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Role of Central Bank of Iraq in Combating Money Laundering

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Abstract

The Central Bank of Iraq (CBI) plays a pivotal role in addressing money laundering, a critical issue for global financial stability. With the enactment of the Iraqi Anti-Money Laundering and Counter-Terrorist Financing Law No. 39 of 2015, the CBI has taken significant steps to mitigate the risks associated with money laundering. The research aims to delineate the measures implemented by the CBI, including the establishment of the Money Laundering Office and the development of strict supervisory mechanisms. Findings suggest that despite the comprehensive legislative framework, challenges such as political instability and lack of transparency continue to undermine efforts. The CBI's involvement in rigorous supervision and the adoption of international cooperation are crucial to curbing money laundering practices. This study underscores the necessity for enhanced regulatory frameworks and continuous monitoring to effectively combat these financial crimes.

Highlights:

The Central Bank of Iraq has established significant legal and supervisory frameworks to combat money laundering, as highlighted by Law No. 39 of 2015.

Despite robust legal measures, ongoing political and economic instability poses challenges to the effective enforcement of anti-money laundering regulations.

International cooperation and stringent supervision are critical to enhancing the efficacy of anti-money laundering efforts in Iraq.

Keywords: Central Bank of Iraq, money laundering, legislation, supervision, financial stability

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Introduction

The most important and dangerous gateway for executing money laundering crimes is banks, as they constitute the cornerstone of the economic life. Therefore, this latter is closely connected to banks and financial institutions, as they are used to pass money laundering operations by exploiting the services provided by them. There is no doubt that money laundering crime has extremely serious consequences as it affects the financial and economic stability primarily on international societies .

Iraq rushed to issue important anti-money laundering laws. Decision 1997 introduced new legislation in Iraqi law regarding the examination of illicit funds. Additionally, Iraq joined the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) under Law No. 1988 published as No. 23/1996 in the Official Gazette of the Iraqi Facts on 12/2/1996, issue 3546. Interest in this phenomenon notably increased after 2003, with numerous cases emerging that required combating this phenomenon. Consequently, Law No. 93 of 2004 was issued during the period of the Temporary Coalition Authority, criminalizing money laundering [1]

Following this, another law was issued, Law No. 39 of 2015, along with the establishment of the Money Laundering Office in the Central Bank of Iraq, which receives information about money laundering crimes. It was granted personal, corporate, and financial independence and became responsible for supervising its activities. Within the scope of the powers of the Anti-Money Laundering and Counter-Terrorist Financing Council, it was disconnected and became independent from the Central Bank of Iraq [2]

The importance of the research lies in being one of the few studies that address the role of the Central Bank of Iraq in combating money laundering crime according to the Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015 by clarifying the concept of the role of the Central Bank of Iraq in combating money laundering and the effectiveness of the measures taken by the Central Bank to combat the phenomenon of money laundering in Iraq.

The research aims at the significance it holds on the social, economic, and commercial levels. Given the particular nature of banking, we must understand the risks associated with the spread of money laundering operations and clarify the role of the Central Bank in combating money laundering and the effectiveness of the measures taken by the Central Bank to combat the phenomenon of money laundering in Iraq.

The main research problem revolves around whether the Central Bank of Iraq was able to combat money laundering crime according to the Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015 .

Methods

I will adopt a descriptive research methodology to describe the role of the Central Bank of Iraq in combating money laundering crime, and analytical, through the Iraqi Anti-Money Laundering and Counter-Terrorism Financing Law No. 39 of 2015 .

Discussion

The Legal Concept of the Role of the Central Bank of Iraq in Combating Money Laundering

Money laundering is considered an organized crime with its unique methods and techniques, and it is one of the most dangerous financial crimes due to its direct repercussions on intellectual, economic, political, and ethical dimensions at both individual and societal levels. It poses complex economic problems as it contributes to exacerbating instability and disrupting the foundation necessary for achieving a prosperous society. While this phenomenon was previously unfamiliar in Iraq, it began to emerge in the late 1990s and early 2000s, albeit limitedly, due to the inability of productive sectors to provide goods and services [3].

