

Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe

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Abstract

Technology has positively contributed to the creation of financial markets and the facilitation of payments globally. The effective use of robust technology could enhance the consistent enforcement of financial market laws by curbing financial crimes in any country. This in turn would enhance the integrity of financial markets and promote the viability of financial markets. In relation to this, it appears that Zimbabwe has struggled to comply with international measures to combat money laundering and the financing of terrorism (AML/CFT) since it has poor financial market laws which are inconsistently enforced due *inter alia* to its poor money laundering detection mechanisms and inadequate resources. For instance, Zimbabwe has to date failed to make satisfactory progress to adopt and enforce adequate risk mitigation measures against money laundering practices in accordance with the Financial Action Task Force (FATF) recommendations. This is evidenced by the increased incidence of money laundering in Zimbabwean financial markets. Furthermore, the inconsistent enforcement of financial market laws has resulted in poor liquidity and the recent suspension of the Zimbabwe Stock Exchange (ZSE). The viability and integrity of the Zimbabwean financial market has thus been compromised. This article discusses the integration and use of robust technology in the Zimbabwean financial market to curb financial crimes such as money laundering and bank fraud. The adequacy of financial market laws and/or regulations will also be discussed vis-à-vis their consistent enforcement by relevant bodies such as the Financial Intelligence Inspectorate Evaluation Unit (FIU) in Zimbabwe. This is done to evaluate the use of technology to curb money laundering and promote a viable economy and financial market in Zimbabwe. It is submitted that the relevant authorities should promote the effective use of technological inventions like artificial intelligence (AI) and machine learning to curb money laundering, bank fraud and other related financial crimes in Zimbabwe.

Keywords

Technology, financial markets, terrorist financing, money laundering, financial crimes.

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1 Introductory remarks

A financial market is a marketplace where the creation and trading of financial assets, securities and/or financial instruments such as shares, debentures, bonds, derivatives and currencies take place.¹ In other words, the types of financial markets include stock, bond, commodities, and derivatives markets.² Generally, financial markets bridge the gap between savings and investments for most economies worldwide through facilitating the contractual savings industry³ to organise long-term savings from small individual family units into long-term investments.⁴ In most countries globally, it appears that technology has made a significant contribution to the growth of the financial markets growth and the viability of the economies.⁵ Additionally, the extensive worldwide use of computers, the Internet and other digital technology has promoted the perpetuation of financial crimes including money laundering and fraud⁶ through the swift and obscure transfer of funds.⁷ This flows from the fact that the Internet allows for large anonymous monetary transactions to be carried out by individuals at a fast rate.⁸

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¹ Adambekova and Andekina 2013 *WASJ* 14-15; Mishkin *Economics of Money* 52.

² Darškuvienė *Financial Markets* 14; see the related discussion by Sandra 2021 *IJRESM* 1-2.

³ Sailakshmi 2020 *IJRAR* 519.

⁴ Salehi 2008 *ZIREB* 102-104; O'Reilly *Investment Industry* 6-7; Adom and Elbahnasawy 2014 *BJEMT* 1596-1597; Cavallo and Serebrisky 2016 *Saving for Development* 49; Narayanaswamy, Blitzer and Carvajal 2017 <https://openknowledge.worldbank.org/bitstream/handle/10986/30354/112692-BRI-EM-compass-Note-28-Capital-Markets-FINAL-1-26-FINAL2.pdf?sequence=1> 1-2; Clark, Reed and Sunderland 2018 *Land Use Policy* 336.

⁵ Ductor and Grechyna 2015 *IREF* 11-15; Miki 2020 *Economic Development* 134.

⁶ Troy 2019 *Am Crim L Rev* 940-941; Sanusi, Rameli and Isa 2015 *Procedia Economics and Finance* 108. Fraud is the deliberate misrepresentation, concealment and use of illegal means to obtain money, assets or any other financial benefit owned by a financial institution or to obtain money from depositors by fraudulently posing as a bank or any other financial institution.

⁷ De Sanctis *Technology-enhanced Methods of Money Laundering* 1-2; Morris-Cotterill 1999 *Int Rev Law Comput Tech* 212-215.

⁸ De Sanctis *Technology-Enhanced Methods of Money Laundering* 2.

Money laundering is generally defined as the channelling of cash or other funds generated from illegal activities through legitimate financial institutions and businesses to conceal the original illicit source of such funds.⁹ In other words, money laundering is the act of obscuring the origins of money usually illegally obtained through the provision of an apparently legal source.¹⁰ Information technologies including computers and other specialised digital devices which have sometimes promoted money laundering through the swift movement of illegally obtained funds, often amongst foreign banks and/or legitimate businesses.¹¹

Money laundering may take the form of placement, layering and/or integration.¹² Anyone who makes and/or accrues any form of benefit from any criminal conduct like corruption may be regarded as committing an act of money laundering.¹³ Placement is the first stage of money laundering, wherein the money launderer introduces the illegally obtained profits into the formal financial system.¹⁴ This is often done by breaking up large sums of money into less conspicuous smaller sums before depositing them into financial institutions.¹⁵ This is done to ward off any suspicions that would otherwise arise if such money was deposited by the money launderer in large sums. Layering relates to the stage where the money launderer divides, blurs and moves the laundered money further away from the illegal source.¹⁶ This may be done through the purchase of investment instruments or by transferring the money to jurisdictions which do not cooperate with or comply with anti-money laundering investigations and legislation such as international anti-money laundering/combating of the financing of terrorism

⁹ Achim and Borlea *Economic and Financial Crime* 20-21; Sullivan *Anti-Money Laundering in a Nutshell* 2, defines money laundering as the practice of integrating the proceeds of crime into the legitimate mainstream of the financial sector by concealing its origin.

¹⁰ Ferguson *Global Corruption* 6; Mulig and Smith 2004 *Internal Auditing* 22-23; Sarigul 2013 *IJBMS* 287-288; OECD *Money Laundering and Terrorist Financing Awareness Handbook* 15; Chau and Van Dijck Nemcsik *Anti-Money Laundering Transaction Monitoring Systems Implementation* 2; FATF 2020 <https://www.fatf-gafi.org/faq/moneylaundering/>; Reserve Bank of Zimbabwe 2017 <https://www.fiu.co.zw/wp-content/uploads/2017/07/AML-CFT-Guidelines-for-Casinos-2015-final.pdf> 4.

¹¹ Mikeladze 2018 *Int J Inf Theories Appl* 190; Gilmour 2020 *JMLC* 518.

¹² Irwin, Choo and Liu 2012 *JMLC* 87; Cox *Handbook of Anti-Money Laundering* 8; Ginting 2020 *Veteran L Rev* 5-6.

¹³ Menz 2019 *JMLC* 621; see the related discussion by Sittlington and Harvey 2018 *Crime, L & Soc Change* 422; McDowell and Novis 2001 *Economic Perspectives* 6.

¹⁴ Lokanan and Nasimi 2020 *JMLC* 770; Sarigul 2013 *IJBMS* 289; Teichmann and Falker 2020 *JMLC* 3.

¹⁵ Sarigul 2013 *IJBMS* 289; FATF 2020 <https://www.fatf-gafi.org/faq/moneylaundering/>.

¹⁶ Nurhadiyanto 2020 *APFJ* 71; Dobrowolski and Sułkowski 2020 *Sustainability* 6.

(AML/CFT) measures.¹⁷ Lastly, integration refers to the process where the money launderer moves the previously laundered money into the economy, usually through financial institutions, so that the money appears to originate from his or her legitimate business activities.¹⁸

Money laundering is a global phenomenon and its occurrence in Zimbabwe is no exception.¹⁹ It would be a threat to the integrity and functioning of the financial sector of any country.²⁰ Criminals may easily finance terrorist activities and/or criminal businesses through money laundering globally.²¹ However, it is submitted that the cost of implementing effective anti-money laundering mechanisms often supersedes the proceeds to be recovered from the financial crime.²² To this end, it is necessary to enact and implement robust anti-money laundering laws as well as to optimally utilise technology to detect and curb money laundering activities to promote viable financial markets. Accordingly, this article investigates the use of technological innovations to detect and curb money laundering in the Zimbabwean financial institutions and financial market.

2 Historical background and incidents of money laundering in Zimbabwe (2003-2020)

For the purposes of this article, the practices of money laundering will be traced from 2003, when bearer cheques were introduced into Zimbabwe by the Reserve Bank of Zimbabwe (RBZ) as legal tender.²³ It must be borne in mind that generally, money laundering flourishes in both formal and informal economies. To this end, it is important to note that the economy of Zimbabwe began declining in the 1990s²⁴ and as a result, a shift from the formal to the informal economy ensued.²⁵ Most incidents of money

¹⁷ Dietz *Anti-Money Laundering and Counter-Terrorist Financing* 22; FATF 2020 <https://www.fatf-gafi.org/faq/moneylaundering/>.

