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The impact of Jordanian anti-money laundering laws on banks

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Abstract

Purpose – The purpose of this paper is to examine the impact of the Jordanian anti-money laundering law and its instructions on the Jordanian banking industry. The anti-money laundering law in Jordan is newly enacted, but there are new developments not covered by the law. For instance, the revolutionary wave known as the Arab Spring surrounding Jordan has increased the crime rates in Jordan, and it has also reduced international coordination and cooperation to encounter money laundering operations. The emergence of new means for money transfer is affecting the efficiency and speed of bank transfers. Subsequently, the impact of the law on Jordanian banks is unknown.

Design/methodology/approach – This paper relies on the Jordanian Anti-Money Laundering and Counter Terrorist Financing Law 2007 as a primary source of information. The relevant Jordanian anti-money laundering instructions that have directly been affecting banks include the Jordanian Anti Money Laundering and Counter Terrorist Financing Instructions Number (51) 2010. These instructions were considered the most important legislation for the purpose of this paper.

Findings – While the Jordanian anti-money laundering law is based on certain principles, the effectiveness of the law is unknown. The Arab Spring, particularly the Syrian revolution, has negatively increased the crime rates and money laundering activities in Jordan. To make matters worse, the international cooperation and coordination between countries in combating money laundering are not at the required level, and this has encouraged money laundering groups to exploit the situation. Only time will tell whether the banks will be able to cope sufficiently with the increased anti-money laundering obligations. Obviously, it is critical at this stage to establish effective coordination between legislators, regulators and the banking industry to minimize problems encountered by the banks, thereby to ensure effective implementation of the law.

Originality/value – This paper provides an examination of the impact of the Jordanian anti-money laundering law that has directly affected banks. It is hoped that this paper would provide some insight into this particular area for academics, practitioners, the legal advisers, banks and policy-makers not only in Jordan but also elsewhere. In view of the international nature of money laundering and banking, there will be significant interest in how the anti-money laundering law affects banks operation in Jordan.

Keywords Jordan, Arab spring, Anti-money laundering law

Paper type Research paper



Introduction

The idea of money laundering is simple: a criminal who acquires illegal funds will seek to ensure that he can use the money without the authorities' realizing that the funds are derived from criminal activities. The simplest definition of money laundering given by previous researchers is "washing of dirty money to make it appear legitimate"

(Reynolds, 2002). A deeper definition that explains the process of money laundering is “The use of money derived from illegal activity by concealing the identity of the individuals who obtained the money and converting it to assets that appear to have come from a legitimate source” (Madinger, 2012). The act can also be defined as the process of cleaning “dirty” money that is resulted from criminal activities, so that the money appears to have been acquired from legitimate sources (Rahman, 2010). The end of this process is the use of money in legal activities and outside the country (Al-Anany, 2011).

According to Article 2(a) of the Jordanian Anti Money Laundering and Counter Terrorist Financing Law 2007, money laundering is described as:

[...] every conduct involving acquiring, possessing, disposing of, moving, managing, keeping, exchanging, depositing, investing, manipulating the value or transferring the funds or any other act, where the purpose of the act is to conceal or disguise the source, true nature, place, movement, disposal means, ownership or related rights or otherwise preventing from identifying the person who committed the crime that generated the funds, with the knowledge that the funds are the proceeds of any of the crimes stipulated in Article (4) of this law[1].

Money laundering has become a global issue that spreads in many countries. Although this illegal process is not a new phenomenon, it has threatened numerous countries and communities because many organized crime groups support such an act (Mcdonell, 1998). This phenomenon has political and security consequences: it leads to political unrest as well as instability of societies. The perpetration of money laundering, although not apparently associated to physical violence, can be categorized as a form of white-collar crime. Left unchecked, it could lead to the collapse of any country's economy (Rahman, 2013).