In Iraq, after 2003, with the emergence of the black market and the smuggling of oil and goods due to economic sanctions, along with the absence of the state and its institutions leading to the destruction of infrastructure and its exposure in the Iraqi market, crimes in Iraq increased. On the other hand, it created a conducive environment for money laundering [4].

Definition of Money Laundering in Iraqi Legislation

The Iraqi legislator abolished Article 3 of the Anti-Money Laundering Law for the year 2004, Order No. (93) of the

Temporary Coalition Authority, which applies to illegal financial transactions. Money laundering is based on managing or attempting to conduct a financial transaction in a way that uses proceeds to commit an unlawful activity, with the knowledge that the funds used are proceeds of unlawful activity, or any person who transfers, sends, or transfers cash or amounts representing proceeds with knowledge thereof due to unlawful activity :

The purpose is to assist in committing or benefiting from unlawful activities, or to protect individuals who engage in unlawful activities from legal prosecution .

Knowingly conducting a fictitious transaction entirely or partially for the purpose of: "concealment, disguising the nature, source, location, disposition, movement, ownership, or control of proceeds of unlawful activity, or to avoid a transaction reporting requirement". [5]

Proceeds of crime are defined as "money obtained directly or indirectly, in whole or in part, from the commission of one of the predicate offenses [6]." The predicate offense is defined as "any crime under Iraqi law, whether felony or misdemeanor [7]."

The legislator expanded the scope of money laundering perpetrators, as conviction for the underlying crime that generated the proceeds is not a prerequisite for convicting the accused of money laundering, as stated in Article 3 of the same law: "The conviction of the accused for money laundering does not prevent the identification of the underlying crime that led to obtaining the funds". Also, Article 4 of the law states that: "The conviction of the accused for any of the following acts: the underlying crime does not prevent conviction for money laundering arising from the crime, and the provisions of cumulative punishment apply to several crimes stipulated in the penal law. [8]"

The Iraqi legislator defined proceeds as: "Funds directly or indirectly derived, wholly or partially, from committing one of the predicate offenses [9]". The predicate offense was also defined as: "Any offense in the Iraqi law of felonies or misdemeanors. [10]"

Moreover, it attempts to cover the crime comprehensively, as Article 3 stipulates that the conviction of a person accused of money laundering does not depend on the complete outcome of the underlying crime that constitutes the unlawful behavior. Additionally, the conviction of the accused of any predicate offense does not preclude sentencing them for money laundering, and the provisions of multiple criminal penalties apply to personal assets obtained from that crime. This is according to Iraqi Penal Code [11]. It is noteworthy that the predominant feature of the Iraqi legislator's definition of money laundering crime is the presentation of criminal behavior through which the legitimacy of unlawfully sourced funds disappears. This is a flaw because money laundering is an advanced crime, often finding new means, especially with technological advancements, making detection and tracking of such funds exceedingly difficult. However, the legislator, in defining money laundering, did not confine it to drug-related crimes and their derivatives but opened the door wide in its definition to all crimes (felonies and misdemeanors) with an illegitimate source, thus targeting relevant international agreements.

The Role of the Central Bank of Iraq in Combating Money Laundering

The central bank is a government monetary institution responsible for issuing national currency, monitoring the banking system, and directing credit to maintain monetary stability and stimulate economic growth by providing appropriate cash quantities to the country and enhancing economic activity. Therefore, the central bank is one of the public monetary institutions regulated by the state through laws that define its objectives and responsibilities. It manages the monetary system, oversees banking and credit activities, and controls the money supply for internal protection, as well as the external value of the national currency. The central bank also possesses tools to control commercial banks, making them responsive to monetary policy and curbing money laundering. [12]

Combating money laundering is considered one of the most critical issues internationally and regionally. This explains the increasing interest in this topic by many countries that seek to provide an accurate picture of the banking situation in their respective countries. The abundance of legislation or the adoption of numerous measures and procedures underscores its severity.

In combating money laundering operations through its banks or related financial institutions, the central bank plays a crucial role in the money laundering process by issuing key anti-money laundering laws. The central bank plays a role in this process [13][14]."

