of consumption;
Distortion of investment and savings;	Artificial increase in prices;
Unfair competition;	Changes in imports and exports;

Negative (or positive) effect on growth rates;	Effect on output, income, and employment;
Lower revenues for the public sector;	Threatens privatization;
Changes in the demand for money, exchange rates, and interest rates;	Increase in the volatility of interest and exchange rates;
Increase in terrorist activities;	Impact on capital inflows
Changes in foreign direct investment;	Risk for the financial sector, solvency and liquidity;
Profits effects for the financial sector;	Reputation of the financial sector;
Illegal business contaminates legal business;	Distorting economic statistics; and
Undermines political institutions;	Undermines foreign policy goals.

Source: Unger, 2006.

Schott (2006) outlines the economic impact on ML/TF, which are discussed below.

a) Increased crime and corruption

Money laundering makes criminal activities profitable, causing the country to appear as a haven of money laundering, which is likely to attract criminals and promote corruption. The situation contributes to a weak AML/CFT regime, inadequate enforcement of AML/CFT provisions, and ineffective penalties, including difficult confiscation provisions. The laundering of money derived from illicit drug trafficking, as well as from other serious crimes, has become a global threat to the integrity and stability of financial and trading system.

A comprehensive and effective AML/CFT framework significantly reduces the profitable aspects of this criminal activity and, in fact, discourages criminals and terrorists from targeting a country. This is mostly enhanced when the proceeds of criminal activities are aggressively confiscated and forfeited as part of a country's overall AML/CFT legal framework.

b) International consequences and foreign investment

Advances in technology, expansion of trade and financial systems, increased global travel, and the development of international organized crime have all contributed to the criminal's arsenal for laundering funds. Foreign financial institutions may decide to limit their transactions with institutions from money laundering-prone jurisdictions, subjecting these

transactions to extra scrutiny or terminating correspondent or lending relationships. Legitimate businesses and enterprises from such jurisdictions may suffer from reduced access to world markets or access at a higher cost due to extra scrutiny of their ownership, organisation and control systems. Other aspects to be considered for the assessment of the economic impact of money laundering include how money laundering depresses growth, investment and productivity. This could also imply that money laundering can increase the risk of macroeconomic instability by distorting capital and trade flows. This means that laundering of outbound illicit funds constitutes the facilitation of illicit capital flight, which drains resources from the economy, and can deter legitimate inward foreign direct investment (FDI) beneficial to sustain economic growth.

c) Weakened financial institutions

Money laundering and terrorist financing can harm the soundness of a country's financial sector, as well as the stability of individual financial institutions in multiple ways. Adverse consequences, described as reputational, operational, and legal and concentration risks are interrelated. Banks are protected when effective due diligence regimes are implemented, including the identification of the beneficial ownership. Due diligence procedures also help the financial institution to understand the nature of the customer's business interests and underlying financial issues.

d) Compromised economy and private sector

Money launderers make use of "front companies", which are business enterprises that appear legitimate and engage in legitimate business but are, in fact, controlled by criminals. These front companies co-mingle the illicit funds with legitimate funds in order to hide the ill-gotten proceeds. Front companies' access to illicit funds allows them to subsidise the front

company's products and services – even at below-market prices. By using front companies and other investments in legitimate companies, money laundering proceeds can be used to control whole industries or sectors of the economy. This increases the potential for monetary and economic instability. It also provides a vehicle for evading taxation, thus depriving the country of revenue.

e) Damaged privatisation efforts

Money launderers threaten the efforts of many countries to reform their economies through privatisation. These criminal organisations are capable of outbidding legitimate purchasers of former state-owned enterprises. When illicit proceeds are invested in this manner, criminals increase their potential for more criminal activities and corruption, depriving the country of what should be a legitimate, market-based, tax paying enterprise.

f) Economic consequences of FATF "grey listing"

The FATF maintains a list of countries that do not comply with AML requirements, or those that do not co-operate sufficiently in the fight against money laundering. Being placed on this list, known as the “non-cooperating countries and territories” (NCCT) list, places such countries in a significant negative reputation.

The banking industry and external sector in Namibia are likely to be directly affected. Such effects include the Global "correspondent" banking relationships and other intermediary financial institutions with regards to cross border financial transactions of capital flows and other trades. The consequences hamper access to the global SWIFT system, the worldwide communication network of banks and other financial institutions. Placement on the grey list have a deteriorating balance-of-payments situation, which compound economic challenges for the government. The country could further have risks of inviting harsher measures and even bilateral

sanctions against the banking sector and the country at large by the internal bodies. This would severely restrict foreign investment and trade flows, making it difficult for Namibia to access global capital markets.

2.5 Benefits of an effective AML/CFT framework

a) Fighting crime and corruption

A strong AML/CFT institutional framework that includes a broad scope of predicate offenses for money laundering helps to fight crime and corruption in general. Anti-money laundering provides another avenue to prosecute criminals who commit the underlying criminal acts and those who assist them through laundering illegally obtained funds. An effective AML regime is deterrent to criminal activities in and of itself.

This regime makes it more difficult for criminals to benefit from their acts. In this regard, confiscation and forfeiture of money laundering proceeds are crucial to the success of any AML program. Forfeiture of money laundering proceeds eliminates those profits altogether, thereby reducing the incentive to commit criminal acts. Thus, it should go without saying that the broader the scope of predicate offenses for money laundering, the greater the potential benefit (Schott, 2006)

b) Enhancing stability of financial institutions

Schott (2006) acclaims that an effective AML/CFT regime enhances the public confidence and stability in the financial institutions through sound banking practices that reduce financial risks. Customer identification and due diligence procedures are effective risk management tools and enhances the safety and security of all financial institutions.

c) Encouraging economic development

According to the World Bank Report (2006), money laundering has a direct negative effect on economic growth by diverting resources to less productive activities. Laundered illegal funds follow a different path through the economy than legal funds. Money laundering impacts development and hinders further economic investment. Strong AML/CFT regimes aim to discourage or limit criminal involvement in the economy, permitting investments to be put into productive purposes that respond to consumer needs and help the productivity of the overall economy.

2.6 Historic overview of AML/CFT in Namibia

Namibia underwent a FATF/ESAAMLG mutual evaluation in the year 2007 to assess the country's overall compliance with applicable UN conventions and UN security council resolutions. The overall assessment found that Namibia's National ML/TF regime has weaknesses in critical areas that require urgent action. Namibia was preparing for the 2019/20 FATF/ESAAMLG mutual evaluation. To prevent Namibia from receiving a negative Mutual Evaluation Assessment, all required and necessary national preparatory efforts commenced to prepare the public and private sector for the evaluation, in line with the eleven immediate outcomes as required by the FATF assessment methodology.

Table 2.5: Source of crime and corruption in Namibia

Sources	Magnitude <i>Estimates, reported cases, and actual data</i>	Recycling channels	Economic effects <i>Not exhaustive and based on interviews in Namibia^a</i>
Corruption Procurement fraud Collusive tendering Kickbacks Fraudulent investments Embezzlement Bribery <i>High-, medium-, and low-level corruption</i> <i>Corruption in state-owned enterprises</i>	Individual cases vary from a few million N\$ to 10 (US\$1.4 million) or 100 million (US\$14 million) of N\$ diverted through corruption. No estimates on overall magnitude of medium-level and petty corruption.	Mainly bank based	<ul style="list-style-type: none"> • Self-enrichment of new political and entrepreneurial elite • Increase of rich-poor divide • Erosion of confidence in the government and state • Potential environmental harm • Inflation of real estate prices
Organized crime Motor vehicle theft Cannabis import and transit Cocaine import and transit Diamond smuggling Other protected resources Cash-in-transit heists Cattle theft Smuggling of goods Counterfeit goods Counterfeit currency	Reported cases of motor vehicle theft, drug trafficking, and protected resources (including diamonds) had an overall value of N\$50 million (US\$7 million) in 2009 and 2010. No data on overall value of smuggled and counterfeit goods, cash-in-transit heists, or cattle theft.	Mainly cash based	<ul style="list-style-type: none"> • Direct financial loss to victims • Price distortions and unfair competition • Influence of (foreign) organized crime groups
Organized fraud Document fraud (public and private) Pyramid and Ponzi schemes Credit card scams Check fraud (declining) 419 scams	Reported cases of "commercial crime" had an overall value of N\$6 million (US\$0.9 million) in 2010.	Mainly bank based	<ul style="list-style-type: none"> • Direct financial loss to victims
Tax fraud	Estimated to be 9% of GDP (see table in box 3.3)	Cash and bank based	<ul style="list-style-type: none"> • Erosion of the tax base • Reduces revenue for government
Inflow of foreign ill-gotten money	No data, only cases.	Cash and bank based	<ul style="list-style-type: none"> • Inflation of real estate prices • Reputation to Namibia • Spill-over effect to crime

Source: Ill gotten money and the economy: A World Bank Study on Namibia, 2011

Books, articles, web-data, and other publications provided various backgrounds and historical information on money laundering and terrorism. In 2000, the IMF responded to calls from the international community to expand its work in Anti-Money Laundering (AML) and issues surrounding the abuse of Offshore Financial Centres (OFC). The international community has made the fight against money laundering and the financing of terrorism a priority. The goal of these efforts were: to protect the integrity and stability of the international financial system, the cutting-off of resources available to terrorists, and by making it more difficult for those engaged in crime to profit from their criminal activities.

