**Literature Review**

Money Laundering is relatively a fresh topic from the perspective of research, at least in the Indian context. Hence, there is a scope for discovering new trends based on experiences of jurisdictions which have implemented their own anti money laundering framework. This is important both from the legislative point of view and from the perspective of financial sector in general and securities markets, in particular. A review of literature available in the field reveals the following observations as well as potential gaps, which further underline the importance of research in this regard:

1. APG (2010) "Report on Methods and Trends of Money Laundering and Terrorist Financing", provides a number of cases studies highlighting the vulnerabilities of securities sector for money laundering. Typologies developed through sanitized case studies include use of front companies; use of professionals to facilitate the introduction of criminal proceeds; use of margin trading accounts; and use of money orders among others.

2. Boskovic, G. (2003), "Types of money laundering and suppression methods. MA Thesis, Police Academy, Belgrade, Page. 31" has concluded that while money laundering methods vary in national and international framework, contemporary tendencies in money laundering include abuse of money deposit cards, use of Internet banking, abuse of electronic cash, abuse of securities, international trade abuse etc.

3. Claessens, R. (2006), Research Paper on “Ethics, Corporate Values and Prevention of Money Laundering, The Serbian Banks Association, Belgrade, Page 35” has rightly observed that that the global nature of the money laundering phenomenon makes the geographical borders irrelevant. Money launderers tend to shift their activities in jurisdictions with few or ineffective measures against money laundering.

organisations have largely failed to anticipate the evolution of Transnational Organized Crime (TOC) from a localised problem into a strategic threat to governments, societies and economies….Organised crime is a clear and present danger in almost every theatre where the UN has peace operations.

5. EAG (2013) "Typology Report on Money Laundering Through the Securities Markets" has recommended *inter alia* that jurisdictions that have not designated securities market offences viz., insider trading, market manipulation and securities-related fraud as ML/TF offences may make the necessary changes in their laws to include the same.

6. FATF (2009) "Report on Money Laundering and Terrorist Financing in the Securities Sector" illustrates the risks associated with the various types of intermediaries, products, payment methods and clients involved in the securities industry. Unlike other sectors, the risks lie mainly not in respect of the placement stage of money laundering, but rather in the layering and integration stages. Typical securities-related laundering schemes often involve a series of transactions that do not match the investor’s profile and do not appear designed to provide a return on investment.

7. FATF (2010) Report on “Global Money Laundering & Terrorist Financing Threat Assessment”, concludes that combating ML/TF requires an ongoing understanding of the methods used by criminals to launder their illicit funds and terrorists to fuel terrorism. These methods range from well-known practices established over many years to modern techniques that exploit innovations in global payment networks and continuous advances in technology. Hence national assessment of ML/TF risks, threats and vulnerabilities is vital.

8. FATF (2011), "Report on Laundering the Proceeds of Corruption", underlining the inadequacy of existing efforts, concludes *inter alia* that corrupt PEPs disguise their ownership through corporate vehicles and trust companies and use gatekeepers and nominees to launder proceeds through the domestic and foreign financial institutions. They have used their power to acquire state assets, control law enforcement, and capture
banks. Past cases demonstrate that AML standards are not always being implemented by financial institutions; nor are AML laws and regulations being enforced by regulatory authorities or supervisors.…

9. FATF (2013) Report on “The Role of Hawala and other Similar Service Providers (HOSSPs) in Money Laundering and Terrorist Financing” concludes that effective supervision of HOSSPs is one of the primary challenges facing regulators and their Governments. The international community can address the resulting vulnerability by bringing the HOSSPs under a risk-based AML/CFT regulatory and supervisory framework that is effectively implemented.

10. Financial Services Authority, UK (2011) Report on Bank’s management of high money laundering risk situations” has concluded that around three quarters of banks in their sample study, including the majority of major banks, are not always managing high-risk customers and Politically Exposed Persons (PEP) relationships effectively and must do more to ensure they are not used for money laundering.

11. FINTRAC (2013), "Money laundering trends and typologies in the Canadian Securities Sector", concludes that all financial sectors in Canada are vulnerable to the efforts of those seeking to launder their criminal proceeds, and securities dealers are no exception. A strong compliance program is essential in order to reduce this vulnerability.

12. Government of India (2012), "White Paper on Black Money" highlights the vulnerabilities of financial instrument-Participatory Note (PN). PN is a derivative instrument issued in foreign jurisdictions, by a ForeignInstitutional Investor (FII) against underlying Indian securities.PNs are popular among foreign investors. These instruments are traded overseas outside the direct purview of SEBI surveillance thereby raising apprehensions about the beneficial ownership and the nature of funds invested in these instruments. Concerns have been raised that some of the money coming into the securities market via PNs could be the unaccounted wealth camouflaged under the guise of FII investment.