The process of money laundering can take many forms, among which are structured transactions, asset purchase and resale, credit card overpayment, wire transfer of funds, etc. Money laundering process usually includes three stages: placement, layering and integration (Mugarura, 2012). The first stage – placement – involves the physical disposal of the cash proceeds that derived from illegal activities into a local or international financial system. The second stage – layering – is the separation of the illicit proceeds from their original sources through the creation of complex layers of financial transactions to disguise the audit trail and provide anonymity. The final stage is integration, in which criminally derived wealth is converted into legitimate funds with no provable links to criminal activities.

Money laundering and banks

Money laundering that involves banks can be defined as any act or attempt that aims to use any banking transaction to hide any money earned from illegal means by the bankers or customers or other people. Banks can be considered as the main and the first factor to encourage currency circulation in a country under different law (Al-Kadi *et al.*, 2012). Therefore, the use of banking institutions is one of the common ways to carry out the act of money laundering (Bennett, 2007). Many factors make it difficult for the crime to be separated from the banking business in the state. Among the factors are:

- the growth of transactions between local and international banks;
- banks' commitment to the secrecy principle on accounts in an absolute manner;
- technical progress in financial systems among the various countries of the world;

- the emergence of what is known as online banks and digital accounts system;
- the linking between the banking sector with banking work at the international level; and
- the involvement of some foreign banks in money laundering operations.

Moreover, the emergence of new methods of money laundering via the Internet and mobile phones – and their evolutions – have enabled electronic laundering to be done in minutes or a few seconds. It is easier to carry out those operations and deal with banks via these technologies (Arafa, 2008).

The Central Bank of Jordan has considered that there are a few operations that should be reviewed and informed by the Jordanian banks to the authorities, for instance[2]:

- no justified reason for a significant increase in the cash deposits of any customer;
- no clear justification for concentration on cash deposits and withdrawals instead of using banking transfers or other negotiable instruments;
- exchanging of a large amount of small groups of bank notes with large ones without justified reasons;
- no clear justification for a sudden withdrawal of customer's balances;
- transfer of large and similar sum of money (on weekly or monthly basis);
- no clear and reasonable explanation of the source for the sudden settling of a personal large debt by the customer; and
- the use of Internet banking by the customer to transfer between his own accounts for many times and for unjustified reasons.

These institutions work on the development of the financial dealings of the state and individuals to encourage the movement of cash in the state under applicable provisions. Such a legitimate role of banks has been motivating money launderers to exploit the financial and banking institutions to achieve their specific objectives, and this has led to the destructive effects at social and economic levels by degrading the governing state and its institutions.

The following are the common ways of money laundering through banks:

- *Through the traditional way of depositing and transferring money through banks:* The funds are deposited in an account or in a number of accounts in different banks and different countries; then, the funds are transferred to be invested to the original homeland of the depositors, at most.
- *Through re-borrowing:* Consistent perpetrators of money laundering deposit their money in banks; then, they apply for a loan from a bank which they can deal with, particularly by using the funds deposited in another country as collateral for the loan. This way allows the money launderer to legally launder their money.
- *Through credit cards:* These cards are issued either by banks as Visa or *Master Card* or issued through a single financial institution. They are particularly issued for customers to be dealt with instead of cash. The cardholder can buy goods through the use of the credit cards, and the bills are sent to the card's issuance center. The value to be repaid from the branch where the purchase process was made after the value is requested from the customer's account; then, the customer would sell the goods that

are already bought by the credit card. (In this way, the customer gets the money without passing through channels and transfer constraints). Further, concealed or lost cards can be used in the committing of the money laundering crime, as this theft may be real or fake. The theft may be fake to commit the crime, that is, the card is in the holder's possession and is not stolen or lost; however, in the case of loss or theft, the bank must be notified; moreover, the card must continue to be used for purchasing goods or services, and the merchant might be committing fraud to accept the stolen or lost card, where he is involved with the offender in making unreal invoice purchases by using the card (Alosh, 2007).