There was a significant increase in interest in the phenomenon after 2003, when many issues emerged that needed to be addressed. Therefore, Law No. 93 of 2004 was issued during the period of the Temporary Coalition Authority, criminalizing money laundering, and establishing a Money Laundering Office in the Central Bank of Iraq, receiving information about money laundering. This was followed by Law No. 39 of 2015, which grants Article 8(1) of it personal, corporate, and financial independence to the Anti-Money Laundering and Counter-Terrorist Financing Office, and the Central Bank of Iraq is legally obligated to:

1. Develop models and rules used by financial institutions to report suspected money laundering operations.
2. Establish policies and procedures to facilitate rapid exchange of information between offices and specialized

- organizations for combating money laundering.
3. Participate in concluding bilateral or multilateral agreements with foreign countries regarding funds seized by judicial authorities due to money laundering and terrorism financing.
 4. Identify financial institutions obligated to comply with anti-money laundering laws.
 5. Refer cases of violations of anti-money laundering laws to the judiciary and cooperate by providing data.

Central Bank Oversight of Money Laundering Operations

Oversight is defined as "setting goals and general performance criteria, examining current performance, monitoring the achievement of set goals, taking necessary corrective actions, rectifying problems, and attempting to reach new ways of performance that ensure good implementation without obstacles [15]". Similarly, supervision is defined as "a systematic process to ensure the implementation of plans and the achievement of goals through the use of effective and efficient methods. Therefore, supervision represents the pivot point through which management seeks to control organizational activities to achieve desired goals by measuring results against plans or set standards, diagnosing deviations, and taking corrective actions [16]."

As for the supervision of the Central Bank of Iraq, it consists of a set of procedures and methods implemented by the Central Bank of Iraq to ensure the proper implementation of monetary policy, evaluate its performance, and maintain the integrity of its operations. This ensures a sound financial system that effectively contributes to the development and prosperity of the national economy [17]."

The Central Banks are the primary authorities responsible for ensuring the security and continuity of the banking system. They direct and supervise its operations within the framework of policies they establish. Their aim is not to pursue financial profit but to bear the social and economic responsibility of serving the community's interests. Through their supervision of the banking system, Central Banks strive to maintain its stability.

Money laundering often occurs within financial and banking institutions because this environment provides a conducive setting for such activities to thrive. These institutions encounter criminal proceeds from illicit funds and assets in an environment suitable for concealing the unlawful origin of these proceeds. This is particularly evident in banking systems characterized by extreme flexibility in some countries worldwide. Banks and financial institutions serve as key intermediaries for the circulation of funds obtained from illegal sources. Banks, especially, play a significant role in money laundering, as they are highly effective in achieving the final outcome of such criminal activities.

However, banks also play a crucial role in combating money laundering. The success of any security, preventive, or punitive measures in this field cannot be envisioned without the cooperation of the banking sector. Therefore, banks may face accountability for receiving or accepting dirty money, especially if they are aware of its criminal origin. Financial institutions of all kinds, including banks, non-official financial institutions, and financial companies, engage in continuous and increasing financial transactions with their clients, making them vulnerable to legal violations and crimes by being implicated in such activities.

Obligations of the Central Bank According to Law No. 39 of 2015

The legislative authority issued Law No. 39 of 2015 to combat money laundering and terrorism financing with the aim of controlling money laundering crimes and imposing deterrent measures on offenders. Accordingly, the central bank must adhere to the following :

1. Monitor foreign money inflows or transfers to foreign countries through financial institutions and prepare reports on them, including their flows and activation. It is also necessary to monitor external and internal transfers, as transfers are one of the primary methods of money laundering. Recommendation No. 2 of the FATF emphasizes the monitoring of international currency or cash transfers. All relevant data should be recorded and retained in special registers, and customer identities must be verified and documented. FATF's proposed Recommendation No. 10 states that financial institutions should not hold any unknown or counterfeit credit accounts, necessitating the verification and registration of customer identities [18].
2. Monitor financial institutions' activities to ensure their non-involvement in money laundering transactions .
3. Establish a unit responsible for conducting necessary investigations to uncover money laundering methods and means .
4. Issue bulletins and instructions regarding the issuance of audits in the field of combating money laundering .