¹⁸ Teichmann 2020 *Crime, L & Soc Change* 239; Teichmann and Falker 2020 *JFRC* 338.

¹⁹ Van Duyne *Critical Handbook of Money Laundering* 1; Gubbay 1998 *JMLC* 277-278; Goredema *Money Laundering in East and Southern Africa* 4.

²⁰ Gjoni, Gjoni and Kora "Money Laundering Effects" 19.

²¹ Canhoto 2020 *J Bus Res* 1-2; also see Fletcher, Larkin and Corbet 2020 <http://dx.doi.org/10.2139/ssrn.3704279> 2.

²² Levi 2020 *Asian J Criminol* 303; Pol 2020 *PDP* 86.

²³ Bure and Tengeh 2019 *ESI* 204.

²⁴ Munangagwa 2009 *Gettysburg Economic Review* 112; Mlambo 2017 *J Dev Soc* 104-105.

²⁵ Chekenya 2016 *Undergraduate Economic Review* 1-2; Ndiweni and Verhoeven 2013 *AJAFA* 12; see also related discussion by Kanyeze, Chitambara and Tyson 2017 https://set.odi.org/wp-content/uploads/2017/08/SET-Outlook-for-Zimbabwe-Economy_Sep2017.pdf 8.

laundering occurred in the informal economy of Zimbabwe, which has no transparency or accountability.²⁶

The Zimbabwean economy began to face challenges in the 1990s due to the failure *inter alia* of the Economic Structural Adjustment Programme (ESAP),²⁷ the Zimbabwe Programme for Economic and Social Transformation (ZIMPREST),²⁸ the Fast Track Land Reform Programme (FTLRP),²⁹ the Millennium Economic Recovery Programme (MERP)³⁰ and the National Economic Revival Programme (NERP).³¹ In 2003 Zimbabwe was mired in inflation challenges as the then Zimbabwean currency could not keep up with inflation, and this gave rise to various money laundering incidents.³² Seeking to remedy this, the RBZ issued bearer cheques from 2003 to 2009, which were meant to be temporary and to ameliorate the cash

²⁶ See related discussion by Zabyelina 2012 *Global Crime* 95-96; Vlcek 2018 *Crime, L & Soc Change* 250-251.

²⁷ Nyoni 2018 *JBM* 29; Dlamini and Schutte 2020 *Small Enterprise Research* 309; De Jager and Musuva 2016 *African Review* 21, ESAP lasted from 1990 until 1995.

²⁸ Makina 2010 *J Dev Soc* 105-106, ZIMPREST was a successor programme to the ESAP which sought to address the social and political agenda of poverty reduction, land reform, black economic empowerment and the indigenisation of the Zimbabwean economy. ZIMPREST was unsuccessful due to the government's weak fiscal policy, the high inflation rate and the depreciation of the Zimbabwean dollar in 1998.

²⁹ Mkodzongi and Lawrence 2019 *Rev Afr Polit Econ* 8, the FTLRP was initiated in 1998 to redistributed land from white-owned farms and estates to more than 150 000 black farmers primarily for growing crops and grazing land to landless and poor farmers in Zimbabwe. Additionally, the FTLRP allocated some farmlands to new black commercial farmers who had the skills and resources to farm profitably, reinvest and raise agricultural productivity in Zimbabwe. However, the FTLRP failed due to, *inter alia*, inadequate capitalisation plans made by the GOZ to the new native Zimbabwean farmers.

³⁰ Nyoni 2018 *JBM* 29, MERP was implemented in 2000 by the government of Zimbabwe in a bid to ameliorate the effects posed to the economy of Zimbabwe by ESAP and ZIMPREST. To this end, the MERP sought to reduce budget deficits 3.8% on Zimbabwe's gross domestic product (GDP) and redirecting most of the budget to capital generating projects. Nonetheless, MERP failed due to inadequate capital budget allocated by the government of Zimbabwe in from 2001 to 2003 owing to inflation and other economic mishaps which befell Zimbabwe then.

³¹ Nyoni 2018 *JBM* 29; Bonga 2014 *SSRN Electronic Journal* 9, NERP was launched in 2003 to provide humanitarian support to poor Zimbabweans in the face of a drought that had ensued from 2000 due to reduced rainfall and other economic woes which the ESAP, ZIMPREST, MERP had previously failed to address. However, NERP failed due to macro-economic imbalances resulting from a constrained budget by the government of Zimbabwe.

³² Biti *Rebuilding Zimbabwe* 2; Pasara and Garidzirai 2020 *Economics* 3.

shortages which befell Zimbabwe then.³³ However, Zimbabwe's inflation reached approximately 1,204.6 per cent in 2006.³⁴

Project Sunrise, which allowed private individuals and corporations in Zimbabwe to exchange old bearer notes for newer ones, gave rise to money laundering and the counterfeiting of bearer cheques.³⁵ However, in 2003 about 75 per cent more bearer cheques than what were meant to be in formal banking circulation were presented for exchange to the RBZ by private individuals and corporations, suggesting the prevalence of illegality in the foreign exchange markets and of money laundering.³⁶

It appears that the introduction of bearer cheques was problematic. Firstly, as mentioned above, security features on the bearer cheques were inadequate, and as a result there were numerous reports of counterfeit substitutes being used in Zimbabwe. Consequently, there was an increase in illegal foreign currency exchange activities and money laundering in Zimbabwe.³⁷ Secondly, the bearer cheques were meant to be a temporary remedy for the cash shortages which were being experienced in 2003, but bearer cheques continued to be utilised from 2003 until 2009.³⁸ Subsequently, the rampant inflation and the use of bearer cheques promoted engaging in illicit dealings in foreign currency markets by individuals and corporations between 2003 and 2009.³⁹ The bulk of the bearer cheques was being held by private individuals and corporations outside of the formal banking sector in 2006 for use in illegal foreign exchange trading.⁴⁰ It appears that this affected the RBZ's management of

³³ Section 3 of *Statutory Instrument Regulations Presidential Powers (Temporary Measures) (Currency Revaluation)* 199 of 2006 (SI 199 of 2006); Robinson *Zimbabwe's Hyperinflation* 5; Hove 2017 *Afr Stud Q* 52; Makaye and Mapuva 2016 *Public Policy and Administration Research* 15.

³⁴ Fundira "Money Laundering in Zimbabwe" 48; Kairiza *Unbundling Zimbabwe's Journey to Hyperinflation* 2; Coomer and Gstraunthaler 2011 *Q J Austrian Econ* 329.

³⁵ Fundira "Money Laundering in Zimbabwe" 48.

³⁶ Fundira "Money Laundering in Zimbabwe" 48; Maroleng 2006 *Afr Secur Stud* 46.

³⁷ Ncube and Okeke-Uzodike 2015 *JoAFA* 104; Fundira "Money Laundering in Zimbabwe" 47.

³⁸ Kairiza *Unbundling Zimbabwe's Journey to Hyperinflation* 13; Hove 2017 *Afr Stud Q* 47.

³⁹ Fundira "Money Laundering in Zimbabwe" 48. The inflation rates experienced in Zimbabwe between 2003 and 2009 discouraged corporations from investing capital in the traditional productive sector. In other words, the increase of commodity prices in discouraged investments in the formal productive sector.

⁴⁰ According to Fundira "Money Laundering in Zimbabwe" 48, the then governor of the RBZ launched Project Sunrise, which was aimed at giving private individuals and corporations in Zimbabwe a 21-day period within which they would be allowed to exchange old bearer cheques for new ones. It appeared that of the 43 trillion bearer cheques issued, only 10 million were in the formal banking sector, as the bulk of the bearer cheques were in the informal banking sector. Scores of private individuals

the currency flow, since most of it was used for illegal foreign currency activities and money laundering. It may be concluded that the introduction of bearer cheques and an unstable monetary policy between 2003 and 2009 promoted money laundering activities through illegal foreign exchange dealings.