Anti-money laundering in Jordan

Earlier in 1997, the need to address the question of money laundering in Jordan appeared. On November 18, 1997, the Central Bank of Jordan had sent Memorandum Number 210/97 to license Jordanian banks and counsel them on issues related to money laundering. The general advice given was to "recognize" their customers, that is, verify the latter's identity. The memorandum included a reasonable general description of the suspicious conditions regarding the identity of bank customers. However, when addressing the question of money laundering, it must be admitted that not much practical guidance was provided in the description of such conditions, which could have been explained in a form of comprehensive procedural manual for Jordanian banks.

Further, the lack of a correlated structure was among the numerous problems affecting Memorandum Number 210/97, which did not give a detailed explanation on what money laundering means. In 2000, these deficiencies were slightly remedied, in which a completely new legal provision was added to the 2000s Jordanian Banks Law to address money laundering operations. A more specialized regulation of money laundering was enacted in 2001. Actually, the Jordanian Banks Law 2000 Article 93 was found to be one of the most important legal provisions in combating money laundering in Jordan. In particular, the Article has made it compulsory for any bank in Jordan to immediately report to the Central Bank of Jordan of any financial dealing that involves or may be linked to an illegal act or a crime (Al-Rimawi, 2003).

The money laundering law in Jordan are newly enacted with the passage of the Jordanian Anti-Money Laundering Law in 2007 amended in 2010[3]. Jordanian Anti-Money Laundering Law 2007 and Jordanian Anti Money Laundering Instructions Number (51) 2010 require certain procedures to be followed by banks in combating money laundering. Among the procedures is the appointment of a money laundering-reporting officer: This also complies with the procedures regarding the identification of customers, including the prohibition of numbered accounts or accounts for shell banks. Such a measure also allows for having regular internal and external inspection; auditing of compliance with procedures; having procedures for reporting suspicious transactions; having procedures for profiling customer's transactions and businesses; having procedures for education and training of employees of anti-money laundering requirements; and implementing internal controls for the prevention of money laundering.

However, the period between 2010 and 2014 has changed banks efficiency in Jordan; the country now has local banks and branches of foreign banks (al-Taweel, 2002) with increasingly available efficient means of communication and Internet banking. Most of the banks compete in Internet banking operations to cope with the changes of customers' needs

toward a faster transaction at lower cost (al-Smadi, 2011, p. 3). These matters came with tough conditions for Jordan in the past three years, as the country is situated in the middle of militarily, politically and economically unstable countries, such as Syria, Egypt, Tunisia, Libya and Yemen. Specifically, these conditions are known as the Arab Spring.

Although the accurate information and complete statistics of Jordan's anti-money laundering in banks are covered by secrecy, the researchers have managed to find, from a few statistics, the gaps in the anti-money laundering law, especially in the banking sector. According to the statistics[4], there is an increase in the number of suspicious transactions by banks that the Jordanian anti-money laundering unit had received (Table I).

Having analyzed these statistics, the researchers concluded that the number of notifications received by the Jordanian money laundering unit continue to increase, as well as those notifications by banks. Thus, the researchers concluded that banks are the first target of money laundering transaction in Jordan.

The impact of the anti-money laundering law on banks

The Arab Spring has negatively affected Jordan (Eskjær, 2012). The Syrian revolution, particularly, has brought the revolutionary waves to Jordan because of the country's long border with the former. Furthermore, this revolution has caused economic weakness and loss of security. Accordingly, Jordan has witnessed demonstrations during the last period because of price hike following the weakness of the economy (Sager, 2013).

The Jordanian Finance Minister claimed that the Arab Spring has further affected the Jordanian economy, during which the local government revenue fell by more than 550 million JD (\$775 million in estimation), and the total expenditures had increased by more than 700 million JD (\$986 million in estimation) in 2011. These circumstances have put pressure on the treasury resources, until the fiscal deficits in the general budget reached to unsafe limits (Ammon News Newspaper, 2012). Until 2014, the cost of hosting Syrian refugees in Jordan amounted to more than \$5 billion (Majalla Magazine, 2014). However, the President of the Jordanian Senate has warned about the frustrations impacts resulting from the Arab Spring in Jordan at the forefront of the economic crisis and its consequences, which are represented in the form of unemployment, inequitable distribution of development gains and increment of financial and administrative corruptions (Alrai Newspaper, 2013). Consequently, Jordan has been witnessing an increased rate of crimes in general, where money laundering operations across national borders. Unfortunately, it appears that the international cooperation and coordination between countries in combating money laundering were not at the required level, and this has encouraged money laundering groups to exploit the situation.