The Namibian mutual evaluation report of April 2006 stipulated that the Prevention of Organised Crime Act, which criminalises money laundering, was passed in parliament in December 2004, but has not been put into effect by the Ministry of Justice. The Financial Intelligence Bill that established the Financial Intelligence Unit was tabled in parliament in February 2006. The FIA was passed in 2007, and the FIC only became operational in 2009. Given the absence of an AML/CFT framework at the time, the Bank of Namibia (BoN) had to exercise its powers under the Banking Institutions Act (BIA) to issue general anti-money laundering related determinations and circulars to address aspects of money laundering.

Banks and larger insurance companies have adopted AML/CFT policies to some degree. Namibia has neither criminalised FT, nor provided for the legislative, regulatory framework and institutional mechanism for the freezing, seizing and confiscation of terrorism related funds pursuant to the UN Security Council Resolutions 1267 and 1373. The first AML Act, passed in 2007, namely the Financial Intelligence Act, was repealed in 2012 by the promulgation of the Financial Intelligence Act, 2012 (Act No.13 of 2012). The Prevention and Combating of Terrorism and Proliferation Activities Act, 2014 (Act No.4 of 2014) was also passed to combat Proliferation financing. The Financial Intelligence Act and Regulations, and those of the PACOTPA were issued on the 28th January 2015.

According to the ESAAMLG website (n.d.), the ESAAMLG was launched at a meeting of ministers and high-level representatives in Arusha, Tanzania on 26-27 August 1999. A memorandum of understanding (MoU), based on the experience of the FATF and other FATF-style regional bodies was agreed upon at that meeting. Following the signing of the MoU by seven of the potential members, ESAAMLG came into formal existence. Its mission was to consolidate and sustain the combined efforts to combat money laundering and terrorist financing in the Eastern and Southern Africa region through effective implementation of AML/CFT

international standards in all ESAAMLG member countries. ESAAMLG became an associate member of the FATF in June 2010.

ESAAMLG members participate in a self-assessment process to assess their progress in implementing the forty FATF recommendations. The ESAAMLG is a regional body subscribing to global standards to combat money laundering and financing of terrorism and proliferation. Its 18-member countries are: Angola, Botswana, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.

According to the FATF website (n.d.), the FATF was established by the G-7 Summit that was held in Paris in 1989. During 1991 and 1992, the FATF expanded its membership from the original 16 to 28 members. In 2000, the FATF expanded to 31 members, and it has since expanded to its current 37 members. The Financial Action Task Force (FATF) is an inter-governmental body that was established in 1989 by the ministers of its member jurisdictions. The objective of the FATF is to set standards and promote effective implementation of legal, regulatory, and operational measures for combating money laundering, terrorist financing, and other related threats to the integrity of the international financial system. The FATF has developed a series of recommendations that are recognised as the international standard for combating money laundering, the financing of terrorism, and the proliferation of weapons of mass destruction.

2.7 Current trends related to AML/CFT

According to the NAMFISA website (n.d.), NAMFISA along with the Financial Intelligence Centre (FIC) strives to develop a strong legal basis to combat money laundering, the financing of terrorist activities, and other financial crimes in Namibia. NAMFISA also strives to protect the integrity and stability of the financial system by monitoring and supervising the anti-

money laundering and anti-financing of terrorism controls, and by implementing systems used by businesses that are vulnerable to money laundering or terrorist financing, and by producing intelligence products that incorporate the analysis of relevant classified information.

According to the Financial Intelligence Act, (Act No.13 of 2012) it was made effective by the president on 24 December 2012 to provide for the establishment of the FIC as the national centre responsible for collecting, requesting, receiving, and analysing suspicious transaction reports and suspicious activity reports that may relate to possible money laundering or the financing of terrorism. It further provides for the needs of the centre, to provide for the powers and functions of the supervisory bodies, to empower the minister to appoint an appeal board to hear and decide appeals against decisions of the centre or supervisory bodies, and to provide for incidental matters regarding the combating of money laundering, terrorism financing.

2.8 Significant research data published about AML/CFT

The FATF, the United Nations, ESAAMLG and Financial Intelligence Unit of countries around the world have published several reports, guidance, articles, cases, typologies etc., with regards to money laundering, terrorism financing and the combating thereof. This study, therefore, collects relevant and valid data for analyses and assess the applicability, practicality and compliance effectiveness of the subject matter in Namibia and other jurisdictions.

The Finmark Trust (2015) published a Namibia country report on AML/CFT and Financial Inclusion in SADC, which outlines the AML/CFT/CPF legislation and regulations in force in Namibia. Table 2.6 provides an overview of the laws and regulations, in force in Namibia. The legislation comprises of primary legislation, additional relevant legislation (this covers laws and regulations that impact upon the AML/CFT/CPF legal and regulatory framework), laws and regulations applicable to banks, non-bank financial institutions (NBFIs),

designated non-financial businesses or professions (DNFBPs) and non-profit organisations. The table below provides the lists on the Namibian legal framework with regards to AML/CFT.

Table 2.6: List of AML/CFT legal framework in Namibia

Financial Intelligence Act 13 of 2012, (as amended);	Bank of Namibia Act 15 of 1997 (as amended);
Financial Intelligence Regulations: Financial Intelligence Act, 2015;	Banking Institutions Act 2 of 1998 (as amended);
Prevention of Organised Crime Act 29 of 2004;	Payment Systems Management Act 18 of 2003;
Prevention and Combating of Terrorist Activities Act 12 of 2012;	Namibia Financial Institutions Supervisory Authority Act 3, 2001;
Anti-Corruption Act 8 of 2003;	Stock Exchanges Control Act, 1985;
Criminal Procedure Act 25 of 2004;	Financial Institutions and Markets Bill, 2013;
Companies Act 28 of 2004;	Casino and Gaming Houses Act 32, 1994;
Customs and Excise Act 20 of 1998;	Legal Practitioners Act, 1995 (as amended);
Currencies and Exchange Act 1933;	Public Accountants’ and Auditors’ Act 51, 1951 (as amended); and
International Cooperation in Criminal Matters Act 9 of 2000;	Estate Agents Act 112, 1976.
Extradition Act 11 of 1996;	

Source: Author’s formulation

According to the mutual evaluation report of August 2007, it pointed out that Namibia has enacted the POCA, which criminalises money laundering; the Financial Intelligence Bill and an Anti-Terrorism Activities Bill were also drafted. In the absence of a formal AML/CFT framework, the Bank of Namibia has issued general AML related determinations and circulars to banking institutions that are under its supervision. Banks and larger accountable institutions operating in Namibia have adopted AML/CFT policies.

The report also identified areas of deficiencies in the Namibian AML/CFT framework, making comprehensive recommendations on actions that Namibia needs to take for short and medium terms to strengthen its AML/CFT system to comply over time with international standards. Another publication on Namibia by the FATF related to topics on improving global

AML/CFT compliance, where the FATF identified jurisdictions that had strategic AML/CFT deficiencies for which they have developed an action plan with the FAFT.

The FATF recognised that Albania, Cambodia, Kuwait, Namibia, Nicaragua, Pakistan, and Zimbabwe have made significant progress in improving their AML/CFT regime and therefore no longer subjected to the FATF's monitoring process.

As per the FIA (2012), the FIC is mandated to effectively supervise, monitor and enforce compliance with the Act and any other legislations issued in terms of the Act to combat ML/TF. The FIC should assess the risk posed by the institutions and ensure that the measures commensurate with the risks identified are effectively implemented. The FIC is further mandated to coordinate the activities of various bodies, institutions, and law enforcement agencies involved in combating ML/TF/PF, ensuring Namibia is compliant with the FAFT standards.

The ESAAMLG conducts mutual evaluations for its members by undertaking assessments of technical compliance with the revised FATF recommendations adopted in February 2012 and reviews the level of effectiveness of a country's AML/CFT system. Together, the assessments of both technical compliance and effectiveness presents an integrated analysis of the extent to which the country is compliant with the FATF standards, and how successful it is in maintaining a strong AML/CFT system.

As indicated in section 2.4 (*economic implications of ML/TF*) of this study, it included the economic effects of money laundering and non-compliance to the laws and the FATF recommendations. The economic effects include increased crime and corruption, compromised international relations including foreign investments and the economic consequences of the FATF grey listing or sanctions.