Money laundering and/or bank fraud-related practices were also carried out between 2003 and 2008 by the personnel of a number of banking institutions.⁴¹ For example, ENG Capital Asset Management (ENG) established a pyramid scheme which offered investment to the public with very high interest rates in order to lure more depositors.⁴² ENG collapsed in 2003 owing to the fraudulent provision of insider loans and other instances of the mismanagement of funds by its directors.⁴³ In another incident, Richard Floyd Mambo and Nigel Mahoko were arrested for attempting to cross into Zambia with the undeclared amount of ZW\$575 million.⁴⁴ In addition, banks such as First Mutual, Time Bank, Royal, CFX Bank Limited, CFX Merchant Bank, Century Bank, Interfin Bank, United Merchant Bank, Royal Bank Zimbabwe Limited, Intermarket Banking Corporation Limited, Intermarket Building Society and Trust Bank collapsed in Zimbabwe in 2004 as a result of the banking financial distress which was caused *inter alia* by bank fraud and poor adherence to corporate governance standards on the part of the directors and/or management of these banks.⁴⁵

and corporations failed to exchange the old bearer cheques for new ones as they could not provide proof of the source of such funds, as was required by the RBZ; also see National Social Security Authority 2009 http://www.saspen.org/DocumentsThirdParty/MANAGING-SOCIAL-SECURITY-UNDER-A-HYPERINFLATIONARY-ENVIRONMENT_H-CHIKOVA-NSSA-ZIM.pdf 17.

⁴¹ Goredema *Confronting the Proceeds of Crime* 50; Ncube and Okeke-Uzodike 2015 *JoAFA* 102; Kupakuwana "Sustainable Retail Banking" 198.

⁴² Goredema *Confronting the Proceeds of Crime* 50; Ncube and Okeke-Uzodike 2015 *JoAFA* 102; Kupakuwana "Sustainable Retail Banking" 198.

⁴³ See the related discussion by Kupakuwana "Sustainable Retail Banking" 199. ENG Directors diverted invested depositors' money into their own properties and luxury vehicles in Zimbabwe and other countries.

⁴⁴ Ncube and Okeke-Uzodike 2015 *JoAFA* 104 argue that the then *Exchange Controls Act* [Chapter 22:05] 14 of 2002 (*Exchange Controls Act*) which did not categorise bearer cheques as currency. As a result, the accused persons (Richard Floyd Mambo and Nigel Mahoko) were acquitted.

⁴⁵ Dzomira 2014 *Journal of Governance and Regulation* 78; Maune 2015 *Risk Governance and Control* 108-110; Chokuda, Nkomazana and Mawanza 2017 *JEBS* 212; Goredema *Confronting the Proceeds of Crime* 53, directors of First Mutual made fraudulent arrangements with third parties for the purchase of shares in First Mutual, whilst also using depositor's money as collateral security for the purchase of such shares.

The United Merchant Bank's failure⁴⁶ in 2004 was further attributable to the fraudulent abuse by one of the bank's employees of the bank's computer system to embezzle funds, the fraudulent misappropriation of funds by the sole director, and incidents of money laundering.⁴⁷ This could have been worsened by the poor use of technology on the part of the relevant regulatory authorities to detect and curb money laundering in the banks and related financial institutions. Trust Bank, Century Bank and Interfin Bank failed due to the fraudulent creation of double books of accounts which ostensibly showed the solvent status of the banks, while in actual fact the banks were insolvent.⁴⁸

In 2004 the *Troubled Financial Institutions (Resolution) Act*⁴⁹ was enacted to ameliorate the failure of banks in Zimbabwe, and it came into force in 2005. This Act created the office of an administrator,⁵⁰ whose primary role was to guide and administer failing banks through implementation and other related schemes, including closely monitored measures to curb money laundering, fraud and any other related financial crimes in the banks and other financial institutions.⁵¹ Additionally, the Troubled Bank Fund (TBF) was adopted by the RBZ (in terms of its role as the lender of last resort)⁵² in 2004, in order to provide financial support to failing banks.⁵³ The RBZ established some guidelines to strengthen corporate governance standards,⁵⁴ minimum internal audit standards⁵⁵ and standards of risk management⁵⁶ for banks and other financial institutions. However, the *Troubled Financial Institutions (Resolution) Act* and the TBF seem to have

⁴⁶ For the purposes of this article, bank failure refers to a state wherein the RBZ as the banking institutions' regulator ordered the closure of a bank as a result *inter alia* of insolvency, fraud, poor credit risk standards or a failure to meet minimum capital requirements.

⁴⁷ Zhou 2014 *RJFA* 13-14; see the related discussion by Nyoka 2015 *Banks and Bank Systems* 9; Goredema *Money Laundering in East and Southern Africa* 13. Roger Boka (Director of United Merchant Bank) was engaged through his tobacco and gold marketing business in money laundering activities in countries such as Botswana, South Africa, Germany and the United Kingdom for approximately USD21 million.

⁴⁸ Nyoka 2015 *Banks and Bank Systems* 9.

⁴⁹ *Troubled Financial Institutions (Resolution) Act* [Chapter 24:28] 31 of 2004 (*Troubled Financial Institutions Act*), see ss 4-9; Mambondiani, Zhang and Arun 2012 *IJEFI* 9; Munoangira and Kaja 2016 *EJBM* 202.

⁵⁰ Section 6(1) of the *Troubled Financial Institutions Act*.

⁵¹ See s 4-9 of the *Troubled Financial Institutions Act*.

⁵² Section 11(5) of the *Reserve Bank of Zimbabwe Act* [Chapter 22:15] 3 of 2016 (*RBZ Act*); Dlamini and Mbira 2017 *JEBs* 212-219; Jefferis 2020 *ISS Policy Brief* 4.

⁵³ Kavila and Le Roux 2017 *AREF* 140; Pfumrodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 58-59.

⁵⁴ See Dzomira 2014 *Journal of Governance and Regulation* 78.

⁵⁵ Dzomira 2014 *Journal of Governance and Regulation* 78; Mawanza, Santu and Mdlongwa 2018 *IRMM* 75.

⁵⁶ Dzomira 2014 *Journal of Governance and Regulation* 78.

failed to prevent the failure of Zimbabwean banks between 2003 and 2021 due to money laundering, fraud and other financial crimes.⁵⁷

In 2016 Arthur Chikukwa was charged for fraud⁵⁸ and money laundering⁵⁹ after he misrepresented that he had a mandate (as a director/shareholder/officer with the requisite authority) to sell or deal in connection with a special grant coal concession which was held by Rock Rabbit Investments (Private) Limited.⁶⁰ Due to this misrepresentation, payments were made for the coal concession by Robert Mhlanga, who was a director of a group of companies.

In early 2020 Old Mutual, Pretoria Portland Cement Limited (PPC) and Seed Co International were placed under investigation for money laundering amid suspected illicit activities surrounding trading in fungible stocks.⁶¹ Accordingly, the government of Zimbabwe barred the trading of fungible stocks in a measure to control the exchange rate, which appears to have spiralled out of control.⁶² The fungibility of the stocks made it possible for shareholders from the three companies to buy shares from the ZSE and dispose of them on offshore markets where they were dually listed.⁶³ In other words, the companies illicitly engaged in the externalisation of funds outside Zimbabwe through trading in fungible stocks. As a result, the government of Zimbabwe through the Ministry of Finance halted all trading on the ZSE for a month to curb such illicit trading practices and money laundering, while companies such as Old Mutual were being investigated for illegal parallel market trading.⁶⁴ It is submitted that the abrupt closure of the ZSE compromised investor confidence in Zimbabwean financial

⁵⁷ Dzomira 2014 *Journal of Governance and Regulation* 78.

⁵⁸ Section 136 of *Criminal Law Codification and Reform Act* [Chapter 9:23] 23 of 2004 (*Criminal Law Codification and Reform Act*).

⁵⁹ In terms of s 8(3) of the *Money Laundering and Proceeds of Crime Act* [Chapter 9:24] 4 of 2013 (*Proceeds of Crime Act*).

⁶⁰ *S v Chikukwa* (HH 813/16 CRB NO 146/16) [2016] ZWHHC 813 (3 October 2016) para unknown.

⁶¹ Bwititi 2020 <https://www.sundaymail.co.zw/old-mutual-in-govts-cross-hairs-zse-giant-faces-money-laundering-charges>; Dzirutwe 2020 <https://www.businesslive.co.za/bd/world/africa/2020-07-28-zimbabwe-trading-to-resume-but-old-mutual-and-ppc-stocks-still-suspended/>.

⁶² See *Exchange Control (Suspension of Fungibility of Certain Shares) Order* General Notice 583 of 2020; Ndoro 2020 <https://ihearare.com/zimbabwe-suspends-fungibility-of-shares-to-control-exchange/>.

⁶³ Bwititi 2020 <https://www.sundaymail.co.zw/old-mutual-in-govts-cross-hairs-zse-giant-faces-money-laundering-charges>, Old Mutual is listed on both the Johannesburg Stock Exchange and the London Stock Exchange.

⁶⁴ Bwititi 2020 <https://www.sundaymail.co.zw/old-mutual-in-govts-cross-hairs-zse-giant-faces-money-laundering-charges>; Dzirutwe 2020 <https://www.businesslive.co.za/bd/world/africa/2020-07-28-zimbabwe-trading-to-resume-but-old-mutual-and-ppc-stocks-still-suspended/>.

markets, as investors and traders rely *inter alia* on predictability and the consistent operation of financial markets.

