

**A LEGAL ANALYSIS ON MONEY LAUNDERING IN THE FOOTBALL
INDUSTRIES OF THE UNITED STATES OF AMERICA, ENGLAND AND
MALAYSIA**

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GURU DHILLON (93321)

A Thesis Submitted to the Ghazali Shafie Graduate School of Government
in fulfillment of the requirements for the Doctor of Philosophy
Universiti Utara Malaysia

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ABSTRAK

Kajian ini merupakan satu analisis undang-undang terhadap aktiviti pengubahan wang haram dalam industri bola sepak Amerika Syarikat, England dan Malaysia. Isu-isu kontroversi yang timbul ialah pertama, maklumat terkini mengenai tahap aktiviti pengubahan wang haram dalam industri bola sepak yang disasarkan tidak dapat dikenalpasti. Kedua, tiada peruntukan spesifik dalam undang-undang pengubahan wang haram atau peraturan-peraturan bola sepak untuk meregulasikan pengubahan wang haram dalam industri bola sepak yang disasarkan. Ketiga, penguatkuasaan pengubahan wang haram dalam industri bola sepak yang disasarkan amat menghampakan dari aspek pendakwaan kes yang amat kurang. Kajian ini telah memeriksa tahap kelaziman pengubahan wang haram dan telah menentukan keberkesanan undang-undang dan peraturan-peraturan bolasepak semasa serta mekanisme penguatkuasaan dalam negara-negara industri bola sepak yang disasarkan. Tipologi pengubahan wang haram serta kajian kes dari kelab-kelab bolasepak telah dikemukakan dan dianalisis. Semua Konvensyen, Perjanjian, Undang-Undang Pengubahan Wang Haram, Peraturan-Peraturan Bolasepak yang berkaitan serta *Financial Action Task Force (FATF) 40 + 9 Recommendations* dan *FATF 2012 Recommendations* telah dikaji dengan teliti. Di samping itu, laporan dari pelbagai organisasi yang berkaitan telah diselidik dan kesimpulan yang sesuai telah dikemukakan. Temubual dengan pakar-pakar pengubahan wang haram juga telah dilakukan untuk meneguhkan penemuan am kajian ini. Kajian ini mendapati bahawa pengubahan wang haram dalam industri bola sepak yang disasarkan adalah pada tahap lazim, sementara Undang-undang Pengubahan Wang Haram dan Peraturan-Peraturan Bolasepak serta badan penguatkuasaan adalah tidak berkesan untuk meregulasikan aktiviti pengubahan wang haram dalam industri bolasepak yang disasarkan. Pelbagai reformasi seharusnya dilaksanakan oleh Amerika Syarikat, England dan Malaysia untuk membendung gejala pengubahan wang haram dalam industri bolasepak yang disasarkan. Adalah disyorkan untuk menerima pakai Kod Cricket Anti-Rasuah India, menerima pakai peruntukan yang tertentu dalam Undang-undang Pengubahan Wang Haram Argentina yang meregulasikan industri bolasepak Argentina serta menerima pakai cadangan untuk meneguhkan mekanisme penguatkuasaan dalam perjudian atas talian. Semua persoalan kajian telah berjaya dijawab dan objektif kajian yang ditetapkan pada permulaan kajian ini telah dicapai.

Kata kunci: Industri Bola Sepak Amerika Syarikat, England dan Malaysia, Kelaziman, Mekanisme Penguatkuasaan, Peraturan-Peraturan Bolasepak, Undang-Undang Pengubahan Wang Haram.

ABSTRACT

This study is a legal analysis on money laundering activities in the football industries of the United States of America, England and Malaysia. Firstly, the problems that surfaced were that there is no up to date information on the current levels of money laundering instances in the targeted football industries. Secondly, there are no specific provisions in the general Anti-Money Laundering Laws and Football Regulations governing money laundering in the targeted football industries. Thirdly, the enforcement mechanisms regulating the football industry appear ineffective as the targeted football industries have been somewhat spared from any money laundering prosecutions. This study examined the prevalence of money laundering, determined the effectiveness of the general Anti-Money Laundering Laws and Football Regulations and the accompanying enforcement mechanisms in the targeted football industries. Money laundering typologies and case studies from Football Clubs were highlighted and analyzed. All relevant Conventions, Treaties, Anti-Money Laundering Laws, Football Regulations, the Financial Action Task Force (FATF) 40 +9 Recommendations and the latest FATF 2012 Recommendations have been thoroughly examined. Relevant reports by various organizations were inspected and apt conclusions were highlighted. Interviews with money laundering experts were also conducted to supplement the general findings. It was found that money laundering is prevalent in the targeted football industries, the general Anti-Money Laundering Laws and Football Regulations as well as the enforcement mechanisms are ineffective in regulating money laundering activities in the targeted football industries. It has been recommended that various types of reforms be implemented by the authorities of the United States of America, England and Malaysia to curtail money laundering activities in their respective football industries. Such recommendations include the adoption of the Indian Cricket Anti-Corruption Code, adopting certain provisions from The Argentina Money Laundering Regulations regulating the football industry of Argentina and to strengthen enforcement mechanisms on online betting. All the Research Questions were successfully answered and all the objectives set at the beginning of the research have been met.

Keywords: Anti-Money Laundering Laws, Enforcement Mechanisms, Football Regulations, Football Industries, Prevalence.

