



An Analysis of the Difficulties and Countermeasures for Commercial Banks Anti-Money Laundering

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Abstract

The anti-money laundering has started a fast development in China recently. Laws and regulations tend to be more perfect. The supervision is more comprehensive. And the international cooperation is stronger. However, it still faces many problems. For example, among all checks by The People's Bank of China, commercial banks often report their operations wrongly, causing information redundancy and serious missing. And even the information is useless. Reasons concern many aspects. Commercial banks do not pay attention to the anti-money laundering. The methods used for anti-money laundering are simple. Employees are not professional and lack of responsibility. Therefore, this paper, by analyzing the anti-money laundering mode, concludes that the key, also the difficulty, is to identify the dubious operation. Finally, this paper advances several suggestions for anti-money laundering.

Keywords: Commercial bank, Anti-money laundering, Difficulty, Countermeasure

1. The essence of anti-money laundering is anti-crime.

Money laundering is to adopt some methods, such as transfer, exchange, and payment, to conceal and disguise the source and nature of criminal proceeds. Based on the characteristics of illicit money anti-money laundering is, to pick up, identify, and investigate the dubious cash flow related with crimes from normal cash flow, supplying clues for striking crimes. According to the Article 2 in Chapter one of the Law of the People's Republic of China on Anti-money Laundering: The term "anti-money laundering" as mentioned in the present Law refers to an act of adopting the relevant measures according to the provisions of the present Law to prevent any money laundering activity for the purpose of concealing or disguising, by all means, the sources and nature of criminal proceeds generated from any drug-related crime, organizational crime of any gangland, terrorist crime, crime of smuggling, crime of corruption or bribery, crime of disrupting the financial management order, crime of financial fraud, etc.. The concept is based on the money laundering crime regulated in the Criminal Law, which also mentions seven sorts of upstream crimes.

However, in practice, anti-money laundering is just to screen out the dubious transactions and identify, report, and investigate doubtful customers' information from normal cash flows by following certain operation norms. It does not focus on certain kind of crime. In fact, among the cases that are solved because of the clues from anti-money laundering, only few of them are punished in the name of "anti- money laundering crime". Some are even not crimes but illegal activities, such as interest transfer and tax exemption. But the information is still valuable. In perspective of this point, anti-money laundering is anti-crime.

Therefore, a more exact description of anti-money laundering activity is: "a process of making up false conditions in order to disguise the income, the illegal source, and the illegal employment. (Xin Wang, 1996, p26)"

2. The core of commercial banks' anti-money laundering is to identify the doubtful transaction.

Since People's Bank of China takes up the anti-money laundering business in 2003, it has issued many specific regulations and rules. All these regulations form a relatively complete anti-money laundering law system. "The large-sum and doubtful transaction report system", "the customer identification system", "the anti-money laundering self-regulation evaluation system", and "the non-spot supervision system" constitute the four backbones. Therein, the self-regulation evaluation and the non-spot supervision belong to evaluation mechanism. The customer identification is to supervise the transaction subjects. The large-sum and doubtful transaction report focuses on the objective activity, which is the base for judging whether it is or concerns anti-money laundering. It is also the emphasis of the whole task.

Here, the "doubtful transaction report" is the difficulty in legislation and practice fields because of changeable conditions and standards. The economic development, the finance market, and the financial regulation directly

determine the standards for doubtful transactions. However, in China the transaction subjects are numerous. The economy grows fast. The regional difference is significant. And the development of financial market lags behind. All these factors determine that the doubtful transaction standards will be frequently revised in practice.

On Oct. 1st, 2007, the Command No. 2 of People's Bank of China is in effect. This regulation is about "the management of customer identification, customer information, and transaction record store". Together with the "Decree of Managing Financial Institution's Large-Sum Transaction and Doubtful Transaction Report" (Command No.2, 2006) and the "Decree of Managing Financial Institution Reporting Doubtful Transaction Concerning with Terror Financing" (Command No.1, 2007), the three constitute a complete definition of doubtful transaction.

2.1 Process of identifying and reporting doubtful transaction

Commercial banks are ideal areas for money laundering crimes, which are also the emphasis for anti- money laundering. Compared with securities and insurance industries, commercial banks implement anti-money laundering strategies earlier. In commercial banks' anti-money laundering practice, "doubtful transaction report" is a daily work. But how to realize an exact and timely report is always a key and difficulty task. Doubtful transactions happen frequently. Therefore, it is impractical to check every doubtful transaction. Besides, the identification standards are not quantitative. It depends on people's logical reasoning and sensitive recognition. So, at present in China, we combine the system filtration and manual identification together in the banking industry.