2.9 General situation of financing of terrorism in Namibia

The FIC report (2016) pointed out that there is a low risk of terrorism activities in Namibia, because there were no terrorist activities experienced in the country. However, the same could not be confirmed for terrorism financing, as there are volumes of transactions of funds remitted cross border, including funds remitted to high risk jurisdictions. Namibia has not criminalised the financing of terrorism, neither has there been any convictions of any act of terrorism. In the past, Namibia did not have laws that criminalise terrorism activities. Namibia can now criminalise the act of terror or the financing of terrorism under the Prevention and Combating of Terrorism Activities Act 2012 (Act no: 12 of 2012).

2.10 Theoretical literature review

Masciandaro (1995) indicated that his theoretical approach showed that money laundering is a multiplier of criminal financial activities. Money laundering allows the reinvestment of laundered illegal funds, thus playing a crucial role in strengthening the ties between the real and the financial side of a criminal economy. Hinterseer (1997) indicated that in 1984 the World Bank, IMF, the Organisation for Economic Co-operation and Development (OECD), and the US Federal Reserve have all confirmed that the world was running a current account deficit of US\$100 billion. The question arose of what caused the indicators that measure this trade to become so inaccurate. Noting that the growth in the narcotics trade is merely one aspect of the unprecedented growth in organised crime and the illegal economy lead to a more complete answer. The implication is that criminal economic activity accounts for a significant portion of global economic activity missed by standard accounting practices.

Masciandaro (1995) highlighted the inverse relationship between the degree of diffusion of money laundering activities and the effectiveness of anti-money laundering regulation in a given economy. Masciandaro and Filotto (2001) further illustrated the link between the

effectiveness of the anti-money laundering regulations and the characteristics of the compliance costs involved for banks. They described the economic framework, with the assumption that intermediaries have an advantage in terms of information and then demonstrated, by means of a principal-agent model, how this advantage can produce collective gains in the war against money laundering only if the regulations take the problem of compliance costs into due consideration. IMF (2005) also pointed out that the overall level of compliance with FATF standards is low for all in assessed countries. Only 21 percent of all recommendations were rated fully compliant, and 24 percent were rated largely compliant. As against this, 29 percent were rated partially compliant, and 26 percent non-compliant. Further compliance regarding basic AML preventive measures for customer due diligence, suspicious transactions reporting, and other measures is relatively low.

Moneyval (2008) argues that security markets are a potentially attractive mechanism for money laundering. This attraction stems from a variety and complexity of financial instruments available, the ease and speed of transaction execution, and the ability to easily execute transactions across international boundaries. Whilst APG (2010) provided a few case studies highlighting the vulnerabilities of securities sector for money laundering. Typologies developed through sanitised case studies include the use of front companies, using professionals to facilitate the introduction of criminal proceeds, using margin trading accounts, and using money orders. The FATF (2009) also illustrated the risks associated with the various types of intermediaries, products, payment methods, and clients involved in the securities industry. Unlike other sectors, the risks lie mainly in the layering and integration stages, and not in respect of the placement stage of money laundering. Typical securities-related laundering schemes often involve a series of transactions that do not match the investor's profile and do not appear designed to provide a return on investment. Pemberton (2000) also indicated that the putative problem of money

laundering in the security market exists on a large scale. Criminals are well ahead of law enforcement in this field.

Milenovic (2004) observed that money laundering is almost never a problem of a single state, but rather a multinational problem due to the utilised methodology. Information exchange, state to state cooperation, development of the state 'blacklists' of money launderers, criminals, organised crime group members, terrorist group members, as well as information exchange with other states and relevant organisations represent an initial step in the long-term and difficult fight against money laundering. While Trehan (2004) provided an overview of how the parallel economy of crime imperils the economic well-being of many states, and the inevitable nexus of black markets and capital flight. It also articulated that criminal use legitimate fronts that contributes to the extreme vulnerability of transitional economies, and that information technology has come as a huge boon to transnational crime.

Beare and Schnieder (2007) provided a different dimension to the entire issue of money laundering, arguing that the costs of compliance upon institutions or the impact of the strategy beyond process outputs, such as arrests, prosecutions, and forfeitures should also be factored in, while devising national strategies to combat money laundering. Similarly, Wolfsberg (2007) highlighted the importance of clearly identifying the beneficiary ownership or beneficiaries of accounts at financial institutions. Such is aimed to ensure that financial institutions are aware of the risk profile of their clients, and whether the purported clients are acting as front to someone else. Sikman and Jovanovic (2010) noted that education is necessary to increase knowledge of the bank employees, legal business representatives, taxpayers, and citizens, and to carry out their social role within the overall fight against financial crime. However, the Financial Services Authority UK (2011) has found that around three quarters of banks, including most major banks,

do not always manage high-risk customers and Politically Exposed Persons (PEP) relationships effectively, recommending that they do more to ensure they are not used for money laundering. This forms part of the regulation requirements to combat money laundering.

Keh (1997) indicated that profits from the global narcotics trade constitute a substantial portion of the financial reserves available to international crime syndicates. Keh's article considered how criminal organizations use these earnings to exploit the needs induced by macroeconomic reforms. Its basic premise is that economic reforms, can open an array of lucrative investment opportunities in the informal credit sector from which criminal organizations are exceptionally well-placed to profit. Furthermore, Kemp (2012) viewed that states and international organisations have largely failed to anticipate the evolution of Transnational Organised Crime (TOC) from a localised problem into a strategic threat to governments, societies and economies. Organised crime is a clear and present danger in most countries where the UN has peace operations. Namibia falls under that umbrella of the UN and therefore the danger of organised crime is imminent. Similarly, United Nations and World Bank (2007) indicated that laundered assets are often hidden in the financial centres of developed countries. Bribes to public officials from developing countries often originate from multi-national corporations and the intermediary services provided by lawyers, accountants, and company formation agents, which could be used to launder or hide the illegal proceeds by developing country rulers. Such proceeds are often located in developed country financial centres. Recovery of such assets is vital to curb the menace. In Canada all financial sectors are regarded vulnerable to those seeking to launder their criminal proceeds, and securities dealers are not an exception. Thus, a strong compliance program is essential to reduce this vulnerability. (FINTRAC, 2013).

Madinger (2011) spoke of a clear and concise understanding of money laundering practices. He explained the investigative and legislative processes that are essential in detecting and circumventing this illegal and dangerous activity. The understanding contributes greatly to the effective implementation and mostly important to the effective operating of the processes. But Weld (2011) articulated that the volume and variety of global money laundering challenges faced by investigators and prosecutors appear to be infinite. Criminals and money launderers continue exploiting new technologies, weak AML/CFT jurisdictions, financial secrecy jurisdictions from which it remains difficult to obtain mutual legal assistance, greedy and gullible victims, and underground value transfer systems. The United States Department of Justice (2013) explored the means employed by criminals to launder illicit profits. It also explored the tools available to investigators to identify, seize, and ultimately forfeit criminal proceeds. The article presents a convincing explanation of why charging money laundering offenses and forfeiting assets is an indispensable tool for attacking the financial infrastructure used by criminal organisations and other criminal offenders to launder their illicit proceeds.

IMF (2012) explained that ML/TF activities may give rise to significant levels of criminal proceeds or “hot money” flowing into and out of individual financial institutions in destabilising ways for these institutions. Such inflows or outflows can be either cross-border or domestic, and where transactions in illegal markets or criminal proceeds are significant in relation to the size of the country’s formal sector, these flows can affect the entire financial system, and they have cross-country or global effects. This is similar to the significance in terms of volumes and values of transactions conducted through the Namibian financial system as reported to the FIC relating to electronic and international funds transfers and cash transactions.

Extensive work is carried out in the field of money laundering, its effects on the economies, the combating thereof, and the impact of such to country specific and the global economies. This includes legislative frameworks, predicate crimes for money laundering, and enforcement laws. It is evident that a significant amount of time and money is spent on combating money laundering internationally. The estimates of money laundering are high that one can still easily appreciate the seriousness of the problem. According to the conservative estimate by the World Bank “the total amount of money laundered in the world is close to 5 percent of the global GDP, equivalent to US\$ 800 billion to 2 trillion dollars annually”. The astounding statistics and dimensions made it amply clear that preventing and combating money laundering is a global challenge. Based on the various publications including the IFM, the FATF and other jurisdictions specific regulations and legislations, money laundering has been on the radar of regulators and law enforcement agencies. Masciandaro (1998) pointed out that an analysis of the interactions between the criminal economy and the financial markets has not yet been systematically studied by the economists. This study belongs to a current research interested in this area. This is the similar case to the Namibian context.

2.11 Empirical literature

There are numerous studies that has looked at the economic effect of money-laundering. Among these studies are Stancu and Rece (2009) who estimated the relationship between economic growth and money laundering using a simple regression model. The study involved countries such as USA, Russia, Romania and eleven other European countries. The main finding from this revealed that that money-laundered positively affected economic growth. The authors argued that money laundering provides short run economic growth and stability. In support of the relationship between the two variables is Aluko and Bagheri (2012) who conducted the impact of money laundering on financial, economic and political variables in Nigeria. The

findings from the study confirmed that money laundering has a relationship with other economic and financial crimes. This relationship has extended such that it has infiltrated into economic and political structures, subsequently resulting in economic digression and political instability.