14. IMF (2005) “Anti-Money Laundering and Combating the Financing of Terrorism: Observations from the Work Program and Implications Going Forward,” observes that the overall level of compliance with FATF standards is low for all assessed countries. Only 21 percent of all recommendations were rated fully compliant, and 24 percent were rated largely compliant. As against this, 29 percent were rated partially compliant and 26 percent non-compliant. Further compliance regarding basic AML preventive measures (for customer due diligence, suspicious transactions reporting and other measures as well)is relatively low.

15. IMF (2012), "Guidance Note on Anti Money Laundering and Combating the Financing of Terrorism- Inclusion In Surveillance and Financial Stability Assessments", argues that ML or TF activities may give rise to significant levels of criminal proceeds or “hot money” flowing into and out of individual financial institutions in ways that aredestabilizing for these institutions. Such inflows or outflows can be either cross-border or domestic and where transactions in illegal markets or criminal proceeds are significant in relation to the size of thecountry’s formal sector, these flows can affect the entire financial system and have cross-country or potentially global effects.

secrecy jurisdictions (from which it remains difficult to obtain mutual legal assistance), greedy and gullible victims, and underground value transfer systems.

17. John Madinger (2011), *Money Laundering: A Guide for Criminal Investigators* essays the basics of finding ill-gotten gains, linking them to the criminal, and seizing them. Articulating a clear and concise understanding of money laundering practices, it explains the investigative and legislative processes that are essential in detecting and circumventing this illegal and dangerous activity.

18. Jyoti Trehan (2004), *Crime and Money Laundering: The Indian Perspective*, provides an overview of how the parallel economy of crime imperils the economic well-being of many states and the inevitable nexus of black markets and capital flight. It also articulates that criminal use of legitimate fronts the extreme vulnerability of transitional economies and that information technology has come as a huge boon to transnational crime.

19. Margaret E. Beare and Stephen Schnieder (2007): *Money Laundering in Canada: Chasing Dirty and Dangerous Dollars* provide a different dimension to the entire issue of money laundering and argue that the costs of compliance upon deputized reporting entities (REs) or the impact of the strategy beyond process outputs such as arrests, prosecutions, and forfeitures should also be factored in while devising national strategies to combat money laundering.

20. Milenovic, M. (2004), Research Paper *“Money laundering, Pulse Magazine on corruption, July-August, Centre for Management, Belgrade, Page 1-6.”* has observed that money laundering is almost never a problem of a single state, but rather a multinational problem due to the utilized methodology. Information exchange, state to state cooperation, development of the state’s ‘black lists’ of money launderers, criminals, organized crime group members, terrorist group members, as well as information exchange with other states and relevant organizations, represents an initial step in the long-term and difficult fight against money laundering.
21. Moneyval (2008), *Typology Research: Money laundering in Securities market* argues that securities market is a potentially attractive mechanism for money laundering. This attraction stems from a variety and complexity of financial instruments available, the ease and speed of transaction execution (for example on-line auction), and the ability to easily execute transactions across international boundaries.

22. Nelson Yiu-mo Cheng (2012), *The Effectiveness of Money Laundering Investigations in Fighting Transnational Crime: A Comparison of The United States and Hong Kong*, Brookings Institution publication, concluded that the U.S. money laundering investigation regime may be considered as very effective in going after the “money” though not necessarily the “people,” whereas the Hong Kong regime is good at going after the “people” but not necessarily the “money. Deficiencies need to be addresses in both regimes to be more effective.

23. Patrick M. Jost, and Harjit Singh Sandhu (2001), *The Hawala Alternative Remittance System and its Role in Money Laundering* state that hawala is an ancient system originating in South Asia; today it is used around the world to conduct legitimate remittances. Like any other remittance system, hawala can, and does, play a role in money laundering. The paper also provides instances sanitized cases of hawala transactions used for money laundering.

24. Professor Bibek Debroy & Laveesh Bhandari (2011) “Corruption in India: The DNA and RNA”, argue that public officials in India may be cornering as much as Rs.92,122 crore ($18.42 billion), or 1.26 per cent of the GDP, through corruption. The book estimates that corruption has virtually enveloped India growing annually by over 100 percent and most bribery is accrued from the transport industry, real estate and other public services”.

25. Robinson, Jeffery (1998) *The Laundrymen: Inside Money Laundering, the World's Third-Largest Business,* Arcade Publishing, New York, Page 4. highlights the fact that crime has really gone global in a big way and law enforcement efforts have been sporadic at best. The author also argues that not much will change unless international cooperation
efforts are better organized and the fact that financial services, as desired, are available if one is willing to pay the fee needs to certainly change for success in anti-money laundering efforts.

