

Anti Money Laundering

Prepared by:-

- Preeti Anand
- Nitish Kumar
- Aditya Sharma

What is money laundering

- ▶ Money Laundering refers to the conversion of money which has been illegally obtained, in such a way that it appears to have originated from a legitimate source.
- ▶ In India, money laundering is popularly known as Hawala. Hawala is an alternative or parallel remittance system. "Hawala" is an Arabic word meaning the transfer of money or information between two persons using a third person transactions.

Money laundering process

Placement

- Structuring
Deposit into smaller amounts
- Currency Smuggling
- Currency Exchange
- Blending Funds
- False invoicing
- False loan

Layering

- Multiple wire transfer
- Material luxury assets bought with cash and then sold
- Cash converted into Monetary Instruments(In form Draft and money orders)

Integration

- Sale of Real estate investment
- Use shell companies
- to buy properties and resale them would be considered legitimate
- Invest in securities markets

IL&FS case description (1/2)

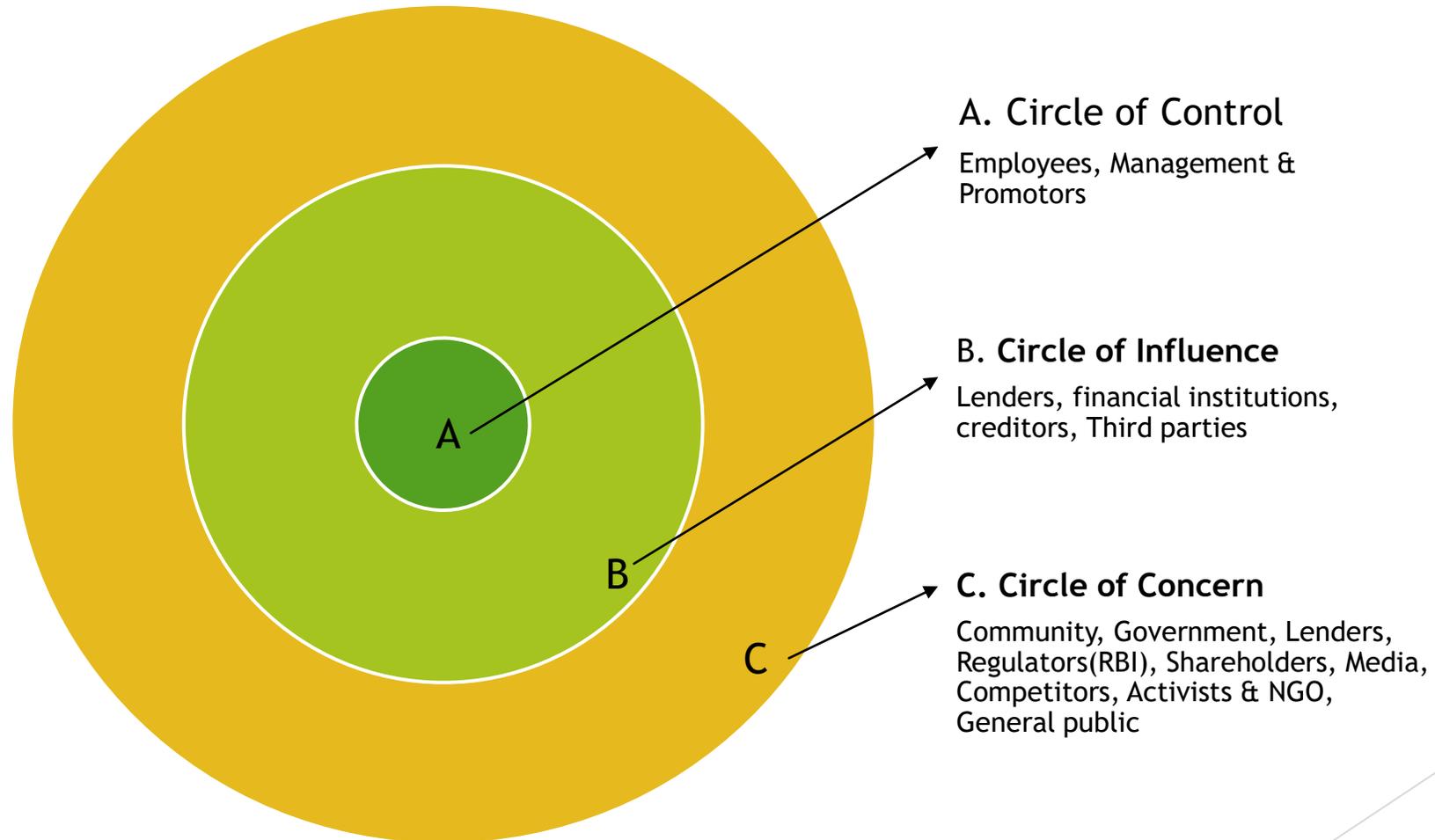


- ▶ Infrastructure Leasing & Financial Services Limited (IL&FS) is a systemically important Core Investment Company with the Reserve Bank of India and is engaged in the business of giving loans and advances to its group companies (and holding an investment in such companies). IL&FS has a large number of group companies across various sectors such as Energy, Transportation, Financial Services.
- ▶ IL&FS Group, which had approximately over Rs. 91,000 crores in debt, was facing a severe liquidity crisis. Between July 2018 and September 2018, two of the subsidiaries of IL&FS Group reported having trouble in paying back loans and inter-corporate deposits to banks/lenders.
- ▶ In July 2018, the road arm of IL&FS was facing difficulty in making repayments due on its bonds. Further, in early September 2018, one of the subsidiaries of IL&FS Group was unable to repay a short-term loan of Rs. 1,000 crore taken from Small Industries Development Bank of India (SIDBI). Also, certain group companies defaulted in repayments of various short and long-term deposits, inter-corporate deposits, and commercial papers.

IL&FS case description (2/2)

- ▶ IL&FS failed continuously to service its debt and the imminent possibility of a contagion effect in the financial market led the Central Government to move an application under Sections 241 and 242 of the Companies Act, 2013 before the NCLT(National Company law Tribunal). Section 241 deals with the cases of mismanagement and oppression by company's management.
- ▶ The NCLT suspended IL&FS board members and management and restrained the suspended members from alienating their personal assets.
- ▶ A forensic report looked into the alleged irregularities into the affairs of IL&FS Transportation Networks India Limited (ITNL) has found money laundering of over Rs 6,500 crore by the accused erstwhile management of its parent, Infrastructure Leasing & Financial Services (IL&FS).