In mid-2020 Ecocash⁶⁵ which is owned and operates under the auspices of Econet Wireless, was alleged to have created a fictitious mobile money platform which converted such mobile money into cash in order to facilitate the purchasing of foreign currency on the black market and to take the money out of Zimbabwe.⁶⁶ It appears that there were poor customer diligence measures for verifying mobile money customer identity documents, as evidenced by the number of fake mobile money accounts that exist in Zimbabwe.⁶⁷ For this reason the Financial Intelligence Inspectorate Evaluation Unit (FIU), which was formerly known as the Bank Use Promotion and Suppression of Money Laundering Unit ordered Ecocash to reregister all Ecocash agents in order to curb illicit foreign currency dealers who were now promoting illicit high volume transactions on the Ecocash as most illicit foreign currency dealers utilised Ecocash alongside other mobile money platforms like OneMoney, Telecash and Mycash money to commit money laundering.⁶⁸ This was also done to identify and curb illicit foreign currency dealing which promoted high volume transactions, especially on the Ecocash platform, which allegedly destabilised and distorted the foreign currency market.⁶⁹

3 Relevant legislation for money laundering and bank fraud in Zimbabwe

3.1 *The Bank Use Promotion and Suppression of Money Laundering Act [Chapter 24:24] 2 of 2004*

The *Bank Use Promotion and Suppression of Money Laundering Act*⁷⁰ promotes the use of the formal banking system.⁷¹ It was enacted to guard

⁶⁵ Ngwenya 2020 *AJDS* 124; Gukurume and Mahiya 2020 *JSAS* 1204; Muzanarwo, Fah and Chen 2020 *IJPR* 855-856.

⁶⁶ *ECOCASH Zimbabwe (Pvt) Ltd vs RBZ* (HH 333-20, HC 3007/20) [2020] ZWHC 333 (26 May 2020) para unknown.

⁶⁷ Kwaramba 2020 <https://www.iol.co.za/the-star/opinion-analysis/opinion-reserve-bank-of-zims-restrictions-on-mobile-money-left-thousands-jobless-1b5620c3-06e2-4e17-8910-7e36eb1dc777>.

⁶⁸ *ECOCASH Zimbabwe (Pvt) Ltd vs RBZ* (HH 333-20, HC 3007/20) [2020] ZWHC 333 (26 May 2020) para unknown.

⁶⁹ Ndlovu 2020 <https://www.businesslive.co.za/bd/world/africa/2020-07-23-zimbabwes-mobile-money-shutdown-pits-mnangagwa-against-tycoon/>; Nyahasha 2020 <https://www.techzim.co.zw/2020/05/ecocash-ceo-cassava-ceo-charged-under-anti-money-laundering-law/>.

⁷⁰ *Bank Use Promotion and Suppression of Money Laundering Act* [Chapter 24:24] 2 of 2004 (*Money Laundering Act*), see s 4(1).

⁷¹ Simwayi and Haseed 2012 *JMLC* 120.

against a financial crisis mostly promoted by informal and imprudent banking practices such as money laundering and bank fraud⁷² and in reaction to the ongoing Zimbabwean economic decline which started in the 1990s, when most private individuals and corporations in Zimbabwe avoided banks and the formal financial sector.⁷³ As a result, informal trading in goods and foreign currency gave rise to illicit trading activities such as money laundering in.⁷⁴ In other words, most foreign currency was held in the informal banking sector for illegal foreign currency dealings and money laundering. Moreover, the counterfeiting of bearer cheques and the externalisation of funds exacerbated the practice of money laundering.⁷⁵

The *Money Laundering Act* empowered the Bank Use Promotion and Suppression of Money Laundering Unit (Money Laundering Unit) to identify and seize any unlawful and illegitimate proceeds of all serious crimes, including drug trafficking and money laundering.⁷⁶ The *Money Laundering Act* promotes reliance on the formal banking institutions and the combating of money laundering by financial institutions and all private individuals.⁷⁷ However, it is silent on the use of AI and any other technological measures to curb money laundering, bank fraud and other financial crimes in Zimbabwe.⁷⁸

3.2 The Prevention of Corruption Act [Chapter 9:16] 27 of 2004

Corruption could be defined as an immoral act which violates the law of any country while exacerbating poverty and inequality among its people.⁷⁹ The *Prevention of Corruption Act*⁸⁰ was enacted to curb corruption and other related practices like money laundering. It prohibits all of the corrupt activities carried out by public officials.⁸¹ Zimbabwe is regarded as one of

⁷² See related discussion by Munoangira and Kaja 2016 *EJBM* 197.

⁷³ Goredema *Confronting the Proceeds of Crime* 48.

⁷⁴ Goredema *Confronting the Proceeds of Crime* 48; Gudhlanga and Madongonda 2019 *Africa Development* 92.

⁷⁵ Goredema *Confronting the Proceeds of Crime* 48.

⁷⁶ Sections 39-40 of the *Money Laundering Act*; Simwayi and Haseed 2012 *JMLC* 120.

⁷⁷ See s 10-22 of the *Money Laundering Act*; Simwayi and Haseed 2012 *JMLC* 120, which *inter alia* encourages traders, government parastatals and moneylenders to open and keep accounts with financial institutions. Additionally, the Act discourages traders and other business entities from keeping surplus cash, the unlawful hoarding of cash and the unlawful trading in cash and temporarily disallows traders from withdrawing cash from financial institutions.

⁷⁸ See the related discussion by Singh and Lin 2020 *JMLC* 11; Königstorfer and Thalmann 2020 *J Behav Exp Finance* 7-9.

⁷⁹ Chitsove 2018 *U Botswana LJ* 41-42.

⁸⁰ See ss 3, 4 and 13 of the *Prevention of Corruption Act* [Chapter 9:16] 27 of 2004 as amended (*Prevention of Corruption Act*).

⁸¹ Section 4 of the *Prevention of Corruption Act*.

the most corrupt countries in Africa.⁸² Other than the National Code on Corporate Governance (ZimCode) of 2014, which deals with the principles and standards of corporate governance, no measures have been adopted to promote ethical measures and corporate governance standards.⁸³ Unlike countries such as the United States of America (USA) and India, that have compulsory codes for corporate governance measures and corruption-related measures ("comply or else" approaches),⁸⁴ the ZimCode follows a "comply or explain" approach.⁸⁵ This is a more flexible regulatory approach which encourages individuals and corporations to take responsibility for and ownership of corporate governance standards.⁸⁶ It enables companies to follow a set of standards from which they choose, without their being mandated to comply with all of the set standards.⁸⁷ Companies are at liberty to choose principles that are applicable to them and they are expected to explain and justify the reasons behind their choice of corporate governance standards.⁸⁸ However, this approach seems not to be effective because there is rampant corruption and poor governance practice in banks, state-owned enterprises and other companies in Zimbabwe. Perhaps compulsory corporate governance measures that are strictly enforced by the relevant role-players should be introduced into Zimbabwe to effectively curb corruption and money laundering.⁸⁹ The *Prevention of Corruption Act* does not have any provision that encourages the use of technological measures to curb corruption and other related crimes such as money laundering and bank fraud.

3.3 The Money Laundering and Proceeds of Crime Act [Chapter 9:24] 4 of 2013

The *Money Laundering and Proceeds of Crime Act*⁹⁰ was enacted in 2013 in order to reinforce the criminalisation *inter alia* of money laundering, and the financing of terrorist offences, and to aid in the identification and freezing

⁸² Sifile and Dangwa 2018 *JBM* 66.

⁸³ Sifile and Dangwa 2018 *JBM* 66.

⁸⁴ Sarkar 2015 <http://dx.doi.org/10.2139/ssrn.2638252> 3.

⁸⁵ Chimbari 2017 *IJECM* 218.

⁸⁶ Sarkar 2015 <http://dx.doi.org/10.2139/ssrn.2638252> 3.

⁸⁷ Chimbari 2017 *IJECM* 218.

⁸⁸ Chimbari 2017 *IJECM* 218.

⁸⁹ Also see the discussion in Chimbari 2017 *IJECM* 219.

