

Analysis on the Prevention and Control Mechanism of Money Laundering Crime

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Abstract: The emergence of the crime of money laundering originated from the laundry case of the Chicago Mafia in the 1920s. In the 1970s, the Nixon Watergate Incident first appeared in the major newspapers and periodicals as a legal term. After nearly a century of development, money laundering is becoming a global problem. China, as a member of the Financial Action Task Force, does a good job in the prevention and control of money laundering in our country, which meets the needs of International Combating Money Laundering Crime and maintaining social stability, and can also reduce the incidence of domestic economic crimes. Therefore, it is of practical significance to study the prevention and control mechanism of money laundering crime in our country. The prevention and control mechanism of money laundering crime is relative to the detection mechanism of crime. The main purpose is to reduce the incidence of crime, find out the trend of crime in time to reduce the losses caused by crime, and create conditions for subsequent recovery of the amount of losses. For financial institutions, the prevention and control mechanism center of money laundering crime is the People's Bank of China, which is guided and deployed by the People's Bank of China. For other non-financial institutions, the prevention and control center lies in the State Council, which has general supervision and management responsibilities for non-financial institutions in China. In view of the development of China's economy and anti-money laundering crime prevention and control system, the anti-money laundering prevention and control mechanism in China urgently needs to study the following issues: the problems existing in the prevention and control of money laundering crime in China, the experience of developed countries in the prevention and control of money laundering crime, the current situation of China's regulatory system and how to strengthen international law enforcement cooperation.

1. Definition of money laundering crime

1.1 Determination of the Crime of Money Laundering

In 2006, the Criminal Law Amendment (6) clearly defined the crime of money laundering for the first time, defined the predicate crime of money laundering, and dealt with the crime of concealing and concealing the illegal proceeds of other crimes as the crime of concealing and concealing the proceeds of crime. The Criminal Law and its amendments stipulate punitive anti-money laundering laws and regulations. The tasks and rules of the preventive anti-money laundering laws and regulations are mainly undertaken by the Anti-money Laundering Law. Therefore, when studying the prevention and control mechanism of money laundering crime, we should base more on the Anti-Money Laundering Law and related laws and regulations, and combine the international anti-money laundering experience to accurately identify money laundering crime.

1.2 The main body under supervision of money laundering crime

1.2.1 Traditional main body

In our country, the traditional main body of money laundering usually refers to the narrow sense of money laundering crime. It is the unit and individual who launders money to cover up and conceal the income of upstream crime and its income. The prevention and control of the traditional subject of money laundering crime need to rely on various financial institutions. From the perspective of the development process of money laundering crime, money laundering crime relies on the stage of

placement and integration of various financial institutions from the beginning. Without the modern financial system, it cannot complete a complete money laundering behavior.

1.2.2 New Internet main body

The new type of online money laundering crime refers to a way of money laundering that legalizes illegal funds with high profit, operative, low risk and low regional requirements relying on virtual platforms such as e-commerce platforms and third-party payment platforms. At present, China's anti-money laundering laws and regulations only stipulate the anti-money laundering obligations and specific ways of financial institutions or specific non-financial institutions. There is no complete law and regulations on regulating the development of Internet financial business, and it is difficult to regulate the development of Internet financial business. Lack of laws and regulations has provided more convenience to illegal elements, increased the difficulty of anti-money laundering, and made the orderly development of Internet financial activities have potential risks. In the supervision of money laundering activities on the Internet, due to the unclear legal status and lack of authorization from relevant laws and regulations, Internet financial institutions have not set up relevant regulatory authorities. However, the fact that money laundering on the Internet has become an important part of money laundering crime cannot be ignored. From the newly issued Measures for the Management of Large-scale Transactions and Suspicious Transactions of Financial Institutions on July 1, 2017, it can be seen that non-bank Payment institutions are included in the scope of the main body of anti-money laundering obligations, which provides a certain basis for the supervision of money laundering on the Internet.