Take a stock bank for example. In order to meet the need for periodical reports regulated by the People's Bank of China, this bank develops an anti-money laundering system based on self conditions, supervising daily transaction information. According to relevant standards, this system produces "large- sum transaction information" and "doubtful transaction information" and presents them to professional employees who will identify the doubtful transactions and make up data. Afterwards, professional employees pack up standardized information into cases and report them upward. By means of this anti-money laundering system, relevant employees merely make judgments among a small scope, determining whether certain transaction is doubtful or not, which takes efficiency and exactness into consideration at the same time. Professional employees can also present doubtful transactions directly, without the filtration of system. They can further complement data of doubtful transactions, achieving the "transaction recurring". Finally, relevant doubtful transactions will be packaged into standard information, offering bases for next summarization and analysis. The process is in figure 1 as follow.

2.2 Difficulties for doubtful transaction report

Since the implementation of doubtful transaction report system, data qualities have been improved gradually. Fewer and fewer institutions report nothing. According to the Anti-Money Laundering Report 2007 issued by People's Bank of China in 2008, the doubtful transaction has already realized the paperless and network report thoroughly. PBC received 210 million doubtful transaction reports in 2007 (? , 2008, p21). However, due to the complexity of practical operations, the doubtful transaction system faces lots of difficulties at present, which mainly focus on these aspects as follow.

(1) Data collection

Customers may refuse to offer necessary information. Anti-money laundering asks for transparent transactions. Financial institutions should collect the sensitive information as much as possible, such as customers' income and expenses. Concerning this kind of questions, customers may refuse to give answers or just offer wrong information.

It is hard to collect data, or effective data, of special operations. At present, the anti-money laundering system has data connections with retailing debt system, personal credit system, and credit card system. They can share transaction data. By this way, all transactions will be traced basically. However, data is from banks' customer material data bases. If an operation merely concerns cashes but not accounts, banks will fail to collect relevant data, such as cash exchange, and cash transfer. Under this circumstance, professional employees must register on the anti-money laundering system and add relevant data, which not only increase employees' work but also can not guarantee data quality.

(2) Contradiction between the subjectivity of doubtful transaction standard and the batch processing

People's Bank of China's Decree of Managing Financial Institution's Large-Sum Transaction and Doubtful Transaction Report regulates the standards for doubtful transactions. Banks and similar financial institutions adopt 18 standards, which can be sorted into several types. Firstly, the quantitative standard, such as the Article 6: Open or cancel different accounts without normal reasons and lots of payments happen before the cancel. Secondly, the efficiency standard, such as the Article 1: The short- term separate capital deposits and collective withdrawals or collective capital deposits and separate withdrawals are not in accordance with customers' identification, financial conditions, or business operations. Thirdly, the association standard, in other words, whether has certain connection with areas where the money laundering crime is popular, such as the Article 5: The sharp rise of capital transfers or frequent payments happen, which associates with customers from areas where there are crowded with crime of smuggling, crime of any gangland, terrorist crime, etc. (2006).

Therein, the quantitative standard and the efficiency standard are right for an automatic filtration of computers. The

association standard can be realized by setting a black list. However, the subjective judgment is irreplaceable. For example, the Article 1 has a large elasticity. A deposit of 1 million Yuan may be a fact for a private owner but it may belong to a doubtful transaction for a government server. Presently, the human identifying subjects are from data filtrated by computers. It is inevitable that amounts of doubtful transactions could not be identified.

Besides, human identification is based on two preconditions: Firstly, understand the transaction completely. Secondly, have a strong responsibility and professional sensitivity. Unfortunately, few bank employees are qualified for the two preconditions and can not satisfy the requirements for anti-money laundering task.

3. Suggestions for commercial banks' anti-money laundering

3.1 Pay more attention to anti-money laundering

Presently many commercial banks are short of employees, especially for small branches. They must ensure the normal operation of daily work firstly. Then, they are responsible for the extension of middle business and product marketing. As a result, they have not sufficient time or energy for anti-money laundering that exerts no benefits.