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DEDICATION

TO MY FATHER, MOTHER, BROTHER AND DEAREST FAMILY,
WITHOUT YOU, THIS WORLD WILL BE A DESERT,
WITH YOU, ITS AN ETERNAL RAINBOW OF HOPE
WITH ALL MY LOVE

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| Proceeds of Crime Act 2002 (POCA) | 5, 17, 18, 138, 143, 144, 167, 168, 199, 202, 206, 207, 212, 232, 305 |

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LIST OF ABBREVIATIONS

| | |
|---------|--|
| ACA | Anti-Corruption Act 1997 |
| ACSU | Anti-Corruption and Security Unit |
| ADAA | Anti-Drug Abuse Act 1988 (ADAA) |
| AFA | Argentina Football Association |
| AFC | Asian Football Confederation |
| AML | Anti-Money Laundering |
| AMLA | Anti-Money Laundering Act 2001 |
| AMLATFA | Anti-Money Laundering and Anti-Terrorism Financing Act |
| APG | Asia/Pacific Group on Money Laundering |
| AusTRAC | Australian Transaction Reports and Analysis Centre |
| AWAMLA | Annunzio-Wylie Anti-Money Laundering Act 1992 |
| BCCI | Board of Control for Cricket in India |
| BNM | Bank Negara Malaysia |
| BSA | Bank Secrecy Act |
| BSAAG | Bank Secrecy Act Advisory Group |
| CAF | Confédération Africaine de Football |
| CDD | Customer Due Diligence |
| CDB | Control and Disciplinary Body |
| CFATF | Caribbean Financial Action Task Force |
| CFCB | Club Financial Control Body |
| CFT | Counter Financial of Terrorism |
| CIES | International Centre for Sports Studies |
| CJA93 | Criminal Justice Act 1993 |

LIST OF ABBREVIATIONS (continued)

| | |
|----------|---|
| COE | Centre of Excellence |
| CONCACAF | Confederation of North, Central American and Caribbean Association Football |
| CONMEBOL | Confederación Sudamericana de Fútbol |
| CTR | Currency Transaction Report |
| DDA | Dangerous Drugs Act 1988 |
| DTA | Drug Trafficking Act 1994 |
| EAG | Eurasian Group |
| EGM | Extraordinary General Meeting |
| ESAAMLG | Eastern and Southern Africa Anti Money Laundering Group |
| EU | European Union |
| FA | Football Association of England |
| FAFFP | FA Financial Fair Play Regulations |
| FAM | Football Association of Malaysia |
| FATF | Financial Action Task Force |
| FDS | Fraud Detection System |
| FIFA | Federation Internationale De Football Association |
| FinCEN | Financial Crimes Enforcement Network |
| FININT | Foundation for Research in Financial Intelligence |
| FIU | Financial Intelligence Unit |
| GAFI | Grouped'action financière |
| GAFISUD | Financial Action Task Force on Money Laundering in South America |
| GFI | Global Financial Integrity |
| HDFC | Housing Development Finance Corporation |

LIST OF ABBREVIATIONS (continued)

| | |
|----------|---|
| HMRC | Her Majesty's Revenue and Custom of UK |
| HSBC | Hong Kong and Shanghai Banking Corporation |
| ICICI | Industrial Credit and Investment Corporation of India |
| ILO | International Labour Organization |
| IMF | International Monetary Fund |
| Interpol | International Criminal Police Organization |
| IRS | Internal Revenue Service |
| LIC | Life Insurance Corporation |
| MENAFATF | Middle East and North Africa Financial Action Task Force |
| ML | Money Laundering |
| MLAT | Mutual Legal Assistance Treaty |
| MLS | Major League Soccer |
| MONEYVAL | Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and Financing of Terrorism |
| NCIS | National Criminal Intelligence Service |
| OFC | Oceania Football Confederation |
| PEPs | Political Exposed Persons |
| POCA | Proceeds of Crime Act 2002 |
| SARs | Suspicious Authority Reports |
| SME | Small and Medium Enterprises |
| SOCA | Serious Dangerous Crime and Police Act 2005 |
| STR | Suspicious Transaction Report |

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Money laundering (ML) as a crime only attracted interest in the 1980s, essentially, within a drug trafficking context.¹ It was from an increasing awareness of the huge profits generated from this criminal activity and a concern at the massive drug abuse problem in western society which created the impetus for governments to act against the drug dealers creating legislation that would deprive them of illicit gains.²

In the past, the term "ML" was applied only to financial transactions related to organized crime.³ Today its definition is often expended by government regulators to encompass any financial transaction which generates assets or a value as the result of an illegal act, which may involve actions such as tax evasion or false accounting.⁴

As a result, the illegal activity of ML is now recognized as potentially by individuals, small and large business, corrupt officials, members of organized crime (such as drug dealers or the Mafia) or of cults and even corrupt States or intelligence agencies, through a complex network of shell companies based in offshore tax havens.⁵ The increasing complexity of financial crime, the recognized value of so-called Financial

¹ Australia Institute of Criminology (AIC), *Report of the Anti-money laundering and counter-terrorism financing across the globe: A comparative study of regulatory action* (Canberra, 2011), 23.

² *Ibid.*, 3.

³ MVD International Crime & Fraud, "Money Laundering," MVD International, <http://mvdinternational.com/crime-a-fraud/money-laundering> (accessed June 1, 2013).

⁴ *Ibid.*

⁵ Empire Pacific Investigative Service (EPIS), "Money Laundering," EPIS Global Investigative Solutions, http://www.epis.us/money_laundering.html (accessed July 29, 2013).

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