- ▶ Identifying its former chairman Ravi Parthasarathy as the 'prime mover', the report also indicates that in at least 14 special purpose vehicles (SPVs) entered into by ITNL, there were deliberate cost overruns using a maze of shell and dummy companies to make them eventually untenable.

Stakeholder Mapping



Major Shareholders impacted



Root Cause Analysis

- ▶ IL&FS hadn't disclosed bad loans on its books for years despite a big part of its loan book having soured.
- ▶ As it was the shadow bank or NBFC company, "Unscrupulous, negligent and dormant management decisions were the main root cause of failure.
- ▶ Poor fund management and controls :- IL&FS lent funds to insolvent entities and troubled projects.
- ▶ "Deficient audit" by the auditors (Deloitte Haskins & Sell) and KPMG's audit partner BSR & Co. They failed to issue warnings.
- ▶ According to the ICAI, the auditors did not highlight the Reserve Bank of India's (RBI's) inspection report, which had labelled IFIN as over-leveraged, besides failing to report negative cash flows and adverse key financial ratios.
- ▶ RBI or any other entity did not strictly regulated NBFCs. The IL&FS crisis has raised concerns over the management of such entities.

Why to PANIC ? IL&FS



 <ul style="list-style-type: none">• Mutual fund invested in debt instrument will get affected.• Mutual funds units started selling out.	 <ul style="list-style-type: none">• Financial market gets destabilize• Down in credit rating of other invested companies.	 <p>National Pension Scheme gets affected.</p>
--	--	--

A large double-headed arrow is positioned below the three columns, indicating a bidirectional relationship or flow between the categories.

Aftermath of IL&FS failure

Financial impact

- ▶ The IL&FS group operated over a hundred subsidiaries and is sitting on a debt of Rs 94,000 crore.
- ▶ The bankruptcy cases wiped out Rs.8.48 lakh crore of investor's wealth.
- ▶ Commercial Paper worth Rs 300 Crores was sold at a discounted price, which belonged to DHFL.
- ▶ Share market got affected because anxious retail investors started selling shares of other NBFCs and redeemed from mutual funds.
- ▶ Default by IL&FS led to panic in the debt market and dried liquidity in the system of 1 lakh Crore.
- ▶ All other housing financing companies and infra companies stocks fallen up to 60% of its stock prices.
- ▶ IL&FS engineering(from Rs 45 to Rs 2.20) , IL&FS transportation(from Rs 166 to Rs 1.45) and IL&FS investment(Rs 27 to Rs 2.40) share price crashed
- ▶ Widen of fiscal deficit which has adverse repercussion on inflation, exchange rate, growth etc.
- ▶ Sensex shed 2,000 points just in a week, sparking a bloodbath in the market.

Reputational Impact

- ▶ ICRA Ltd, CARE Ratings Ltd, India Ratings & Research Pvt. Ltd, Deloitte and BSR (Part of KPMG) reputation got affected due to major lapses in audit of the IL&FS.
- ▶ IL&FS new infrastructure projects dried up, downgraded reputation across market.
- ▶ Loss of confidence of investors.
- ▶ Rating agency ICRA downgraded the ratings of its short-term and long-term borrowing programs from “AAA” to “D”.