Nevertheless, the obligations of the Jordanian anti-money laundering law and its instructions have had positive impact on the Jordanian banking sector. In the sense, they

The no. of notifications of suspected transactions related to money laundering the unit[5] received from obliged entities of reporting[6]

Table I.
Suspicious
transactions reports
in Jordan (2008-2011)

Year	The no. of notifications of suspected transactions related to money laundering the unit[5] received from obliged entities of reporting[6]	From banks
2008	195[7]	190
2009	141[8]	124
2010	194[9]	177
2011	242[10]	214

have protected the national economy from the dangers of money laundering through banks, and they have protected the banks from getting involved in money laundering operations. In fact, they also protect Jordanian banking activity from collapsing and encountering legal accountability.

However, bankers are often faced with the dilemma when it comes to considering their response to legislative requirements that require them to establish effective anti-money laundering initiatives. First of all, not all the money that needs to be laundered is proceeds from criminal activities. Second, money laundering is not restricted to the actions of those who practice exclusively within the banking (Davies, Saltmarsh, 1994). According to the Jordanian Anti-Money Laundering Law[11], all banks' operations are checked for any suspicious transaction of money laundering. In addition, the banks have a sensitivity of being connected to money laundering scandals on the front pages of newspapers (Bennett, 2007, p. 117), which will negatively affect their reputation. Therefore, these institutions are compelled to comply with the anti-money laundering law, so that they would not be exposed to any legal accountability.

While the obligations of Jordanian anti-money laundering law and its instructions are applied to the processes and procedures of anti-money laundering, they have negative impacts on the Jordanian banking secrecy. Such procedures increase service costs, which can negatively affect the quality and the volume of the provided banking services. Also, there is a significant impact on the operations of banks and on the relationship between banks and their customers. It has been argued that the anti-money laundering laws also threaten the principles of banking secrecy (Lawson, 2002). This principle of banking secrecy prevents the bank from revealing any information or data about its customers (al-Juhani, 2003). Combating money laundering is critical for public safety and security, whereas banking secrecy is a customer privilege. Reporting obligation under the Jordanian anti-money laundering law means that banks have to make a balance between complying with law and protection of customers' secrecy. As a result, and because of the many procedures related to customer secrecy, this will cause clients' dissatisfaction. Consequently, this negatively affects the volume of deposits in the Jordanian banking system. On the other hand, these procedures have acted as obstacles to attracting capital into Jordan.

According to Jordanian Anti-Money Laundering Instructions[12], in case the bank enters into an ongoing relation[13] with the customer before completion of the verification procedures, the bank shall terminate the relation and notify the Unit (Jordanian Anti-Money Laundering and Counter Terrorism Financing Unit) of any suspicious transaction related to money laundering from any act by the customer (such as a customer's request to transfer a large amount of money to another account). This operation is not necessarily a money laundering act. However, according to other Jordanian instructions[14], the termination of the relationship must be secretly placed on hold without the customer's knowledge, while waiting for a response from the Unit about this operation without any regard to commercial consequences resulting from the pending. Hence, what is the analysis for the bank? To follow the bank's law, it is likely that the bank would delay the completion of the customer's transaction, which, in turn, will have a negative impact on the customer's confidence in the bank; the result may be in the loss of profit that might be gained through this transaction for the bank itself.