Contrary to Stancu and Reece (2009) findings, Sota and Kaloneci (2013) examined the relationship between the annual GDP growth rate and money laundering in Albania. The basic ordinary least square was estimated on data for the period 2007-2011. The study revealed a negative relationship between (1) money laundering process and economic growth, (2) money laundering and import. However, a positive relationship was only found between money laundering and the government expenditure, similarly also between money laundering and export. Money laundering is “explained” by the linear regression model. In this regard, this model will provide critical auxiliary judgment and decision support for anti-money laundering service systems.

On the other hand, Debroy and Bhandari (2011) found that public officials in India may be cornering as much as \$18.42 billion or 1.26 per cent of the GDP through corruption, estimating that corruption has virtually enveloped India to grow annually by over 100 percent, and most bribery is accrued from the transport industry, real estate and other public services. Cheng (2012) found that the U.S. money laundering investigation regime may be considered effective in going after the “money” though not necessarily the “people.” Whereas the Hong Kong regime is good at going after the “people” but not necessarily the “money. Namibia seems to be following the U.S route based on the statistics noted on recovering the money as criminal convictions are not pursued in most cases.

Boskovic (2003) concluded that while money laundering methods vary in national and international framework, contemporary tendencies in money laundering include the abuse of

money deposit cards, internet banking, abuse of electronic cash and securities, and international trade abuse. The FATF (2011) also found *inter alia* that corrupt PEPs disguise their ownership through corporate vehicles and trust companies, using gatekeepers and nominees to launder proceeds through the domestic and foreign financial institutions. They have used their power to acquire state assets, control law enforcement, and to capture banks. The FATF confirmed that AML standards are not always implemented by financial institutions, nor are AML laws and regulations being enforced by regulatory authorities or supervisors. Furthermore, the FATF (2010) concluded that combating ML/TF requires an ongoing understanding of the methods used by criminals to launder their illicit funds, and terrorists to fuel terrorism. These methods range from well-known practices established over many years, to modern techniques that exploit innovations in global payment networks and continuous advances in technology. Hence, the national assessment of ML/TF risks, threats and vulnerabilities is vital.

CHAPTER 3

METHODOLOGY

3.1 Introduction

This chapter discussed and outlines the methodology that was used to carry out the study. The chapter outlined the research strategy, the research method, the research approach, and the methods of data collection, the selection of the sample, the research process, data analysis and ethical considerations.

3.2 Research Strategy

The research for this thesis is new with regards to the Namibian context. Numerous researches are found to be on the general impact of money laundering with no specific emphasis on Namibia. As such, the thesis is based on an existing research subject, however, it focused on the impact of anti-money laundering in Namibia.

3.3 Research method

The research was achieved through a mixed research method which comprised of qualitative and quantitative research method to attain the research objective. The method employed incorporated the collection and analysis of secondary information. Furthermore, the regression model provided that the outcomes are measurable and quantifiable. Its basic advantage is that it offers a complete description, explanation, and analysis of the research subject, without limiting the scope of the research (Collis & Hussey, 2003).

3.4 Research approach

The research approach that was followed is in the form of assessment and analysis. According to this approach, specific data collection was used to produce generalized theories, conduct the assessment analysis of the collected information and make research conclusions, (Denzin & Lincoln, 2005)

3.5 Data collection method

Data collection consists of conducted research on money laundering, observations, regulations and all relevant documents and publications relating to the subject matter. A structured observation protocol is developed to aid the field note collection in the literature developed. Various data collection methods are used to provide more in-depth data collection and opportunities for follow-up. The study was conducted using a desk review by using different research methods of publications, typologies, cases, and various informative web sites regarding anti money laundering and combating of terrorism financing. Extensive useful data is collected, and a systematic analysis conducted to provide reliable and valid evidence and conclusions. This project utilizes a mixed method of data collection that recognizes the importance of locating the research within a social, financial and national context.

3.6 Data Analysis

Data analysis is aimed at responding to the objective of determining the economic impact of money laundering in Namibia. In analysing the data, the study also used two approaches namely, descriptive analyses as well as regression analysis. The descriptive analyses include the presentation of correlation analysis. Lastly, the analysis concluded with a regression model to establish the effect of money laundering on the economy.

3.7 Model Specification

In the empirical literature, it was revealed that correlation research designs employ a few models ranging from simultaneous equation to simple correlation (Friedman and Meiselman, 1963). However, this study adopted a single equation, particularly an ordinary least squares model to analyse the effect of money laundering on the economy. The mechanics of this method is that it reduces the error sum of squares, it is unbiased, consistent and efficient and has minimum variance. This approach has also been used by Sota and Kolaneci (2013) in their study on the similar subject in Albania. It follows that the model is specified in a similar manner to the studies that also examined the economic effect of money laundering such as Sota and Kolaneci (2013); Stancu and Rece (2009) among others but considering data available for Namibia. Therefore, this is a confirmation that the model specified conforms to similar studies conducted elsewhere. The regression equation's general specification is, therefore, presented below as follows:

$$GDP_t = \beta_0 + \beta_1 CPG_t + \epsilon$$

Where:

GDP_t – Represents Real Gross Domestic Product Growth at time t ;

CPG_t – Represents Number of Case of Money Laundering Referred to the Prosecutor General at time t ;

ϵ – Denotes the Error Term (which captures all the other variables that have an impact on real GDP growth but were not included in the model).

3.8 Justification and Measurement of Variables

3.8.1 Dependent Variable

Real GDP Growth Rate

Real GDP growth rate was considered to capture the aggregate demands in the domestic economy. Therefore, it is used as an explained variable to capture the effect of money laundering on the economy. Similar studies conducted on this subject also used this variable as a proxy (see Sota and Kolaneci (2013); Stancu and Rece (2009)), thus, providing a justification for this study.

3.8.2 Independent Variable

Number of Cases of Money Laundering

The explanatory variable is the Number of cases of money laundering. This has also been used in most studies in Europe, USA and particularly the studies by Sota and Kolaneci (2013); Stancu and Rece (2009). In addition, this was the only information available that is related to this subject matter. This also provided a justification for this study.

Table 3.1: Data Definitions

Variables	A priori Expectation	Research Support
Dependent Variable		
Real Gross Domestic Product Growth Rate (GDP)	N/A	Stanuc and Rece (2009) Sota and Kolaneci (2013)
Independent Variables		
Number of Cases for Money Laundering (CPG)	- (Negative) + (Positive)	Sota and Kolaneci (2013) Stancu and Rece (2009)

3.9 Data issues

The study made use of secondary time series data on all the variables used covering the period 2009 to 2017. The justification of the chosen period is dictated by the availability of the data. In addition, data on real gross domestic product growth rate was sourced from Bank of Namibia Research Department’s database. The data on the number of cases was also sourced from Bank of Namibia’s Financial Intelligence Centre.

3.9.1. Correlation Analysis

In responding to the objective of determining the economic impact of money laundering in Namibia, the study adapted a correlational research design. This approach was also used in similar studies by Sota and Kolaneci (2013); Stancu and Rece (2009) among others. Correlation analysis test is an evaluation of the strength of a statistical relationship between two or more variables. In addition to measuring the strength of the linear association between two variables, it also provides the direction of the relationship (Creswell, 2013). The value of correlation coefficient value should lie between -1 to +1. A value of correlation coefficient close to +1 indicates a strong positive linear relationship. This suggests that one variable increases as the other variable increases, while a value of correlation coefficient close to -1 indicates a strong negative linear relationship. Moreover, a value of correlation coefficient closer to zero implies a weak relationship, while a value of correlation zero indicates no correlation between the variables.

3.9.2. Regression Analysis

This study used the Ordinary Least Squares (OLS) method to establish the nature of the relationship between money laundering and economic growth. As stated earlier, this method was also used by Sota and Kolaneci (2013) who conducted a similar study in Albania.

The coefficient of the variable money laundering must be statistically different from zero for a relationship to exist. In addition, for money laundering to be pronounced to have a statistically significant effect on economic growth, a p-value must be less than 5% level of significance to reject the null hypothesis of not being statistically significant. Alternatively, if the p-value is greater than the chosen level of significance, the null hypothesis cannot be rejected. It is tradition that after estimating an OLS, the slopes, intercepts and t-statistics obtained must be

used in conjunction with the R-squared to explain the nature of the relationship amongst the variables.

3.10 Ethical Considerations

This study ensured that all the relevant legal and ethical requirements are considered to ensure it meets the highest ethical standards. Such include the essential ethical aspect issue of confidentiality of the results and findings of the study and the protection of the sensitive information. The data collection process is conducted in a professional manner to guarantee trust and reliability.