⁹⁰ See ss 8, 9, 81 and 82 of the *Proceeds of Crime Act*; and see the related discussion by Maguchu 2017 *JMLC* 141; FATF 2013 <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/improvingglobalamlcftcomplianceongoingprocess-22february2013.html#zimbabwe>.

of the assets of terrorists.⁹¹ This follows Zimbabwe's failure to comply with the Financial Action Task Force (FATF) recommendations on AML/CFT. The *Proceeds of Crime Act* obliges every financial institution and designated non-financial business or profession to identify all their customers by means of an identity document when conducting business with them or during the opening of an account and/or the buying or selling of immovable property.⁹² The *Proceeds of Crime Act* provides for the cooperation and functions of the Money Laundering Unit to curb money laundering, fraud and other financial crimes.⁹³ It further provides some requirements for customer identification in cases of cross-border foreign currency transactions and correspondent banking relationships.⁹⁴

Notably, the *Proceeds of Crime Act* deals with the identification and curbing of money laundering and the financing of terrorist offences.⁹⁵ However, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) report of 2019 indicates that Zimbabwe is still struggling to comply with the FATF's AML/CFT recommendations due *inter alia* to the lack of adequate resources and the poor use of technological devices to detect and combat money laundering and bank fraud in its financial markets and financial institutions.⁹⁶ The Act does not expressly provide for the use of technology such as artificial intelligence (AI) and machine learning to curb money laundering and bank fraud.

4 Relevant role-players in the supervision of money laundering and bank fraud

4.1 The FIU

As stated earlier, the FIU was established by the *Money Laundering Act*⁹⁷ *inter alia* to provide for the promotion and use of the formal banking system. The FIU receives, analyses and disseminates to other role-players information regarding money laundering, the financing of terrorism and

⁹¹ Maguchu 2018 *Afr Secur Rev* 281; Kodongwe 2017 <http://dx.doi.org/10.2139/ssrn.3046227> 4.

⁹² Sections 14-23 of the *Proceeds of Crime Act*.

⁹³ Section 3 of the *Proceeds of Crime Act*.

⁹⁴ See ss 10-12 of the *Proceeds of Crime Act*.

⁹⁵ Sections 10-12 read with ss 78-91 of the *Proceeds of Crime Act*; according to Maguchu 2017 *JMLC* 141. The enactment of the *Proceeds of Crime Act* managed to save Zimbabwe from being sanctioned by the FATF, which could have had negative impacts on trade and the economy.

⁹⁶ ESAAMLG 2019 *5th Follow-Up Report* 16.

⁹⁷ Section 3 of the *Money Laundering Act*; Simwayi and Haseed 2012 *JMLC* 120.

related financial crimes.⁹⁸ The FIU also monitors all financial institutions' compliance with the FATF's AML/CFT recommendations, especially, recommendation 23.⁹⁹ It analyses suspicious transactions reports (STRs) and other information related to money laundering and terrorist financing in Zimbabwe.¹⁰⁰

5 Anti-money laundering international instruments and role players

5.1 The FATF

The FATF was established in 1989 at the initiative of the Group of Seven (G7) countries, as a global anti-money laundering and anti-terrorist financing watch-dog and inter-governmental body that sets international standards aimed at curbing such activities.¹⁰¹ FATF was established primarily to curb money laundering and other related financial crimes in order to foster financial market integrity in all its member countries.¹⁰² To date, the FATF has established over 200 recommendations and standards which provide the basis of a uniform and coordinated global response to money laundering, the drug trade, human trafficking and other related crimes.¹⁰³ The FATF recommendations on AML/CFT have a persuasive effect on member countries such that non-adherence by any member country may lead to possible economic or other sanctions being imposed.¹⁰⁴ Thus, the FATF recommendations are international standards which member countries should implement through taking measures adapted to

⁹⁸ Anon Date Unknown <https://pubdocs.worldbank.org/en/834721427730119379/AML-Module-2.pdf> 4; also see Forget and Hocevar *Financial Intelligence Units* 33-70.

⁹⁹ Forget and Hocevar *Financial Intelligence Units* 71-72, recommendation 23 of the FATF places an obligation on member countries to ensure that institutions are effectively implementing the AML/CFT requirements and have put in place adequate measures to control the risk of their being involved in or used for money laundering or the financing of terrorism.

¹⁰⁰ See s 3 of the *Money Laundering Act*; ESAAMLG *Technical Compliance Re-rating* 18.

¹⁰¹ Dobrowolski and Sułkowski 2020 *Sustainability* 6; Nanyun 2020 *JMLC* 1-2; Borlini 2020 *Va J Int'l L* 4; FATF 2020 <http://www.fatf-gafi.org/about/>.

¹⁰² De Oliveira 2018 *Crime, L & Soc Change* 155-156; Bayona-Rodríguez 2019 *Crime, L & Soc Change* 394; Setiadi and Andriasari 2019 *ASSEHR* 554.

¹⁰³ See FATF 2020 <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>; Setiadi and Andriasari 2019 *ASSEHR* 554. In addition, the FATF established eight specific recommendations for combating terrorist financing.

¹⁰⁴ See the related discussion by Newbury 2017 *JMLC* 257; Bester, De Koker and Hawthorne *Access to Financial Services* 4.

their particular circumstances.¹⁰⁵ This flows from the general fact that countries have different legal frameworks and financial sectors and so FATF's recommendations cannot be adopted in a one-size-fits-all approach.

Professionals such as lawyers, accountants, company secretaries and real estate agents who are under the category of Designated Nonfinancial Business and Professions (DNFBPs) are obliged to comply with about six major recommendations.¹⁰⁶ These are recommendations 12, 16, 17, 20, 24 and 25 of the FATF.¹⁰⁷ In addition, DNFBPs are mandated by the FATF to conduct due diligence on their clients, maintain proper records, retain documentation of the related transactions for at least six years and submit suspicious transaction report to the relevant authority in charge of the anti-money laundering regime of a country.¹⁰⁸ However, it appears that Zimbabwe is not yet fully compliant with the FATF recommendations, since it is not a member of the FATF.

5.2 The ESAAMLG

The ESAAMLG is a regional body established to accelerate the adoption and implementation of global recommendations and standards to curb money laundering and the financing of terrorism in some eastern and southern African countries.¹⁰⁹ Zimbabwe is a member of the ESAAMLG.¹¹⁰ The ESAAMLG's efforts to combat money laundering and the financing of

¹⁰⁵ FATF 2020 <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> 7.

¹⁰⁶ FATF 2020 <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> 7.

¹⁰⁷ FATF 2020 <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> 7, recommendation 12 states that financial institutions and DNFBPs are required to take reasonable measures as part of their internal controls to determine if a customer or beneficial owner is a domestic or international organisation politically exposed people (PEP). Recommendation 16 applies to both cross-border and domestic wire transfers and seeks to prevent terrorists and other financial criminals from having unfettered access to wire transfers for moving their funds, and for detecting and curbing such misuse when it occurs. Recommendation 17 states that financial institutions and DNFBPs should be required to take appropriate steps to identify and assess their proliferation financing risks. Recommendation 20 states that the financial institutions must report any suspicious transactions to the relevant authorities immediately. Recommendation 24 states that competent authorities should be able to obtain, or have access in a timely fashion to, adequate, accurate and current information on the beneficial ownership and control of companies and other legal persons. Recommendation 25 states that countries should have regard to the FATF best practice guidelines on providing feedback to reporting financial institutions and other persons.

¹⁰⁸ FATF 2020 <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> 7.

¹⁰⁹ See the related discussion by Arnone and Padoan 2008 *EJLE* 362; Ntege 2020 *Journal of the Institute for African Studies* 33.

¹¹⁰ Maguchu 2017 *JMLC* 139.

terrorism are conducted in accordance with the FATF and other regional and international role-players.¹¹¹ However, it appears that the ESAAMLG does not oblige its member countries to employ appropriate technological measures such as AI to curb money laundering, bank fraud and other financially related crimes in their respective financial instruments and financial markets.

5.3 Evaluation of Zimbabwe's compliance with the FATF and ESAAMLG

In an assessment carried out by the ESAAMLG in 2019 to assess Zimbabwe's compliance with the FATF's AML/CFT measures and recommendations, it was stated that Zimbabwe was partially compliant with such measures and recommendations.¹¹² The FATF held that Zimbabwe fell short of adequate compliance on more serious AML/CFT offences and on most FATF recommendations, especially the recommendation to adopt robust measures to curb money laundering and the financing of terrorism offences in the financial market.¹¹³ In other words, role-players such as the Zimbabwe Republic Police (ZRP), the Zimbabwe Immigration Revenue Authority (ZIMRA), the National Prosecuting Authority (NPA), the Zimbabwe Anti-Corruption Commission (ZACC) and the Financial Intelligence Unit were found to have inconsistent statistics on the prosecutions and convictions of offenders.¹¹⁴ This could be attributed *inter alia* to a lack of a comprehensive understanding of money laundering offences and a lack of resources on the part of the enforcement authorities and other role-players in Zimbabwe. Zimbabwe does not have robust measures in place to detect, investigate and combat money laundering and the financing of terrorist offences.¹¹⁵

5.4 Basel Committee on Banking Supervision (BCBS)

The BCBS is housed in the Bank for International Settlements in Basel (BIS) and was established in 1974 by the governors of the central banks of the Group of Ten (G10) countries as a committee of banking supervisory authorities. The BCBS is empowered to set guidelines for banking regulation globally.¹¹⁶ To date, the BCBS has issued a number of banking regulatory standards aimed at ensuring that there are uniform rules and

¹¹¹ ESAAMLG became a member of the FATF in 2010.