2. Current Problems in Prevention and Control of Money Laundering Crime

2.1 The main body scope of upstream crime is small

Usually, there are two definitions of the predicate crime of money laundering. One is money laundering in a narrow sense, that is, money laundering with drug crime as predicate crime, the other is money laundering in a broad sense. It refers to the concealment of the nature, source, location, flow direction of property derived from criminal acts and transferring or assisting any person concerned with illegal activities to evade legal responsibility is an act of money laundering, which is defined at the Summit of the Seven Western Countries held in Paris in July 1989. The predicate crime of money laundering in China's laws and regulations generally refers to drug crime, organized crime of underworld nature, crime of terrorist activities, smuggling crime, crime of corruption and bribery, crime of Disrupting Financial Management order, and crime of financial fraud. This scope is larger than the narrow sense of money laundering crime, but it is also far less than the broad sense of money laundering predicate crime. The small scope of predicate crime main body is a disadvantage of China's anti-money laundering legal system.

2.2 No monitoring system based on third-party payment platform has been established

With the rapid development of Internet in China, the third-party payment platform has become an important part of China's financial payment system. Although there are many anti-money laundering researches in the third-party payment platform, there are still no systematic legal provisions, and there is no clear and feasible system method to supervise the third-party anti-money laundering. Therefore, the establishment of an anti-money laundering crime monitoring system based on the third-party payment platform as soon as possible can effectively promote the anti-money laundering work in China. Anti-money laundering monitoring system based on third-party payment platform refers to the detection method of quickly identifying suspicious data by monitoring the background data of third-party payment platform. The establishment of this system is conducive to preventing FAST from using the third-party payment platform mentioned in its report Money Laundering by New Payment Method. Compared with the traditional money laundering crime, the network money laundering has the characteristics of fast, covert and low cost. The traditional money laundering crime often needs to rely on illegal institutions such as underground banks, but also need to guard against

unknown people in the money laundering chain, which is time-consuming and laborious and often leads to the failure of money laundering for various reasons. The network money laundering takes advantage of the relaxed regulatory environment created by the state for the development of the Internet and the convenient registration method of the network platform to purchase or register a large number of false identity accounts. It takes only a few people to complete the original complex process of money laundering, which undoubtedly reduces the cost of money laundering and the risk of money laundering crime for criminals.

2.3 Non-communication of information among the regulatory bodies

Money laundering crime often involves not only a large number of people, but also more easily involves many regions and countries. It is difficult for any department to undertake the task of anti-money laundering alone. Therefore, the information communication between the various regulatory bodies is particularly important, requiring the effective cooperation of judicial organs, administrative departments, financial institutions and so on. At the beginning of the anti-money laundering campaign, China attached great importance to the coordination of departments in this area, and achieved some results. However, there are still problems of information sharing among the responsible bodies.

Internally, financial institutions and public security organs are linked through the China Anti-Money Laundering Monitoring and Analysis Center. The Anti-Money Laundering Center undertakes the task of integrating information from financial institutions with relevant information from law enforcement and judicial departments; at the same time, it promotes communication between departments by providing timely and effective information support to law enforcement and judicial departments. Externally, the anti-money laundering departments of various countries are connected through major international organizations. Take FATF as an example, share anti-money laundering information globally, expand its membership, promote the establishment of a global anti-money laundering network, develop regional anti-money laundering organizations in different regions, and cooperate closely with other relevant international organizations. Compared with the close relationship of these anti-money laundering international organizations, it is still difficult for China to achieve seamless cooperation among various departments. More urgently, there is no unified functional department to collect the information of the responsible organs in order to form an information-sharing environment. Because of the obstruction of local protectionism and department protectionism, this defect will be exploited by some local criminals.

3. Prevention and Countermeasure of Money Laundering Crime in China

3.1 Suggestions on the Improvement of Criminal Law

The crime of money laundering in our country firstly regards drug crime as the only predicate crime of money laundering. Until 2006, the scope of predicate crime of money laundering in our country was expanded from one to seven kinds, and the action of anti-money laundering in our country began to be formally brought into the orbit of the rule of law. In addition, the criminal law of our country emphasizes that the source of funds must from seven predicate crimes in the subjective, but in practice, money laundering criminals often seize this provision and emphasize their subjective negligence, which is one of the reasons for the large black number of money laundering crimes in our country. As for the perfection of our criminal law, it is suggested that article 312 of the Criminal Law should be integrated with the Article 191 on money laundering crime, so as to expand the conviction scope of money laundering crime provisions and strengthen the deterrence of money laundering crime, so as to achieve the goal of suppressing the occurrence of money laundering crime. As for the subjective problem of money laundering crime, we should increase the punishment for negligent money laundering so as to achieve the goal of combating money laundering crime and protecting the financial order of our country.