CHAPTER 4

EMPIRICAL ANALYSIS

4.1 Introduction

This chapter presents the findings of the study. The analysis also comprises of the descriptive and regression analysis in order to quantify the economic impact of money-laundering in Namibia. The chapter gives detailed information on the mechanisms in place. Such is used to ensure the effectiveness for the implementation of AML legislations and regulations in Namibia. Overall, the chapter points out the main contributing factors to money laundering and the negative consequences of money laundering for the Namibian economy.

Estimates of the size of the money laundering problem totals more than billions annually world-wide according to the IMF reports. This is a staggering amount and detrimental by any calculation to the financial systems involved. According to the FIC annual reports of 2016 and 2017, the number of STRs received for the period 2009 to 31 March 2017, totalled to 2,718 in reported suspicious transactions pertaining to ML activities.

Total amount restricted on client accounts through FIC interventions due to STRs filed amounts to N\$195,5 million from 2010 until 31 March 2017, proceeds of crime amounting to N\$107,6 million were recovered due to FIC assistance through Preservations & Forfeitures. Clearly the problem is enormous. It is also clear that money laundering extends far beyond the known cases of crime as other cases are still to be identified or confirmed and added to the statistics.

4.2 Descriptive Statistics and Regression Analysis

4.2.1 Correlation Analysis

Table 4.1: Correlation Analysis Results

Correlation		
	GDP	CPG
GDP	1.000000	
CPG	-0.427632	1.000000

Table 4.1 represents the results of the correlation matrix between money laundering and economic growth in Namibia. The results show a moderate statistical relationship with correlation value of -0.43. Therefore, the linear association between the two variables is negative, implying that the two variables move in opposite directions. This is to say, when money laundering increases, economic growth decreases, alternatively when economic growth increases money laundering decreases. Based on the correlation coefficient, one can confidently conclude that the two variables are linearly related. These findings are also similar to that of Sota and Kolaneci (2013) for Albania.

4.2.2 Regression Analysis

The study also used the Ordinary Least Squares (OLS) method to establish the nature of the relationship between money laundering and economic growth. This is because the correlation analysis does not imply causation and effect. From the data, the estimated equation yielded was:

$$GDP = 5.1211 - 0.0922CPG$$

$$t = (3.6290) (1.2516) \quad R\text{-squared} = 0.1829, \quad p\text{-value for the slope} = 0.2509$$

The estimated equation shows that the coefficient -0.0922 is different from zero, suggesting that a linear relationship does exist. Furthermore, the coefficient is negative, implying that an increase in money laundering negatively affects economic growth. This effect is however statistically insignificant as the p-value of 0.2509 is greater than 0.05% (level of significance), leading to not reject the null hypothesis of no statistical significance. The estimated equation also revealed that about 18% of total variation in economic growth is caused by money laundering.

This means that the remaining 80% is explained by the error term (residual), which captures the effects of the other variables not part of this equation. The negative relationship was also found by Sota and Kolaneci (2013) who conducted a similar study in Albania. Therefore, one can conclude that in the Namibian context, the two variables are negatively related. In addition, the negative relationship between the two variables can also be attributed to the following: Namibia has anti-money laundering policies such as the Financial Intelligence Act of 2012. In addition, the Prevention of Organised Crime Act of 2004 (No. 29 of 2004), which criminalises money laundering was passed in parliament in December 2004 and became effective in May 5, 2009. These policies discourage criminal activities.

4.3 Namibia effectiveness of the AML/CFT Framework

In assessing the country's effectiveness, Namibia should be assessed using the FATF methodology in assessing technical compliance and effectiveness of the country's AML/CFT system. The technical compliance assessment relates to the relevant legal and institutional framework of the country, the powers and procedures of the competent authorities. These represent the fundamental building blocks of an AML/CFT system. In contrast, the effectiveness assessment seeks to assess the adequacy of the implementation of the FATF Recommendations and identifies the extent to which a country achieves a defined set of outcomes that are central to a robust AML/CFT system. The focus of the effectiveness assessment is therefore based on the extent to which the legal and institutional framework is producing the expected results.

Together, the assessments of both technical compliance and effectiveness presents an integrated analysis of the extent to which the country is compliant with the FATF Standards and how successful it is in maintaining a strong AML/CFT system. The assessment is intended to identify the extent to which the national AML/CFT system is achieving the objectives and intended outcomes and to identify any systemic weaknesses. In the AML/CFT context,

effectiveness is the extent to which a financial system mitigates the risks and threats of money laundering, and financing of terrorism and proliferation.

At the highest level, the objective in implementing AML/CFT measures is that “financial system and the broader economy is protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security”. The level of effectiveness assessment primarily focuses based on the following recommendations:

a) ML/TF/PF risks are understood, and actions are coordinated to combat such.

According to the FIC annual report of 2016, Namibia executed its first National Money Laundering and Terrorist Financing Risk and Threat Assessment, in line with FATF recommendations with the assistance of the World Bank. Namibia was amongst the first three countries in the world that finalized a National AML/CFT/CPF Risk and Threat Assessment and whose parliaments adopted an action plan to address identified ML/TF risks. The FIC also held compliance meetings with management of regulated institutions to share the risk-based approach for implementation.

A large majority of the FIC’s intelligence reports, and supervisory activities are aligned with the 2012 National Risk Assessment and the 2015 National Self-Assessment results. This assessment enabled Namibia to develop laws, policies and cause resource allocations to address and mitigate high risk money laundering and terrorism financing areas.

It is also worth noting that the Financial Intelligence Act, 2007 was repealed with the Financial Intelligence Act, 2012 effective 24 December 2012. This was mainly to incorporate the Risk Based Approach (RBA) in the regulation and supervision of institutions as per the understanding of risk and threats which arose in the National Risk and Threat assessment results.

Additionally, the changes were imminent to align the FIA to the updated FATF recommendations.

b) International cooperation should deliver appropriate information, financial intelligence, and evidence to facilitate action against criminals and their assets.

According to the FIC annual report, (2017), the FIC provided training, advice, and guidance to the governments of Angola, Botswana, Lesotho, Liberia, Uganda and Zambia on establishment and maintenance of robust AML/CFT regimes.

The FIC has signed various Memoranda of Understanding (MOU's) with foreign counterparts i.e. other FIU's worldwide and this helps in the speedy execution of duties and resolve matters under investigation, especially, cross border information sharing purposes. Other platforms which contribute to international information sharing and engagements are the: Egmont Group of FIUs, ESAAMLG, FATF, World Bank, IMF, and Alliance for Financial Inclusion. AUSTRAC, which is considered a leading FIU in the international community, remains a dependable partner of the FIC. Amongst others, this partnership has been assisting the FIC to lay the foundation for its compliance monitoring and supervision activities, enhance its strategic planning, regulatory and supervisory model in the earlier years and enhance the activities of the FIC's financial investigation and analysis function.

The FIC has enjoyed a special relationship with the UNODC. The UNODC has been part of the FIC's formative years until date. It availed various human and technical capacity building assistance and remains actively involved in capacitating law enforcement agencies (NAMPOL; Office of the Prosecutor-General, Ministry of Finance: Directorates Customs & Excise and Inland Revenue) in Namibia to ensure the effective combating of money laundering, terrorism financing, and proliferation matters. The FIC disseminates financial intelligence to relevant authorities when there are reasonable grounds to suspect that certain information would be

relevant to the detection, investigation or prosecution for money laundering financing of terrorism offences. According to the FIC annual report, (2017), there has been an increase in demand for FIC intelligence products by local LEAs and foreign FIUs. Financial crimes are borderless, hence sustainable combating efforts requires close cooperation and exchange of information with various local and international partners. The below table is the illustration of the financial intelligence and sharing of information over the years.

Table 4.2: Request for financial intelligence by FIUs

Request for Financial Intelligence											
Year (2009-2018)	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	TOTAL
Domestic (IRD)	1	5	36	37	35	35	37	33	48	58	325
Foreign FIUs (IRIs)	0	0	1	2	0	3	12	13	7	10	48
TOTAL	1	5	37	39	35	38	49	46	55	68	373

Source: FIC annual reports (2012 – 2018)

c) Supervisors should appropriately supervise, monitor and regulate financial institutions for compliance with AML/CFT requirements.

The FIC comprises of a compliance monitoring and supervision division geared to fulfil the mandate of enhancing overall compliance behaviour and providing support to the FIAD and legal, policy, and enforcement divisions (LPED). With regards to supervision, by the compliance division, the objective remains to always ensure that compliance activities primarily impact the reporting behaviour of the regulated populace with focus on the quality and quantity of reports reaching FIAD, and the necessary referrals, engagements and enforcement actions through the LPED.