¹¹² ESAAMLG 5th Follow-Up Report 4.

¹¹³ ESAAMLG 5th Follow-Up Report 16.

¹¹⁴ ESAAMLG 5th Follow-Up Report 16.

¹¹⁵ ESAAMLG 5th Follow-Up Report 16.

¹¹⁶ Goodhart Basel Committee on Banking Supervision 1.

regulations for banks globally.¹¹⁷ In 1997 the BCBS issued the Core Principles for Effective Banking Supervision (Core Principles) which are minimum standards for the sound prudential regulation and supervision of banks globally.¹¹⁸ Likewise, the Core Principles require all banks to have adequate policies and processes, including strict customer due diligence (CDD) rules, to promote high ethical and professional standards in the banking sector so as to prevent banks from being used for criminal activities like money laundering, bank fraud and the financing of terrorist activities.¹¹⁹ To date, the BCBS has published three banking regulations conventionally referred to as the Basel protocols.¹²⁰ Although the BCBS and other relevant role-players have made commendable efforts to enhance the combating of bank fraud, money laundering and other illicit trading practices, they do not expressly oblige the member states to use AI to curb financial crimes such as money laundering.

5.5 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988

Drugs have historically been among the main drivers of money laundering globally, due to the need of drug traffickers to transform proceeds from the illegal sale of drugs into an apparently legal source.¹²¹ The United Nations (UN) *Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988* (*Narcotic Drugs Convention*) was adopted to curb drug abuse and related money laundering activities.¹²² Zimbabwe became a member state of the *Narcotic Drugs Convention* in 1993, in a bid to align its money laundering regulatory regime with international best practices. However, it is submitted that the *Narcotic Drugs Convention* is too old and appears not to have been updated to align with the recent trends in drug

¹¹⁷ Kerwer 2015 *Governance* 620; Vousinas 2015 *JFRC* 393.

¹¹⁸ BIS 2011 <https://www.bis.org/publ/bcbs213.pdf> 1.

¹¹⁹ De Koker 2014 *JMLC* 286.

¹²⁰ Akkizidis and Kalyvas *Final Basel III Modelling* 12-14. Basel I was published in 1988 to set the minimum capital standards required for banks. Basel II was published in 2004 and it became more flexible in relation to the minimum capital requirements for banks which had been set by Basel I. In this regard, Basel II introduced three pillars of banking regulation which were firstly more inclusive of the differences in the balance sheets between banking institutions. Secondly, Basel II encouraged the efficient use of disclosure for strengthening market discipline and encouraging sound banking practices. Thirdly, Basel II introduced a review of an institution's capital adequacy and internal assessment process. Lastly, Basel III, which was published in 2010, introduced new and stiffer capital and liquidity requirements to safeguard the liquidity of banks in cases of economic crisis.

¹²¹ Teichmann 2020 *Crime, L & Soc Change* 238; see the related discussion Levi 2015 *Eur J Crim Pol Res* 283.

¹²² Article 2 of the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988).

crimes and related financial crimes such as money laundering globally. Furthermore, the *Narcotic Drugs Convention* does not expressly provide for the use of technological measures by regulatory authorities to effectively curb money laundering and other financial crimes in all member countries.

5.6 United Nations Convention Against Transnational Organised Crime 2000 (UNTOC)

The United Nations General Assembly adopted the UNTOC in a bid to curb transnational organised crime such as money laundering¹²³ in all countries and jurisdictions. To date, about 147 countries have signed UNTOC, including Zimbabwe, which became a member state in 2007.¹²⁴ The UNTOC was established in conjunction with its three protocols on human trafficking, migrant smuggling, and firearms in a bid to provide a more unified and comprehensive protection in all countries against related transnational organised crimes like money laundering.¹²⁵ The UNTOC empowers member countries to utilise modern technology and other technologically related methods when dealing with transnational organised crime.¹²⁶ Although there is no express mention of the use of AI to curb money laundering and other related crimes in the UNTOC, it could be inferred from article 27(3) of the UNTOC, which envisages the use of AI and other modern technologies to curb financial crimes such as money laundering in its member countries.

5.7 Political Declaration and Action Plan Against Money Laundering 1998

The Political Declaration and Action Plan Against Money Laundering 1998 (Action Plan Against Money Laundering) was established by the General Assembly after the internationalisation of criminal activities and the globalisation of money laundering increased.¹²⁷ The Action Plan Against Money Laundering was adopted in 1998 in order to identify future priorities and areas requiring further action, goals and targets to be established for drug control in all member countries.¹²⁸ It appears that it was developed as

¹²³ Article 2 of the *United Nations Convention against Transnational Organized Crime* (2000) (UNTOC); Gastrow 2013 *ISS Policy Brief* 4. Transnational organised crime is organised crime coordinated across national borders, involving groups of individuals working in more than one country to plan and execute illegal business activities.

¹²⁴ Article 1 of the UNTOC; Rose 2020 *AJIL* 52.

¹²⁵ See art 7 of the UNTOC; Kuznetsova, Shuniaeva and Murkshtis 2020 *IJASOS* 148.

¹²⁶ Article 27(3) of the UNTOC.

¹²⁷ *Political Declaration and Action Plan against Money Laundering* UN Doc A/RES/S-202 (1988); Chang 1998 *Int J Comp Appl Crim Justice* 5; Schroeder 2001 *FBI Law Enforcement Bulletin* 1-2.

¹²⁸ UN Date Unknown https://www.unodc.org/unodc/en/commissions/CND/Political_

a result of the sophistication of the techniques employed by the offenders.¹²⁹ In other words, offenders were taking advantage of weaknesses in the national regulatory frameworks of most countries by utilising flexible and rapid transfers as well as moving assets across national boundaries.¹³⁰ Additionally, offenders exploited the diversity of business regulations in national systems and utilised unregulated professional persons in some countries to commit money laundering activities. The Action Plan Against Money Laundering does not expressly require member states to use modern technologies such as AI and machine learning to detect and curb money laundering.

5.8 Naples Political Declaration and Global Action Plan against Organised Transnational Crime 1995

The *Naples Political Declaration and Global Action Plan against Organised Transnational Crime* (*Naples Political Declaration*) was established in 1995 by the General Assembly of the UN.¹³¹ It emphasised the need for urgent global action against organised transnational crime, focussing on the structural characteristics of criminal organisations.¹³² The *Naples Political Declaration* requires member countries to harmonise their legislation so as to ensure that their criminal justice systems have the capacity to prevent and control organised transnational crime in all its types and manifestations.¹³³ However, it does not expressly provide for the use of AI, machine learning and other technological measures to detect and timeously curb money laundering and other financial crimes in all member countries.

6 The effects of corona virus (covid-19) on money laundering and financial markets in Zimbabwe

Covid-19 is an acute respiratory disease which began in China and has spread to all parts of the world.¹³⁴ The negative impact of covid-19 has been felt by most countries globally.¹³⁵ It has affected most global economies.¹³⁶

Declarations/Political-Declarations_Index.html; Anon "Implementation of a Comprehensive, Integrated and Balanced Approach" 1-2; see related discussion by Narayan 2019 *Stat LR* 230.

¹²⁹ Chang 1998 *Int J Comp Appl Crim Justice* 5.

¹³⁰ Chang 1998 *Int J Comp Appl Crim Justice* 5.

¹³¹ Neudek, Zyhlarz-Shaw and Lovell 1995 *ECCL* 91.

¹³² Neudek, Zyhlarz-Shaw and Lovell 1995 *ECCL* 91.

¹³³ Neudek, Zyhlarz-Shaw and Lovell 1995 *ECCL* 91; art 8 of the *Naples Political Declaration and Global Action Plan against Organised Transnational Crime* (1995).

¹³⁴ Bastard *et al* 2020 *Science* 1-2; Singhal 2020 *IJP* 281.

¹³⁵ Oldekop *et al* 2020 *World Development* 3; Ozili and Arun 2020 <http://dx.doi.org/10.2139/ssrn.3562570> 9.

¹³⁶ Chakraborty and Maity 2020 *Sci Total Environ* 2.