26. Russell G Smith and John Walker (2010), "The illegal movement of cash and bearer negotiable instruments: Typologies and regulatory responses" argue that in many case, in order to avoid detection, serious criminals simply retain the proceeds of their crimes in cash or use bearer negotiable instruments in connection with their money laundering activities. Although not a new concern, the illegal movement of cash and bearer negotiable instruments across borders is likely to continue.

27. Sgt. George Pemberton, Royal Canadian Mounted Police (2000), "Vancouver Integrated Proceeds of Crime Section, Money Laundering in Securities Markets" underscores the point that the putative problem of money laundering in the securities markets does exist, and on a large scale. Criminals are well ahead of law enforcement in this field. The article also provides examples of a few of the methods that money launderers are employing in the market.

28. Sikman, M. & Jovanovic, V. (2010), Research Paper “The concept of money laundering as a manifested function of organized crime. Security, Police, Citizens, MIA Republic Srpska – Department of police education, Banja Luka, N. 1-2/10, Page 81-100” have noted that education is necessary not only to ensure that competent authorities effectively counter executors of the criminal acts, but also to increase knowledge of the bank employees, legal business representatives, all the tax payers or citizens, in order to carry out their social role within the overall fight against financial crime.

offshore and not always in the same country, complicating regulatory jurisdiction. This is one of the most challenging tasks for supervisors and law enforcement officials.

30. The Wolfsberg (2007) "AML Principles: Frequently Asked Questions with regard to Beneficial Ownership" underscore the need to clearly identify the beneficiary ownership or beneficiary of an account opened by financial institutions. This is imperative to ensure that financial institutions are aware of the risk profile of the client and whether the purported client is acting as front to someone else.


32. United Nations Office on Drugs and Crimes and World Bank (2007) "Initiative on Stolen Asset Recovery (StAR): Challenges, Opportunities, and Action Plan" states that assets are often hidden in the financial centers of developed countries; bribes to public officials from developing countries often originate from MNCs and the intermediary services provided by lawyers, accountants, and company formation agents, which could be used to launder or hide the proceeds of asset theft by developing country rulers, are often located in developed country financial centers. Recovery of such assets is vital to curb the menace.

33. United States Department of Justice (2013), "Overview of Money Laundering and Forfeiture, Volume 61", explores inter alia, the means employed by criminals to launder illicit profits and the tools available to investigators to identify, seize, and ultimately forfeit criminal proceeds. The article presents a cogent explanation of why charging money laundering offenses and forfeiting assets is an indispensable tool for attacking the financial infrastructure used by criminal organizations and other criminal offenders to launder their illicit proceeds.
34. ZeljkoDj. Bjelajac, (2011), Research Paper No. 151, “Contemporary Tendencies In Money Laundering Methods: Review Of The Methods And Measures For its Suppression” has observed that one of the most important features of the implementation of the money laundering suppression measures is the establishment and upgrading of the control system, to determine whether financial and other institutions implement supervision and internal control in the field of money laundering prevention.

Extensive work carried out in the field of anti-money laundering efforts is more related to criminal law angle. This includes how legislative framework needs to be defined, how and what crimes should be made predicate for money laundering, how money laundering should be made a standalone offence, how enforcement of laws is important and so on.

Globally money laundering is an industry and a thriving one. Significant amount of time and money is being spent in combating money laundering internationally. The estimates of money laundering are so high that one can still easily appreciate how truly serious the problem is. As per a conservative estimate of IMF, the total amount of money laundered in the world is close to 2 to 5% of the global GDP i.e. somewhere around US$ 800 billion to 2 trillion dollars annually¹.

The astounding statistics and dimensions make it amply clear that preventing and combating money laundering is a big challenge world-wide. Money laundering and organized crime go hand in hand. Money Laundering has been on the radar of regulators and law enforcement agencies. As no country can afford to have financial system which seems vulnerable to potential money laundering, the underlying purpose of AML legislation is to prevent and combat money laundering. As world markets are getting increasingly integrated, so are the risks and vulnerabilities.

As the strength of a chain is as strong as its weakest link, financial sector in general and securities market and their participants in particular have responsibilities to make sure that do not have to face the consequences and hazards of being alleged as co-conspirators of fraudsters,  

criminals and money launderers. The consequent risks of exposure in this regard are serious and could taint the vibrancy of capital markets.

Based on the literature review done as above, it can be stated that the existing research and policy work in the area of anti money laundering has thrown light on the importance of financial sector in the entire AML framework. The studies have also highlighted broad level issues such as need to have international network and cooperation, capacity building, enhanced supervisory processes and so on. However, there is a need for an in-depth study of major weaknesses both from the legislative and the implementation point of view which will get reflected from a comparative analysis across jurisdictions. There is also a need to develop typologies and potential safeguards from the Indian securities market perspective which this study will aim to provide.