3.2 Prevention and control measures based on the main body of the bank

In the anti-money laundering network, the supervision of administrative crime of money laundering in China has formed a supervision network based mainly on banks and other financial institutions. According to the Law of the People's Bank of China, the People's Bank of China “directs and deploys the anti-money laundering work of the financial industry and is responsible for the monitoring of anti-money laundering funds”. As the main channel of capital circulation, financial institutions are related to money laundering activities such as underground money laundering, credit card cash laundering, fund-raising money laundering, corruption money laundering, terrorist financing and so on. Banks themselves have different attitudes towards anti-money laundering because of their economic interests. The People's Bank of China strongly supports anti-money laundering activities for the sake of social and economic stability. The major commercial banks, because the money laundering criminal activities involve a large amount of money flow, can also obtain a large amount of commissions from the banks themselves. Cooperation with the People's Bank of China is more likely to increase its own Institutional cost, employee costs, inspection costs, file management costs, and may lose these customers of large amount of circulating funds. In order to prevent this situation happening, besides the People's Bank of China, the judicial department system of anti-money laundering has been established, which has assisted in the establishment of China Banking Association, strengthened industry self-discipline. Within banks, the People's Bank of China supervises the establishment of three lines of defense against money laundering, the risk assessment mechanism of institutional money laundering, the access and exit mechanism of suspicious customers, and the re-examination based on suspicious reports. Evaluation mechanism. Supervise banks to invest more manpower and material resources to support anti-money laundering and improve the efficiency of anti-money laundering.

3.3 Feasibility Analysis of Account Monitoring Platform Based on Taobao and Third Party Payment

With the rise of the third-party financial institutions and the arrival of the cashless society, the network financial industry involves a large amount of funds and users, and the cases of money laundering involving third-party payment have multiplied. Criminals convert funds between bank accounts and platforms through trading platform accounts, or purchase encrypted virtual money through purchasing accounts, and then resell virtual money into virtual money. Illegal funds are bleached by overseas currencies, etc. As a supplement to the bank's small business, the third-party payment platform urgently needs to find a way to increase the cost of offenders and criminals, and no longer provide convenience for money laundering crimes. However, due to the technical barriers between the financial network, third-party payment institutions and banks, customer information and capital flow can not be effectively and timely docked, and customer identification and anti-money laundering monitoring points can be given. It is very difficult for the public security organs to investigate and collect evidence when investigating cases. Therefore, it is necessary to establish an account monitoring platform to record the data and information of users of the platform and the use of funds. Account monitoring platform is a double-edged sword for third-party payment platforms such as Taobao. The platform will increase the operating costs of platform service providers. With the operation of the platform, it will increase the cost of data storage, platform operation and maintenance personnel, and may lead to the loss of users. However, if the third party payment platform is included in the monitoring scope, on the one hand, it can reduce the operational risk of the service provider platform enterprises and the possibility of money laundering crimes, on the other hand, it can reduce the risk of goodwill loss. Once the related platform is exposed to money laundering crimes, the service platform will face high operational risk, and the users of the platform will decline substantially.

The work flow of the Account Monitoring Platform is as follows:

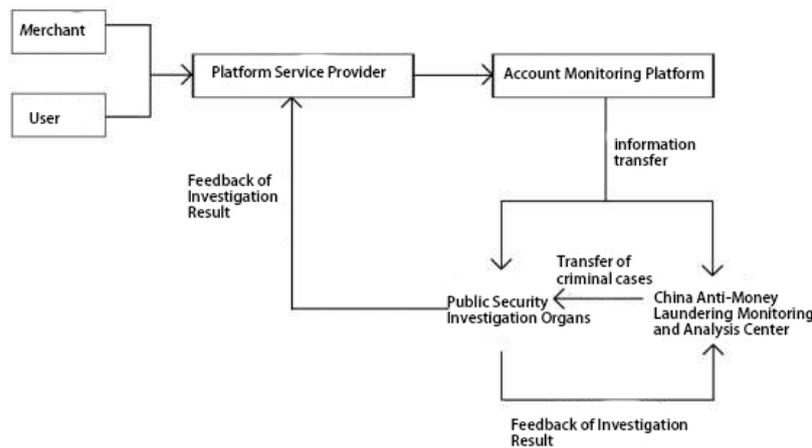


Figure1. The work flow of the Account Monitoring Platform

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