In this regard, Zimbabwe too has grappled to boost its economy due to covid-19, political instability and related factors. The Zimbabwean economy was expected to decline by 6.5 per cent in 2019 owing *inter alia* to the negative effects of covid-19 on the formal and informal sectors of the economy.¹³⁷ Moreover, the economy was expected to decline by approximately 3 to 8 per cent at the end of 2020 due to a lack of fiscal stimulus from the government. This was the result *inter alia* of low productivity in the manufacturing sector and the closure of border entries for imported goods due to covid-19. This affected the economy since Zimbabwe relies mostly on imported goods and services.¹³⁸ Corruption has also played a negative role in during the covid-19 pandemic and a lot of covid-19-related relief was looted by government officials. For example, the former Minister of Health (Mr Obadiah Moyo) was dismissed from office after the criminal abuse of office though inflating the prices of covid-19 relief material and funds in Zimbabwe.¹³⁹

Additionally, greed and corruption amongst government officials, prominent business figures and state security agents deployed to enforce the covid-19 preventative measures also affected the economy at the expense of the poor ordinary people in Zimbabwe.¹⁴⁰ Corruption and money laundering-related cases in Zimbabwe have manifested in shady deals between government officials and those in the private sector providing medical equipment for covid-19.¹⁴¹ Government officials and business people set high profit mark-ups on coronavirus-related material and personal protective equipment (PPE) and abused loans allocated for economic relief and food aid parcels meant for the poor and economically vulnerable people.¹⁴² Furthermore, the bribery of police and the military officers deployed to enforce covid-19 lockdown regulations worsened corruption.¹⁴³ The effects of covid-19 have been worse for the poor and vulnerable members of the Zimbabwean society as travel restrictions barred most informal traders from travelling to their places of trade while food parcels were diverted from the

¹³⁷ UNDP 2020 https://reliefweb.int/sites/reliefweb.int/files/resources/UNDP_ZW_Briefs_Socioeconomic_impact_of_Corona_virus_01_2020.pdf 7.

¹³⁸ UNDP 2020 https://reliefweb.int/sites/reliefweb.int/files/resources/UNDP_ZW_Briefs_Socioeconomic_impact_of_Corona_virus_01_2020.pdf 7.

¹³⁹ Chingono 2020 <https://www.theguardian.com/global-development/2020/jul/09/zimbabwe-health-minister-facing-coronavirus-corruption-charge-sacked>; Ndlovu 2020 <https://www.thearticle.com/covid-19-corruption-and-stealing-the-recovery>.

¹⁴⁰ Dzinamarira *et al* 2020 *Clinical Infectious Diseases* 4.

¹⁴¹ Moyo 2020 *GJMBR* 37; Mutizwa 2020 *JAPS* 69.

¹⁴² Moyo 2020 *GJMBR* 37.

¹⁴³ Moyo 2020 *GJMBR* 37.

poor by corrupt government officials.¹⁴⁴ It is submitted that corruption and money laundering have been rampant in Zimbabwe during the covid-19 pandemic.

7 The use of technology in combating money laundering in Zimbabwe

There has been a rapid increase in AI-related measures to curb money laundering in many countries, since they are more efficient than human intelligence.¹⁴⁵ It appears that AI has been valuable in the fields of engineering, telecommunications, aerospace, physics and humanities due *inter alia* to reduced errors, its speedy completion of tasks and its constant availability, unlike humans.¹⁴⁶ Machine learning,¹⁴⁷ graph deep learning,¹⁴⁸ natural language processing,¹⁴⁹ chatbots¹⁵⁰ and social network analysis¹⁵¹ are being devised and improved by information technology specialists to curb money laundering in some countries.¹⁵² In Singapore,¹⁵³ Italy,¹⁵⁴ the

¹⁴⁴ UNDP 2020 https://reliefweb.int/sites/reliefweb.int/files/resources/UNDP_ZW_Briefs_Socioeconomic_impact_of_Corona_virus_01_2020.pdf 5.

¹⁴⁵ Bellomarini, Laurenza and Sallinger "Rule-Based Anti-Money Laundering" 1-2.

¹⁴⁶ Jamshidi et al "Novel Multiobjective Approach" 454-458.

¹⁴⁷ Machine learning is an application of AI that provides computer systems with the ability to automatically learn from past experiences.

¹⁴⁸ Chami et al 2020 <https://arxiv.org/pdf/2005.03675.pdf> 1; Bacciu et al 2020 *Neural Networks* 204, Wagner 2019 *Gesellschaft für Informatik* 3. Graphs are generally data structures that can represent complex relational data. On the other hand, deep learning is an AI function that imitates the functioning of the human brain in processing data for detecting objects, recognising speech, translating languages and making decisions. In AML, graph deep learning enables regulators to detect and identify a recurrent pattern in money laundering.

¹⁴⁹ Han et al 2020 *Digital Finance* 6. Natural language processing relates to a field of AI which strives to improve the ability of computers to process and analyse large amounts of data emanating from human languages. As a result, natural language processing may help curb money laundering through the timely detection of strange or suspicious and/or illegitimate banking transactions.

¹⁵⁰ Singh, Ramasubramanian and Shivam *Building an Enterprise Chatbot* 9. Chatbots are AI software that can have a conversation with a user in natural language through messaging applications, websites, mobile applications or through the telephone. In banking, chatbots can manage communications on behalf of the bank with millions of banking products and service users, at a low cost.

¹⁵¹ Colladon and Remondi 2017 *Expert Syst Appl* 51. Social network analysis refers to the study of trends between online social network accounts. In social network analysis, relevant role-players for money laundering usually utilise network metrics (which relates to the amount of "traffic") in a specific social network account held by a suspected money launderer.

¹⁵² Bellomarini, Laurenza and Sallinger "Rule-Based Anti-Money Laundering" 2.

¹⁵³ Woodsome and Ramachandran *Fixing AML* 15. Singapore's central bank, the Monetary Authority of Singapore (MAS), is working with various stakeholders to ensure that banks utilise a technological device which verifies personal information linked to individuals' national identity numbers.

¹⁵⁴ Colladon and Remondi 2017 *Expert Syst Appl* 51.

USA, the United Kingdom (UK)¹⁵⁵ and Germany, AI has been employed in one way or the other to curb money laundering in the banking sectors.¹⁵⁶ The use of AI has some notable benefits for the banking community globally. Firstly, it enables better access to credit through the greater accuracy of the mechanisms used for credit risk assessments, which reduces the risks of inaccurate results.¹⁵⁷ Secondly, the advanced analytics employed by AI may help banks to offer contextualised, personalised banking products and experiences to financial consumers.¹⁵⁸ Thirdly, AI may afford financial consumers better protection from fraud and other money laundering-related practices, since AI measures may automatically analyse massive amounts of data to detect anomalies which may be threats to banking institutions.¹⁵⁹

It is generally accepted that Zimbabwean banks have adopted online banking in their operations. However, there appears to be a very low rate of the adoption of AI-related measures by banks and other financial institutions to curb money laundering and related practices.¹⁶⁰

8 Conclusion

Money laundering is a complex global phenomenon which has been exacerbated by the extensive use of computers, the Internet and other digital devices by the offenders. As a result, various countries have enacted some laws and regulations to curb financial crimes such as money laundering and the financing of terrorist activities. As indicated above, most countries have enacted laws in accordance with the recommendations from the FATF and other role-players such as the UN and the ESAAMLG. In this regard, Zimbabwe has also enacted legislation such as the *Prevention of Corruption Act*, the *Proceeds of Crime Act* and the *Money Laundering Act*

¹⁵⁵ According to the European Banking Federation (EBF 2019 https://www.ebf.eu/wp-content/uploads/2020/03/EBF-AI-paper-_final-.pdf) 22, AI use in the banking sector has helped reduce both the number of complaints filed to the Financial Conduct Authority (FCA) and the resolution times.

¹⁵⁶ Pleyer 2020 <https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf> 1.

¹⁵⁷ Pleyer 2020 <https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf> 22.

¹⁵⁸ Pleyer 2020 <https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf> 22.

¹⁵⁹ Pleyer 2020 <https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf> 22.