Additionally, the central bank has implemented various measures representing its economic policy to combat money laundering. These measures include imposing controls on domestic banks and money transfer companies regarding their access to currency auctions. Such controls include requiring certificates of origin for goods, tax accountability receipts, and import invoices. These regulations hinder the ability of domestic banks and money transfer companies to participate in currency auctions. Furthermore, the central bank acts as a monetary authority and has the freedom to issue new regulations requiring all financial institutions to disclose their clients and those clients desiring foreign currency by submitting

Tools as a requirement for participation in the central bank's daily currency auctions, with the aim of identifying genuine customers and avoiding fake ones .

Article (40) of Central Bank Law No. (56) of 2004 stipulates that the Central Bank is entitled to take the necessary measures to license, regulate, supervise, and inspect banks and their branches. All banking activities stipulated in Article (27) of Banking Law No. (94) of 2004, which regulates foreign exchange trading and gold import transactions .

In addition to the Central Bank's role in managing and executing currency auctions and determining the directions of foreign exchange and its channels, the Central Bank faces future challenges that disrupt monetary management and put it in a challenging position. Either the Central Bank continues its foreign currency auction without specifying the types of customers and ensuring that the dollar is not transferred abroad, which imposes increasing pressure on central banks, or banks abandon direct management of public auctions and replace them .

As for the quantity of local currency sold in the public auction by the Central Bank of Iraq, the Central Bank intervenes in the exchange market as a seller of foreign currency, intervening in one direction to meet local demand for foreign currency, finance imports, and monopolize government sources of foreign currency supply, as is the case in rentier countries [19].

It is noted that there has been an increase in the amount of money laundering in Iraq after 2003 for the reasons mentioned above, and the phenomenon of money laundering has increased significantly in Iraq due to security conditions and wars, and this situation has also increased, with cash supply being among the measures taken by the Central Bank .

On the other hand, there was instability in the exchange rate before 2020, but in 2021, the Central Bank of Iraq attempted to maintain and stabilize the exchange rate, especially through the public tender process, due to the importance of the exchange rate, achieving stability in the Iraqi market, and encouraging investment .

Methods of central bank control in combating money laundering operations

According to the Financial Committee of the Iraqi Parliament regarding the value of corruption associated with money laundering, Iraq faces significant suspicions of money laundering, "resulting in the loss of nearly \$360 billion between 2006 and 2014. \$4 billion monthly [20]", and in order to achieve the role of financial institutions in combating the crime of money laundering, they were not limited to obliging them to identify customers, verify their identities and legal status, and retain records and documents proving that, but also obliging them to report suspicious transactions to the relevant authorities because some operations executed by the customer or the financial institution may raise suspicion, and the perpetrator of the crime of money laundering tries to erase the traces of illegal funds, so it is necessary to notify the supervisory authorities about them by financial institutions [21].

Thus, these legislations were granted to the central bank, being the competent authority in controlling, monitoring, and auditing the banking and financial system, a positive role in facing the risks of money laundering. This led the officials in the Central Bank of Iraq to adopt a set of legislations to regulate this. Law No. 39 of 2015 was enacted to combat money laundering and terrorist financing, and its instructions in 2017 so that the investigation into this crime is before a specialized investigating judge in the crime of money laundering, where a judicial order was issued by the Supreme Judicial Council to limit the investigative jurisdiction in money laundering cases and economic crimes within the jurisdiction of the Integrity Investigation Court in Baghdad [22]", and strict due diligence instructions were issued to all financial and banking institutions and related professionals and obligating them to follow these instructions. Also, supervisory guidelines were issued for everyone to work with, and an administrative office called the Anti-Money Laundering and Terrorism Financing Office was established with full independence in work, powers, and responsibilities. Also, a Money Laundering and Terrorism Financing Council and a Committee for Freezing the Funds of Terrorists were formed [23]".