The primary function of the division in terms of the FIA is to supervise and monitor compliance with the FIA by all Accountable (AIs) and Reporting Institutions (RIs), Supervisory Bodies (SBs) and relevant stakeholders. The purpose of this function is to ensure that AIs and RIs comply with their FIA obligations by implementing measures commensurate with their

ML/TF/PF risks. The division engages with regulators and similar bodies such as the Estate Agents Board, the Bankers Association of Namibia, the Law Society of Namibia, NAMFISA etc. to enhance the compliance behaviour of the relevant regulated populace. NAMFISA, which is the only supervisory body in terms of the Act, works closely with the compliance division to help enhance compliance behaviour of NAMFISA's regulated populace. This is done through monitoring their activities periodically as well as performing joint compliance assessments on the high-risk Non-Bank Financial Institutions (NBFI's).

The compliance division is also tasked with maintaining a complete regulatory database of registered AIs and RIs. This further enhances effective supervision and monitoring. As at 31 March 2018, the number of registered AIs and RIs with the FIC stood at 1 609 Institutions.

The tables 4.3 to 4.4 illustrate that there are FIC engagements with the institutions in terms of supervision and monitoring which will contribute to compliance of these institutions and the mitigation of ML/TF risks.

Table 4.3: Offsite assessments on monitoring and supervision

Offsite Assessments								
Year	2012	2013	2014	2015	2016	2017	2018	TOTAL
Banking	0	7	0	0	0	0	9	16
Non-Banking	0	16	2	2	0	0	7	27
DNFBPs	106	4	0	0	202	65	65	442
TOTAL	106	27	2	2	202	65	81	485

Source: FIC annual reports (2012 – 2018)

Table 4.4: Onsite assessments on monitoring and supervision

Onsite Assessments								
Year	2012	2013	2014	2015	2016	2017	2018	TOTAL
Banking	0	8	9	5	8	13	3	46
Non-Banking	0	16	10	5	6	10	8	55
DNFBPs	7	2	1	5	8	30	60	113
TOTAL	7	26	20	15	22	53	71	214

Source: FIC annual reports (2012 – 2018)

d) Financial institutions should apply AML/CFT preventive measures and report suspicious transactions.

i. Suspicious Transaction Reports (STRs)

It is worth noting that the compliance regimes within relevant institutions are effective. This is because of preventative measures applied by the institutions to detect and report STRs. It is for this reason that, amongst others, the number of STRs reported by a sector or institution can give indications on the effectiveness and impact of the compliance division's supervisory activities. Overall, there has been a continuous increase in the number of STRs received by the FIC since 2009 as illustrated by table 4.5.

Table 4.5: STRs received by the FIC

Number of Suspicious Transaction Reports (STRs)										
Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Banking	52	58	122	134	223	307	256	417	556	1,051
Non-Banking	32	11	10	3	5	25	27	139	118	250
DNFBPs	5	15	16	22	100	44	21	24	94	43
TOTAL	89	84	148	159	328	376	304	580	768	1,356

Source: FIC annual reports (2012 – 2018)

ii. Large Cash Transaction Reports (CTRs)

Institutions are required to report all cash transactions of N\$100 000.00 and above to the FIC. This obligation was effective from 28 January 2015. As expected, it is worth noting that over 90% of the CTRs received were reported by the banking sector. Table 4.6 and 4.7 clearly demonstrate the significance of Namibia being a cash intensive economy and its vulnerability to money laundering. This is illustrated by the volumes and values of transaction flowing through the financial system.

Table 4.6: CTRs received by the FIC

Number of Cash Transaction Reports (CTRs)							
Year	2012	2013	2014	2015	2016	2017	2018

Banking	-	-	-	-	4,294	14,237	9,261
Non-Banking	-	-	-	-	315	274	328
DNFBPs	-	-	-	-	245	572	3,381
TOTAL	-	-	-	-	4,854	15,083	12,970

Source: FIC annual reports (2016 – 2018)

Table 4.7: Number and values of actual transactions

Source of CTRs	2016		2017		2018	
	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)
TOTAL	91,570	134,058,363,874	79,558	36,266,361,887	79,283	18,775,493,672

Source: FIC annual reports (2016 – 2018)

iii. Electronic Fund Transfer (EFT)

Banks and Money Value Transfers entities are required to report electronic transfers of money transactions to the FIC. This obligation was effective from 28 January 2015. In line with the trend of CTR reporting, banks also submitted the most EFT reports over 90% of the reporting sector. Table 4.8 and 4.9 demonstrate the significance of the volumes and values of transaction flowing through the domestic financial system and the potential of money laundering.

Table 4.8: EFTs reports received by the FIC

Number of Electronic Funds Transfers (EFTs) Reports							
Year	2012	2013	2014	2015	2016	2017	2018
Banking	-	-	-	-	2,802	8,754	12,728
Non-Banking	-	-	-	-	144	189	187
DNFBPs	-	-	-	-	4	160	70
TOTAL	-	-	-	-	2,950	9,103	12,985

Source: FIC annual reports (2016 – 2018)

Table 4.9: Number and values of EFTs received by the FIC

Source of EFTs	2016		2017		2018	
	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)
TOTAL	34,865	9,450,278,193	382,603	413,999,599,956	2,737,573	2,746,409,935,331

Source: FIC annual reports (2012 – 2018)

iv. *International Funds Transfer (IFTs)*

Similarly, to the EFTs Banks and Money Value Transfers entities are required to report all cross-border funds transfers to the FIC. This obligation was effective from 28 January 2015. The reason for the large number of IFTs reports relates to the transactions by the Authorised Dealers with Limited Authorities (ADLAs) or the Forex Bureaus which are mandated to conduct or perform cross border remittances of funds. Table 4.10 and 4.11 demonstrate the significance of the volumes and values of transaction flowing through the cross border into and out of the financial system and the potential of money laundering.

Table 4.10: IFTs Reports Received by the FIC

Number of International Funds Transfers (IFTs) Reports							
Year	2012	2013	2014	2015	2016	2017	2018
Banking	-	-	-	-	53	5,798	2,468
Non-Banking	-	-	-	-	6932	9,074	9,954
DNFBPs	-	-	-	-	-	256	9,954
TOTAL	-	-	-	-	6,985	15,128	12,425

Source: FIC annual reports (2016 – 2018)

Table 4.11: Number and values of IFTs received

	2016		2017		2018	
Number of International Funds Transactions						
Source of IFTs	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)	No. of Transactions	Amount(N\$)
	94,105	691,200,415	1,034,334	48,887,416,630	1,487,177	184,348,327,201

Source: FIC annual reports (2016 – 2018)

e) Legal persons and arrangements should be prevented from misuse for money laundering or terrorist financing.

Section 4 of the FIA requires that the registrar of companies and close corporations to annually collect and keep accurate and up-to-date prescribed information in respect of members, directors, shareholders and beneficial owners of companies and close corporations. Accountable

Institutions are also required to maintaining adequate current and up-to-date information and records relating to the client and beneficial owner. NAMFISA as the only supervisory authority for Non-Banking institutions and conducts “Fit and Proper assessments” with regards to the directors, shareholders and beneficial owners of companies and close corporations.

f) Financial intelligence is appropriately used by competent authorities for ML/TF investigations.

Financial intelligence Disclosures

The analysis division within the FIC produces two types of financial intelligence reports. These are Spontaneous Disclosures (SDs) and Responses to Requests for Information (RtRfI) to local law enforcement agencies (LEAs) and foreign FIUs. Table 4.12 and 4.13 provides an overview on the amount of information shared with the relevant parties’ which potentially resulted in several money laundering cases.

Table 4.12: Spontaneous Disclosure by the FIC to the relevant authorities

Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	TOTAL
ACC	4	7	6	27	6	8	7	7	5	77
Min of Finance	12	28	40	41	24	82	38	43	51	359
Namibian Police	19	36	55	68	23	48	38	47	16	350
Prosecutor General	0	1	31	6	4	9	15	32	31	129
Foreign FIUs	1	3	16	18	15	6	0	0	5	64
Other	2	8	4	8	9	18	22	9	31	111
TOTAL	38	83	152	168	81	171	120	138	139	1,090

Source: FIC annual reports (2012 – 2018)

Table 4.13: Responses to request for information by the FIC to the relevant authorities

Year	2009	2010	2011	2012	2013	2014	2015	2016	2017	TOTAL
Responses-Local (IRDs)	2	12	9	43	16	57	48	10	50	247
Responses-Foreign (IRIs)	-	-	-	9	-	-	9	5	7	30
TOTAL	2	12	9	52	16	57	57	15	57	277

Source: FIC annual reports (2012 – 2018)

g) Money laundering offenders are prosecuted and subject to effective sanctions.