¹⁶⁰ Shambira 2020 *EJSSS* 118, shows that there is a higher frequency of the adoption of digital technology (for example, social media) as against a lesser frequency of the adoption of AI technologies, with chatbots being the only form of AI adopted by only 16% of banks in Zimbabwe. Shambira's study does not account for the infrequent adoption of AI measures to curb money laundering, bank fraud and other financial crimes in Zimbabwe.

to curb money laundering, bank fraud and the financing of terrorism in its financial market and financial institutions. However, it is submitted that this legislation and other enforcement mechanisms employed by relevant role-players are not robust enough to curb money laundering and bank fraud in Zimbabwe. Given this background, it is submitted that the RBZ should provide extensive training to banking personnel and companies in order to improve their skills and their understanding of money laundering, bank fraud and financing of terrorism activities in Zimbabwe. This follows the fact that the National Risk Assessment (NRA) which was carried out by the ESAAMLG¹⁶¹ indicated that most banking personnel and companies' employees in Zimbabwe do not have sufficient understanding of the money laundering risks and terrorist financing. Moreover, no AI and/or other technological measures have been adopted to detect and combat money laundering, bank fraud and the financing of terrorist practices in Zimbabwe due *inter alia* to a lack of financial resources. Additionally, the RBZ has struggled to allocate sufficient resources to banking institutions for them to prevent and/or curb money laundering, bank fraud and financing of terrorist activities in Zimbabwe.¹⁶²

AI is effective at examining a series of complex transactions timeously while finding anomalies through automatically analysing large amounts of data.¹⁶³ It is therefore hoped that the relevant authorities will consider adopting AI and machine learning techniques to timeously detect suspicious transactions that usually results in money laundering and/or bank fraud.¹⁶⁴ Accordingly, the *Proceeds of Crime Act*¹⁶⁵ should be amended to expressly

¹⁶¹ ESAAMLG 5th Follow-Up Report 4.

¹⁶² Ferwerda *et al* 2020 *Scientific Reports* 1-2.

¹⁶³ Waliszewski and Warchlewska 2020 *ESI* 400.

¹⁶⁴ INSA Financial Threats Council 2020 https://www.insaonline.org/wp-content/uploads/2020/05/INSA_WP_TBML.pdf 8. In the United States of America (USA), the Financial Crimes Enforcement Network (FINCEN) reviews all Trade-Based Money-Laundering (TBML)-related Suspicious Activity Reports (SARs) that are filed by financial institutions. Additionally, FINCEN can also utilise Geographic Targeting Orders (GTOs), which requires any USA financial institution which operates within a certain geographic area to report on transactions greater than a specified amount. FINCEN has the ability to analyse this data and detect and identify typologies, patterns and trends, which could serve as vital information for tracing suspicious and money laundering-related practices to both law enforcement and the private sector in the USA. In other countries like Canada, AI is used in the form of algorithm-related measures in order to timeously detect illicit practices in the financial markets. This information was obtained from Mr Topham from the Financial Service Conduct Authority in South Africa during the 2nd Corporate and Financial Markets Law Annual Colloquium held on the 29th-30th of October 2020 at the North-West University.

¹⁶⁵ Section 3 of the *Proceeds of Crime Act* must be amended to include the use of AI, machine learning and other related technologies to curb money laundering, bank fraud and other financial crimes in Zimbabwe.

enact provisions that oblige banks and other financial institutions to use AI and other related technological measures to detect and curb money laundering practices in the Zimbabwean financial market.

The RBZ should establish and adopt more stable monetary policy measures to discourage money laundering in the Zimbabwean financial markets and financial institutions. This could combat illicit practices that are rife in the informal financial markets and informal foreign currency exchange.¹⁶⁶ A two-tier regulatory framework should be established to enhance the regulation of banking institutions and financial markets. It is hoped that this would allow the RBZ to have dedicated objectives and clear mandates towards the formulation of a stable and robust monetary policy.

The RBZ and the banks should consider incorporating codes of good corporate governance,¹⁶⁷ as seen in other countries such as South Africa. This should be done in order to improve the standard of corporate governance in Zimbabwean banks and prevent corrupt practices, which have already caused the failure of a number of banks. Moreover, robust laws on the usage of mobile money platforms like Ecocash agents should be enacted to regulate mobile money transactions to curb money laundering. The Statutory Instrument Banking (Money Transmission, Mobile Banking and Mobile Money Interoperability) Regulations¹⁶⁸ are not robust enough to effectively regulate mobile money services. The RBZ and Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) are responsible for the supervision of mobile money operations.¹⁶⁹ The *SI Banking Regulations* should be revised to expressly provide for the use of AI, machine learning and other related technological measures to curb money laundering and related financial crimes in Zimbabwe.

¹⁶⁶ Fundira "Money Laundering in Zimbabwe" 47.

¹⁶⁷ The King Report and King Code on Corporate Governance are corporate governance standards which seek to promote good corporate governance in the boards of directors of listed companies, banks, and certain state-owned enterprises in South Africa.

¹⁶⁸ *Statutory Instrument Banking (Money Transmission, Mobile Banking and Mobile Money Interoperability) Regulations* 80 of 2020 (*SI Banking Regulations*), ss 3-5 and other relevant sections.

¹⁶⁹ Robb, Tausha and Vilakazi "Competition and Regulation" 231.

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List of Abbreviations

Afr Secur Rev	African Security Review
Afr Secur Stud	African Security Studies
Afr Stud Q	African Studies Quarterly
AI	Artificial Intelligence
AJAAF	African Journal of Accounting, Auditing and Finance
AJDS	African Journal of Development Studies
AJIL	American Journal of International Law
Am Crim L Rev	American Law Criminal Review
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
APFJ	Asian Pacific Fraud Journal
AREF	African Review of Economics and Finance
Asian J Criminol	Asian Journal of Criminology
ASSEHR	Advances in Social Science, Education and Humanities Research
BCBS	Basel Committee on Banking Supervision
BIS	Bank of International Settlements
BJEMT	British Journal of Economics, Management and Trade
DNFBPs	Designated Nonfinancial Business and Professions
Crime, L & Soc Change	Crime, Law and Social Change

EBF	European Banking Federation
ECCL	European Journal of Crime, Criminal Law and Criminal Justice
EJLE	European Journal of Law and Economics
EJBM	European Journal of Business and Management
EJSSS	European Journal of Social Sciences Studies
ENG	ENG Capital Asset Management
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
ESAP	Economic Structural Adjustment Programme
ESI	Entrepreneurship and Sustainability Issues
Eur J Crim Pol Res	European Journal on Criminal Policy and Research
Expert Syst Appl	Expert Systems with Applications
FATF	Financial Action Task Force
FBI Law Enforcement Bulletin	Federal Bureau of Investigation Law Enforcement Bulletin
FINCEN	Financial Crimes Enforcement Network
FIU	Financial Intelligence Inspectorate Evaluation Unit
FTLRP	Fast Track Land Reform Program
GJMBR	Global Journal of Management and Business Research
IJASOS	International E-Journal of Advances in Social Sciences
IJBMS	International Journal of Business and Management Studies
IJECM	International Journal of Economics, Commerce and Management
IJEFI	International Journal of Economics and Financial Issues
IJP	Indian Journal of Pediatrics
IJPR	International Journal of Pharmaceutical Research
IJRAR	International Journal of Research and Analytical Reviews
IJRESM	International Journal of Research in Engineering, Science and Management
INSA	Intelligence and National Security Alliance

Int J Comp Appl Crim Justice	International Journal of Comparative and Applied Criminal Justice
Int J Inf Theories Appl	International Journal: Information Theories and Applications
Int Rev Law Comput Tech	International Review of Law, Computers and Technology
IREF	International Review of Economics and Finance
IRMM	International Review of Management and Marketing
ISS	Institute for Security Studies
ISS Policy Brief	Institute for Security Studies Policy Brief
JAPS	Journal of African Problems and Solutions
J Behav Exp Finance	Journal of Behavioral and Experimental Finance
J Bus Res	Journal of Business Research
JBM	Journal of Business and Management
J Dev Soc	Journal of Developing Societies
JEBS	Journal of Economics and Behavioral Studies
JFRC	Journal of Financial Regulation and Compliance
JMLC	Journal of Money Laundering Control
JoAFA	Journal of African Foreign Affairs
JSAS	Journal of Southern African Studies
MERP	Millennium Economic Recovery Programme
NERP	National Economic Revival Program
OECD	Organisation for Economic Co-operation and Development
PDP	Policy Design and Practice
PPC	Pretoria Portland Cement
Q J Austrian Econ	Quarterly Journal of Austrian Economy
Rev Afr Polit Econ	Review of African Political Economy
RJFA	Research Journal of Finance and Accounting
RBZ	Reserve Bank of Zimbabwe
Sci Total Environ	Science of the Total Environment
Stat LR	Statute Law Review
TBF	Troubled Bank Fund
U Botswana LJ	University of Botswana Law Journal
UK	United Kingdom
UN	United Nations

UNDP	United Nations Development Programme
UNTOC	United Nations Convention Against Transnational Organised Crime (2000)
USA	United States of America
Va J Int'l L	Virginia Journal of International Law
Veteran L Rev	Veteran Law Review
WASJ	World Applied Sciences Journal
ZIMPREST	Zimbabwe Programme for Economic and Social Transformation
ZIREB	Zagreb International Review of Economics and Business
ZSE	Zimbabwe Stock Exchange