The Anti-Money Laundering Law may create a great dilemma for banks. For instance, failure to report suspicious transactions according to the law is an offence. If

the bank fails to make a proper disclosure in this regard, then it could be liable for breach of duty of confidentiality, or it could face the risk of being liable for notification of the suspected customer. The banks could be held liable as a trustee for the rightful owner of the corrupted funds. Regardless, the anti-money laundering system appears to be reasonably effective in protecting the integrity of the core financial system in major financial centers (Obaidat, 2005).

Conclusion

The Jordanian anti-money laundering law is still new. However, as Jordan is located in the middle of unrest economical and military region, money laundering activities seems to be flourishing. The period between 2010 and 2014 has changed banks efficiency in Jordan, in which the banks are required to comply with the laws to combat money laundering. Alongside, these matters came with tough conditions for Jordan in the past three years, as the country is situated in the middle of militarily, politically and economically unstable countries. The Arab Spring has negatively affected Jordan by way of increasing crime rates in general as money laundering operations across national borders. Unfortunately, international cooperation and coordination between countries in combating this crime were not at the required level.

Jordanian banks have found themselves having to comply with an increasing number of regulations and guidelines. It is obvious that the laws have put strenuous legal and administrative loads on banks, which may involve serious legal liabilities and other commitments for deficiency in compliance. These regulations and guidelines have negative impact when applied on the procedures of anti-money laundering in the Jordanian banking secrecy. The procedures result in increased service costs – the factor that can negatively affect the quality and the volume of the provided banking services. In fact, the procedures have also been affecting the operations of banks and the relationship between banks and their customers, ultimately causing clients' dissatisfaction because of the many procedures related to customer secrecy. In turn, this affects the volume of deposits in the Jordanian banking system. If left unchecked, then the procedures may become as a obstacle to attracting capital into Jordan.

Notes

1. Literal translation taken from Web site of Jordanian Anti Money Laundering unit, www.amlu.gov.jo/Public/English.aspx?Lang=2&Page_Id=2721&Menu_Parent_ID=49&type=R (Accessed 25-4-2014).
2. Jordanian Guidance Manual for Anti-Money Laundering and Counter Terrorist Financing, Issued by the Central Bank of Jordan, for more information see: <http://amlu.gov.jo/Portals/0/English/02%20Guidance%20Manual%20for%20Anti-Money.pdf> (accessed 9 April 2014).
3. Law Amending to the Jordanian Anti-Money Laundering and Counter Terrorist Financing Law No. (31) for 2010, Publication in Jordanian Official Gazette No (5057), dated 21 September 2010, p. 5521.
4. The statistics issued by the Jordanian anti-money laundering unit, the unit was established in accordance with the Jordanian Anti-Money Laundering and Counter Terrorist Financing Law 2007, as a financially and administratively independent unit and linked with the Central Bank of Jordan, for more information see the Web site of the unit: www.amlu.gov.jo
5. The Jordanian Anti-Money Laundering Unit.

6. Article (13) from Jordanian Anti-Money Laundering and Counter Terrorist Financing Law 2007 has identified the obliged entities of reporting, and they are more than 15 entities, such as Jordanian banks, exchange companies, companies performing any of the activities that are subject to control and license of securities commission.
7. The Jordanian annual Anti Money Laundering Unit report 2008. p. 11.
8. The Jordanian annual Anti Money Laundering Unit report 2009. p. 30.
9. The Jordanian annual Anti Money Laundering Unit report 2010. p. 51.
10. The Jordanian annual Anti Money Laundering Unit report 2011. pp. 31-32.
11. Article (14) from Jordanian Anti-Money Laundering and Counter Terrorist Financing Law 2007.
12. Article 3 (7) from Jordanian Anti Money Laundering and Counter Terrorist Financing Instructions Number 51/2010.
13. According to Article 1 (b) from The Jordanian Anti Money Laundering and Counter Terrorist Financing Instructions Number 51/2010, ongoing relation is described as: "The banking relation which is expected, upon the time of commencement, to last for undetermined period of time and involves multiple transactions".
14. Article 8 (4/b) from Jordanian Anti Money Laundering and Counter Terrorist Financing Instructions Number 51/2010.

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