Table 4.14: Selected money laundering cases in Namibia (proven and pending in court)

<ul style="list-style-type: none">i. Nuctech: A bribery scheme that secured a US\$55.3 million contract (at inflated prices) to install 13 Nuctech scanners in return for kickbacks to Teko Trading;ii. Social Security Commission (SSC) channelled NAD 30 million through Avid investments, a special purpose vehicle set up to receive and launder money;iii. Offshore Development Corporation (ODC) lost NAD 100 million in a fraudulent investment scheme involving Great Triangle Investments;iv. Government Institutions Pension Fund (GIPF): An estimated NAD 1.8 billion lost through investments in the Development Capital Portfolio;v. The multi-billion-dollar fraud case involving three Chinese nationals and a Namibian customs official from Walvis Bay (the N\$3.5 Billion Fraud Case);vi. Small Medium Enterprise (SME) Bank Namibia Scandal: An Estimated N\$200 million SME Bank Namibia invested with South African entities Venda Building Society (VBS) Mutual Bank, and a cash management firm, called Mamepe Capital; andvii. The N\$74 million was channelled through accounts belonging to Fort-Knox Distribution CC and Georgetown Investment CC. <p><i>NB: Refer to the appendix for further details</i></p>

Source: Author's formulation

h) Proceeds and instrumentalities of crime are confiscated.

The Financial Investigations and Analysis Division (FIAD) is tasked to receive STRs, SARs, CTRs, EFTs and IFTs from the FIA regulated populous from which analyses are performed to identify proceeds of crime, including money laundering and financing of terrorism and proliferation activities.

Thereafter if there is evidence of proceeds of crime, intelligence is disseminated to relevant local and foreign law enforcement agencies including, the Office of the Prosecutor General, Intelligence Agencies, and Receiver of Revenue for further investigation. The division further contributes to maintaining enhanced international co-operation by, amongst others, availing spontaneously and upon request, financial intelligence that may aid counterpart

organizations in the investigation, prosecution and asset forfeiture of ML/TF/PF activities. Intelligence reports were shared with local law-enforcement agencies for further investigation and for purposes of seizure, freezing and confiscation of suspected ill-gotten income in Namibia.

Notable examples of tangible value addition - Value of suspected proceeds of crime blocked

Section 42 of the Financial Intelligence Act empowers the FIC to restrict bank accounts (suspected of holding proceeds of crime) by directing institutions not to proceed with carrying out transactions in respect of funds under suspicion for a period of 12 working days. Table 4.15 to 4.17 provides statistics or success stories on the combating of money laundering in Namibia.

Table 4.15: Number and Value of interventions filed, and funds restricted by the FIC

Number and Value of interventions filed			
Year:	2010 – 2016	2017	2018
Total number of Interventions Filed	79	46	17
Total Amount restricted	N\$ 54,627,206.25	N\$ 140,967,773.55	N\$25,203,789.67

Source: FIC Annual reports (2012 – 2018)

Table 4.16: Value of proceeds of crime recovered due to FIC contributions

Recoveries for Proceeds of Crime			
Year:	2010 – 2016	2017	2018
	N\$	N\$	N\$
Funds in Criminal Asset Recovery Funds	11,560,139.00	140,945.96	9,551,883.10
Money Returned to Victims of Scam/Fraud	2,248,858.82	169,666.18	210,000.00
Total value of Assets – properties Forfeited	1,840,000.00	617,000.00	30,000.00
Finalised Forfeitures	0	34,168,780.23	200,000.00
Preservations	52,949,206.38	3,916,867.04	13,987,728.85
TOTAL	68,598,204.20	39,013,259.41	23,979,611.95

Source: FIC annual reports (2012 – 2018)

Table 4.17: Tax assessed Receiver of Revenue and recovered due to FIC contributions

Assessment by the Receiver of Revenue			
Year:	2009-2016	2017	2018
Assessment by Receiver of Revenue (RoR)	277,517,796.46	43,334,128.78	25,618,258.13
Collection by RoR	32,948,727.89	6,507,984.23	33,151,744.05

Source: FIC annual reports (2012 – 2018)

i) Terrorist financing offenders are prosecuted and subject to effective sanctions.

In 2012, Namibia passed the law on Prevention and Combating of Terrorist and Proliferation Activities which was amended in 2014 to include the Proliferation Activities. The objective of such law was to “provide for the offences of terrorism and proliferation and other offences connected or associated with terrorist or proliferation activities as well as act as a preventative measure. The objective was also to provide measures to give effect to the international conventions, Security Council Resolutions, instruments, and best practices concerning measures to combat terrorist and proliferation activities”.

The Namibian Newspaper on August 14, 2015 reported that Namibian authorities are investigating terrorists linked to al-Qaeda and its offspring, the al-Shabaab on whether they are using the country as a springboard for their activities. Sources said Namibian intelligence, police and the prosecutor general's office are working together to investigate possible terrorist agents operating in the country. Sources within the law enforcement agencies said suspected terrorist cells have been operating in the Rehoboth and Windhoek areas. Key suspects are reportedly migrants from Ethiopia, Somalia and Kenya, whom authorities believe use Namibia because they are not easily detected. An example cited is the case of Ibrahim Mohamed Abdil, who was arrested in December 2013 while trying to leave the country for Frankfurt using a fake passport.

CHAPTER 5

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the general summary of findings for the study based on the objectives of the study on the economic effects of anti-money laundering in Namibia. The section further leads to the conclusions of the study and finally concludes with recommendations to the Namibian AML/CFT framework on enhancing the effectiveness on anti-money laundering in Namibia which contributes to the combating of crime, securing the financial stability and enhancing the national development of the country.

5.2 Summary of findings of the study

The study presented an overview of the AML legislations and regulations in Namibia. The FIA, 2012, The POCA, 2004 and the PACOTPA, 2014 assist in ensuring the country commits to ensuring that financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sectors' integrity and contributing to safety and security. The FIC is mandated to assist with combating money laundering and financing of terrorism in Namibia. Namibia have shown significant improvement in its combating efforts since the previous FATF/ESAAMLG mutual evaluation in 2005. The country still requires significant improvement in its implementation of the FATF recommendation in mitigating ML/TF/PF risks and including the preparation for the upcoming mutual evaluation. Such areas that requires improvements relates to prosecution and convictions of offenders on money laundering offenses. Effective sanctions on ML offenders is also noted to be inadequate with regards to ML cases seen through the courts.

The study showed that there are economic effects resulting from money laundering. From a statistical point of view, the linear association between the two variables is negative, implying that the two variables move in opposite directions. This is to say, when money laundering increases, economic growth decreases, alternatively when economic growth increases money laundering decreases. This affirms the negative linear association between the variables. In addition, the regression analysis asserts a negative causation and effect of money laundering on economic growth, implying that an increase in money laundering negatively affects economic growth.

From existing document and evidence, the economic effect ranges from loss of tax revenue which deprive economic development, threatening of international relationships, increase in crime and corruption as well as many other financial, economic, and social costs. Based on the assessment of the money laundering cases, the contributing factors to money laundering in Namibia ranges from corruption, bribery, and tax evasion committed mostly by the officials in strategic positions. Namibia is making positive progress in achieving the high-level objective in ensuring that financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security. It is also worth noting the vulnerability of the financial sector being abused for money laundering. This is based on the assessment made from the values and volumes of transactions conducted through the financial institutions. The goal of an assessment of effectiveness is to provide an appreciation for the whole AML/CFT system of the country and how well it works. Instead, it requires a judgement as to whether, or to what extent defined outcomes are being achieved, i.e. whether the key objectives of an AML/CFT system, in line with the FATF Standards, are being effectively met in practice.

Namibia could be regarded as compliant with the FATF standards in terms of the immediate outcome and activities performed by it. Namibia executed its first National Money Laundering and Terrorist Financing Risk and Threat Assessment, and such resulted in the risk-based regulation and supervision currently conducted. The FIC has signed various Memoranda of Understanding (MOU's) with foreign counterparts for cooperation and sharing of information on financial intelligence and such resulted in 373 requests for financial intelligence from foreign FIUs. The compliance regimes within relevant institutions is regarded as effective. Results have shown that can detect and reported 1,356 STRs since 2009. Based on the assessment conducted, money laundering offences and activities are investigated; however, no adequate prosecution of offenders were noted. Intelligence reports were shared with local and foreign law-enforcement agencies for further investigation and for purposes of seizure, freezing, and confiscation of suspected ill-gotten income in Namibia. FIC statistics indicated that 142 interventions with a value of approximately N\$ 222 million were filed to freeze accounts between the year 2010 to 2018. The recoveries from proceeds of crime amounts to approximately N\$ 131 million for the same period. Since the FIC operation in 2009, the centre has contributed to the receiver of revenue collecting approximately N\$ 73.5 million of tax revenue.

5.3 Conclusion

Whilst Namibia is found to be in a good progressive system to address threats and vulnerabilities posed by money laundering and terrorism financing, gaps have been identified through a National Self-Assessment conducted in 2015/16, which negatively impede the effectiveness of the national AML/CFT system, FIC Report 2018. Identifying vulnerabilities is required of Government to enhance necessary combating efforts, which are needed in pursuing the investigation and prosecuting of money laundering offenders and confiscating assets to mitigate identified risks.