Its tasks include receiving suspicious reports and complaints, analyzing the data contained in the complaints, exchanging information with local and international security institutions and other regulatory authorities, auditing and supervising banks and financial institutions, carrying out some legal duties and procedures, providing recommendations and advice, providing training on issues related to combating money laundering and terrorist financing, issuing circulars to non-banking financial institutions licensed in various jurisdictions, coordinating with the General Directorate of Banking Supervision and Credit regarding information related to licensed banks, money transfers, and banking services, investment companies, and monitoring suspicious transactions before the competent authorities, "Integrity, Judiciary, National Security Apparatus, and the Directorate of Economic Crimes Prosecution [24]".

Certainly, the effects of the crime of money laundering go beyond the risks associated with violating the law to include undermining the local and international economy, as it is "the quintessential economic crime, which is defined as any illegal act harmful to the national economy, punishable by the Penal Code or in laws related to economic development plans issued by the competent authority [25]". Operations of money laundering involve changing the nature of criminally sourced funds by investing them in various legitimate activities, and then

pumping them into global economic channels, so it is considered one of the economic crimes that harm the interests and economic structure of the state [26].

Despite all of this, many challenges still surround the work of the Central Bank and its ability to confront the threat of this crime [27]. We find a statement by the former head of the Integrity Commission, Judge Rahim al-Akili, on 8/9/2015, indicating that the lack of transparency in the work of the Central Bank of Iraq and the scarcity of information regarding external transfers of Iraqi funds within its official institutions do not help in confronting money laundering crimes .

The Central Bank uses a set of banking supervision tools, which include [28]:

1. **Licensing:** The Central Bank has the authority to grant licenses to banks and their branches inside and outside Iraq, which is determined by the need of the banking and economic market for new banks. The Central Bank also verifies the compliance of banks or branches with the licensing standards issued by it, which aim to ensure the existence of banks with efficiency and banking solvency, thus strengthening the Iraqi banking sector [29].
2. **Office Supervision:** This is done through examining and analyzing the data regularly provided by banks to the Central Bank in order to determine the accuracy of the financial conditions of banks and the effectiveness of their performance. The Central Bank monitors the annual reports prepared by bank auditors, ensures the implementation of decisions, and ensures that bank activities are free of violations [30].
3. **Field Inspection Method:** This is carried out by the Central Bank's staff through direct field inspection and auditing of bank operations. The aim of this supervision is to maintain public confidence in the integrity of the banking system in general and individual banks in particular. Therefore, the following objectives must be achieved during the audit process [31]:
 1. Identifying the risks specific to each bank.
 2. Ensuring the safety, soundness, and compliance of banks with laws and regulations.
 3. Verifying the presence of internal control and supervision systems and reviewing the organizational structure and composition of the board of directors.
 4. Ensuring banks' compliance with applicable laws, regulations, and instructions [32].

On the other hand, the effectiveness of the measures taken by the Central Bank of Iraq to combat money laundering stems from the importance of banking supervision, given the role these institutions play in the economic life of various countries. Moreover, it emphasizes the importance of various stakeholders in ensuring the continued operation of banks. This review aims to ensure banks' compliance with the provisions of banking laws, instructions, and regulations issued in accordance with these laws in their operations and transactions, covering decisions, directives, and instructions from the boards of directors [33].

Conclusion

The phenomenon of money laundering in Iraq, exacerbated by political instability, corruption, and regulatory weaknesses, poses significant challenges to the country's economic and monetary stability. Despite the Central Bank of Iraq's efforts, particularly through the Anti-Money Laundering and Counter-Terrorist Financing Law No. 39 of 2015, the persistence and evolution of money laundering activities highlight the need for continuous improvement in regulatory frameworks and enforcement mechanisms. The findings underscore the critical role of robust international cooperation, enhanced financial oversight, and stringent legal measures to mitigate the adverse effects of money laundering. The implications of this study suggest that while positive outcomes, such as temporary economic stimulation, can arise from the investment of illicit funds, the long-term economic and social detriments far outweigh these benefits. Further research is warranted to explore innovative technological solutions and international collaborative strategies that can effectively counteract money laundering and bolster the integrity of Iraq's financial system.

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