In order to ask commercial banks to treat the anti-money laundering seriously, the Law of the People's Republic of China on Anti-money Laundering regulates: where a financial institution fails to report relevant reports on large sum transactions or doubtful transactions according to the relevant provisions, the administrative department of anti-money laundering of the State Council or its authorized dispatched organ at or above the districted city level shall order it to correct. In the case of serious circumstances, a fine of 20, 000 Yuan up to 50, 000 Yuan shall be imposed on the financial institution and a fine of 10, 000 Yuan up to 50, 000 Yuan shall be imposed upon its directly liable chairman, senior manager or any other person." The severe punishment indicates administrative departments' emphasis and determination. Commercial banks should pay more attention to anti-money laundering work in thought or in practice.

3.2 Improve employees' quality of anti-money laundering

Anti-money laundering information is from the operational level. It is the operational employee who understands and knows customers' activities. At present, the identification of doubtful transactions still relies on people. Therefore, the responsibility and professional sensitivity of anti-money laundering employees, especially the operational employees, directly determine the quality of doubtful data. So, it is vital to improve the employees' quality. To train a qualified anti-money laundering employee, we should start from two aspects: (1) Make the obligation clear and set up professional responsibility. The Law of the People's Republic of China on Anti-money Laundering regulates clearly that financial institutions are responsible for reporting large-sum transactions and doubtful transactions. To carry out the obligation covers the whole operation of commercial banks. Related employees should understand this point completely. (2) Long-term experiences and train professional sensitivity. Here, the deposit and credit operation, the exchange operation, and the international check operation may be abused.

3.3 Upgrade the operation system and the anti-money laundering system

Present operational system used by financial institutions does not take anti-money laundering into consideration thoroughly. It can be cooperate with the anti-money laundering system in banks. If employees find doubtful transactions, they could do nothing but collect information firstly. After the operation has been done, they register on the anti-money laundering system or report the doubtful transaction to professional employees. By this way, the efficiency is low and can not guarantee the exactness.

We can upgrade present operational system and equip it with the anti-money laundering function. Then, it will change the anti-money laundering work to a great degree. Employees can get rid of present complicated processes. In one operation, employees can complete the filtration, identification, and report, which greatly improve the work efficiency and exactness of identification, reducing the burden of employees and promoting their enthusiasm for work. Meanwhile, the upgraded operation system has a more effective black list system. As a customer who may commit money laundering crime, the employee can get warnings from the system and collect proofs in purpose. Also, the system should support the network check, which can improve the work efficiency further. As for the online bank and other new developed operations, the system should take the anti-money laundering into consideration, as offering more convenient financial services for customers, supplying exact information about anti-money laundering.

At present, criminals usually choose to escape from supervision by means of separate transactions. Therefore, we should set up a united anti-money laundering system, changing present conditions, realizing the information share, associating customer information together, and achieving a more effective identification in a larger scope.

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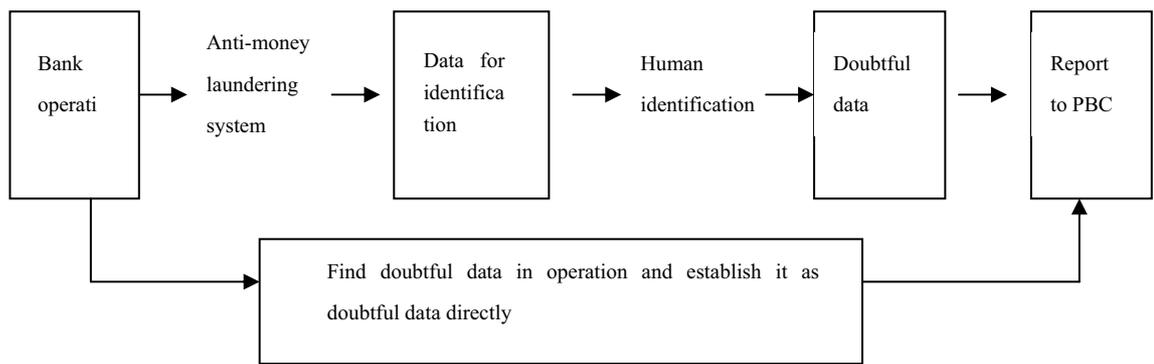


Figure 1. The Identification of Doubtful Data.