Namibia's recorded statistics on ML investigations and prosecutions are falling far below expectations needed to satisfy understanding that the country has an effectively implemented national AML/CFT/CPF system, which functions effectively in addressing identified ML/TF PF risk exposure. Recorded low statistics, pose significant threats to the outcome of Namibia's scheduled 2019/2020 FATF-ESAAMLG Mutual Evaluation.

5.4 Recommendations

Based on the findings noted, it is therefore recommended that for Namibia to combat money laundering and the effects thereof, it is of imperative importance that the country adequately applies the following recommendations. Such recommendations also enhance the level of effectiveness resulting from the implementation of an adequate, effective, and efficient AML/CFT framework:

- Namibia should update its National Risk Assessment whereby it properly identifies, assesses and understands its ML/TF risks, and co-ordinates domestically to put in place actions to mitigate these risks;
- The country should ensure that competent authorities seek domestic and international cooperation to locate and extradite criminals, identify, freeze, seize, and confiscate criminal assets and proceeds of crime. Over time, this makes the country an unattractive location for criminals (including terrorists) to operate in;
- The country should ensure continuous effective supervision and monitoring. Over time, supervision and monitoring improve the level of AML/CFT compliance and discourage attempts by criminals to abuse the financial system;
- Namibia should ensure financial institutions understand the nature and level of their ML/TF risks and have adequate controls to mitigate relevant risks. This is implemented through educational awareness on AML/CFT;

- The country should ensure that wide variety of financial intelligence and other relevant information is collected and used by competent authorities to investigate money laundering, associated predicate offences, and terrorist financing; and
- Namibia should ensure that ML/TF activities are investigated, offenders are successfully prosecuted, and the courts apply effective, proportionate and dissuasive sanctions to those convicted. Furthermore, criminals are deprived of the proceeds and instrumentalities of their crimes or of property of an equivalent value.

5.5 Future research

This thesis estimated the economic effects of anti-money laundering and discussed the effectiveness of AML legislation and regulation in Namibia. However more methodological work is needed to capture the comprehensive analysis of the impact and outcomes and the assessment of the effectiveness of AML in Namibia. Future researches should use other proxies for money laundering to see what the possible outcome would be.

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APPENDIX

1. Nuctech: A bribery scheme with Teko Trading for a US\$55.3 million contract

The Namibian Newspaper, Aug 15, 2014 reported that Teko Trading had an agreement with a Chinese company, Nuctech, which was represented by Yang, to be paid US\$12, 8 million by Nuctech. The payment was agreed on after the Chinese company clinched a deal in May 2008 to sell x-ray scanning equipment to the Ministry of Finance at a total cost of US\$55, 3 million (then about N\$477 million). Teckla Lameck, her business partner, Kongo Mokaxwa, and Chinese national Yang Fan are charged with fraud in connection with the scanner supply contract between the Ministry, Nuctech, and Teko Trading. The prosecution is alleging that the price of the scanning equipment was inflated to enable Nuctech to pay a “commission” of at least US\$12, 8 to Teko Trading.

2. Social Security Commission’s 30 million channelled through Avid investments

The New Era Newspaper, May 9, 2018 reported on the case of SSC investment of N\$30 million that was placed with an asset management company, Avid Investment Corporation, owned by the late Lazarus Kandara, and channelled to another asset management company, Namangol Investments, owned and run by Nico Josea in January 2005. Part of this money amounting to N\$14.9 million landed in Josea’s personal bank account in mid-March 2005. The Southern Times Newspaper, July 06, 2018 also reported that the kingpin in the bogus investment Nicolaas Josea, was sentenced to an effective 17 years in jail.

3. Offshore Development Corporations’ 100 million fraudulent investment scheme

According to the Namibia Institute for Democracy (NID), (the Insight Namibia, June 2005) had broken the story of the missing N\$100 million in mid-2005 from ODC. The state-owned enterprise (SOE) was under pressure to recover the money that disappeared in a dubious

investment deal with a ‘ghost company’ based in Botswana and South Africa. The ODC invested the money with Great Triangle Investments and Mortgage Bond Finance Services (Pty) Ltd for a period of four months. Around N\$55 million of the missing money belonged to the Namibia Development Corporation (NDC). It is claimed that the funds were transferred to highly questionable investment companies without approval. Both persons involved were accused of misconduct, found guilty, and have been dismissed.

4. GIPF 600 million loss through investments in the Development Capital Portfolio

The New Era newspaper July 26, 2010 reported that NAD 600 million of public servants’ pension money was disbursed from 1994 to 2006 as loans through the Development Capital Portfolio (DCP) scheme into about 21 Namibian companies. The companies failed to pay back the money to the GIPF and such was written off as bad debt. The companies were owned by a small group of wealthy local businessmen. Several companies were liquidated, while some appeared to be briefcase entities that did not have any assets that the GIPF could have attached as guarantee for any defaults. The New Era reported that police inspector-general Sebastian Ndeitunga indicated that the police have concluded investigations and are waiting on the office of the prosecutor general for a decision on prosecute but such could not happen. The total investments in unlisted companies by the DCP amounted to about N\$750 million, before the taps were closed. This made it the single biggest financial scandal, exceeding even the Offshore Development Corporation's missing N\$100 million investment.

5. The 3.5 billion-dollar fraud

According to the New Era publications Jan 10, 2017 reported an estimated N\$3.5 billion - dollar fraud case involving Chinese nationals and a Namibian customs official from Walvis Bay. They are accused of money-laundering and defrauding the Ministry of Finance between the

start of 2010 until December 2016 through the fraudulent calculation and payment of customs duties on imported goods. A substantial amount is said to have been remitted to offshore accounts through the banking system. According to the New Era of June 25, 2018, eight of the ten people (Tao Huizhong, Julius Laurentius, Zhu Honggang, Yuiqua Jack Huang, Zihua Gua, Hongying Jia, Shuhua Cao, Dadi Li and Ying Zhang) accused of fraud and money laundering were all arrested. During the investigation it was discovered that N\$3.5 billion was shipped out of the country through Laurentius' business Xtreme Customs Clearing Services.

6. SME Bank scandal and the N\$200m loss through VBS Mutual Bank

According to New Era publications Mar 8, 2017, nearly N\$200 million that the SME Bank Namibia invested with two South African entities Venda Building Society (VBS) Mutual Bank and a cash management firm, called Mamepe Capital, was emptied less than two months after the deposits were made from Namibia. According to confidential reports seen by New Era, SME Bank deposited N\$70 million with VBS Mutual Bank between August 12 and October 14, 2016. A further N\$181 million was placed in the hands of Mamepe Capital between August 22 and November 8, 2016. Within two months, withdrawals amounting to some N\$69, 8 million were made in the period between October 13 and November 8, 2016.

7. The 74m through Fort-Knox Distribution CC and Georgetown Investment CC

The Namibian Newspaper on Dec 14, 2015 reported that the country's biggest commercial bank failed to adhere to strict AML regulations when it allowed the N\$74 million in question to be channelled through it. The N\$74 million was channelled through accounts belonging to Fort-Nox Distribution CC and Georgetown Investment CC. Georgetown Investment CC saw N\$28 million come into its accounts from abroad and moved out of the country again, within two days. Money going into both accounts came from a South African

company called Bustque (Pty) Limited. When the money was in Namibia it was then channelled back to South Africa to Kit Kat Group (Pty) Ltd. Fort-Knox and Georgetown used fictitious customs documents. *The Namibian* has learned that authorities traced part of the money to bank accounts held in Canada, China, and the United Arab Emirates, more specifically Dubai. During their investigations authorities also discovered that both account holders used fraudulent Namibian passports when dealing with FNB.

8. Tax evasion through capital outflow from Namibia to China

According to the villager, Jan 20, 2017 reported that Namibia could have suffered capital flight to china that amounts to N\$20 billion in 36 months. In 2009 the China National Machinery and Equipment Import and Export asked the works ministry to pay N\$1,63 billion for the construction of the 62-kilometre railway stretch between Oshikango and Ondangwa. A cabinet memo leaked at the time revealed that this was almost 10 times the normal price some German and South African companies had asked for a few years before. The construction of the railway line was funded by a N\$300 million loan extended by the Chinese government on condition that tender procedures should be waived. Although the loan was N\$300 million, the Chinese company then asked for N\$770m for laying the rails and N\$290m for supplying 13,200 tons of rail. The memo indicated that the quotation was inflated by 900%. They quoted N\$12,468 per metre for laying the rails while a South African company, Lenning Rail Services, had asked for N\$1,839.00 per metre. Anhui Foreign Economic Construction Corporation (AFECC) also quoted to charge N\$4 billion for expanding the Hosea Kutako International Airport but this price rose to N\$7billion. The bulk fuel storage depot at Walvis Bay initially cost N\$920 million in 2015 but has now shot up to N\$5,5 billion. Based on the analysis of these activities and transactions which includes tenders and inflation of prices, these clearly point to indicators of trade-based money laundering and other predicate offenses of money laundering.

9. Newspapers publications on offenses relating to money laundering