Legal impact

- ▶ On April 2, 2019, former vice-chairman of IL&FS, Hari Sankaran, was arrested by Serious Fraud Investigation Office (SFIO) in Mumbai for granting loans to entities that were not creditworthy.
- ▶ The prosecution complaint was filed in a special court of the Prevention of Money Laundering Act, charging former senior management personnel of IL&FS – Ravi Parthasarathy, Ramesh Bawa, Hari Sankaran, Arun Saha, and Ramchand Karunakaran along with Aircel founder C Sivasankaran.
- ▶ The Enforcement Directorate (ED) conducted searches at multiple locations in connection with the IL&FS crisis, made provisional attachment of bank accounts and immovable property to the tune of **Rs 570 crore** held by these people.
- ▶ Sebi in December 2019 slapped a penalty of Rs 25 lakh each on ICRA Ltd, CARE Ratings Ltd and India Ratings & Research Pvt Ltd due to "lethargic indifference and needless procrastination and laxity" of the rating agencies.

Operational Impact

- ▶ Government discontinued old board as it was deemed to have failed to discharge its duties.
- ▶ In October 2018, the government constituted a new board as the. Kotak Mahindra Bank Executive Vice-Chairman and Managing Director Uday Kotak, Tech Mahindra Vice-Chairman, Managing Director and CEO Vineet Nayyar, former Sebi chief G N Bajpai, former ICICI Bank Chairman G C Chaturvedi, former IAS officers Malini Shankar and Nand Kishore were made members of the board.

Changes in RBI policy after the case

- ▶ RBI is constantly monitoring NBFC's to prevent systemic shocks.
- ▶ The better-performing NBFCs are able to access funds from the market at pre IL&FS rates.
- ▶ The cost of borrowing for good NBFCs is 50-60 basis points lower than the not so good.
- ▶ RBI is monitoring top 50 NBFCs more closely. These 50 NBFCs represent 75% of the sector.
- ▶ Wherever necessary, RBI is making deep dive into their books, their balance sheet and other numbers.
- ▶ RBI has allowed bank lending to registered NBFCs for on-lending to agriculture.

Ethical company - TATA STEEL

- ▶ Tata Steel has been recognized ninth year in a row by the Ethisphere Institute which provides a community of industry experts with the Business Ethics Leadership Alliance (BELA).
- ▶ 200 data points on parameters such as culture, environmental and social practices, ethics and compliance activities, governance, diversity and initiatives to support a strong value chain.
- ▶ Money laundering can be used by terrorist organizations, tax evaders, smugglers, by those engaged in bribery, or anyone who receives money for illegal activities or through illegal means
- ▶ PMLA (Prevention of Money Laundering Act, 2002)- the policy is stricter than the anti-money laundering laws that are applicable in that country
- ▶ Countering money laundering is of critical importance as it ensures that illegal funds do not remain hidden and do not get integrated into legal business and consequently into the legal economy.
- ▶ RBI is constantly monitoring NBFC's to prevent systemic shocks.

Vendors On boarding Policies

- ▶ Countries identified as non-cooperative by the 'Financial Action Task Force on Money Laundering'
- ▶ Reluctant to provide complete information and/or provide insufficient, false, or suspicious information
- ▶ Customers or suppliers who appear to be acting as an agent for another company or individual.
- ▶ Customers or suppliers who express concern about, or want to avoid, reporting or recordkeeping requirements
- ▶ Payments of amounts in excess of Rupees 20,000/- made in cash or cash equivalents, such as money orders, traveller's cheques, internet currencies or prepaid cash cards
- ▶ The purchase of products, or a larger volume purchase, that appears to be inconsistent with a customer's normal ordering pattern,

Vendors On boarding Policies

- ▶ Complex deal structures or payment patterns that reflect no real business purpose or economic sense.
- ▶ Requests for payment to be made through an unrelated country or to an unrelated third party.
- ▶ Multiple partial payments from various parties on behalf of a single customer and/or multiple partial payments from various locations
- ▶ Customers or suppliers whose address is not a physical site
- ▶ Customers making a funds deposit followed by an immediate request that the money be wired out or transferred to a third party, or to another firm, without any apparent business purpose
- ▶ Customers paying in one form of payment and then requesting a refund of the payment in another form e.g. paying by credit card and requesting a wire transfer or cash refund.

COMPLIANCE STEPS

- ▶ Know your business partners
- ▶ Monitor financial activity
- ▶ Keep complete records
- ▶ Report any suspicious activity
- ▶ Reporting/action by the Compliance Officer(Corrective Action & penalties)

Strategies Adopted by Tata Steel

- ▶ Anti-Money Laundering "AML" laws followed in TATA steel.
- ▶ Appropriate measures(e.g. KYC- due diligence)
- ▶ Applicability(directors, officers, other employees, Red flag)
- ▶ Appointment of Company's Compliance Officer/ Company Ethics Counsellor
- ▶ No code of conduct policy can cover every possible situation, the company relies on the Designated Persons to use good judgment and to speak up when they have either questions or concerns

References

<https://economictimes.indiatimes.com>

<https://www.livemint.com>

<https://www.xamnation.com/nbfc-crisis-case-study-on-ilfs>

<https://www.tatasteellp.com/wp-content/uploads/2019/04/AML-POLICY.pdf>

THANK YOU!

Q&A!