

REPORT

GOVERNMENT'S FAILURE TO RESTORE SANITY IN THE FINANCIAL SECTOR: A CASE OF ILLEGAL MONEY CHANGERS

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Anti-Corruption Trust of Southern Africa (ACT-SA)

16, 2nd Avenue, Kwekwe, Zimbabwe

P. O. Box 93, Kwekwe, Zimbabwe

Tel: +263 (55) 25 25 23 5

E-mail: info@anticorruptiontrust.org

Registration No: - 045.923-NPO (South Africa) | Registration No: - MA147/2004 (Zimbabwe)

Regional Office



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Number 16, 2nd Avenue
Kwekwe
Zimbabwe

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EXECUTIVE SUMMARY

The never ending quagmires in the financial sector, speak volumes about the Government of the Republic of Zimbabwe's failure and/or lack of capacity to revive the economy. Apart from the lack of capacity to contain inflation and deal with indiscipline in the sector, the case of 'illegal' money changers is more revealing. After having observed that instead of the so-called, 'illegal' money changers being removed from the streets and seeing more and more people given foreign currency by banks and bureau de changes, the Anti-Corruption Trust of Southern Africa (ACT-SA) commissioned an investigation to find out the following:

- ↔ The source of foreign currency for the business and travelers travelling out of Zimbabwe;
- ↔ Whether the respective businesses are aware of the illegal nature of transacting on the black market;
- ↔ Why 'illegal' money changers are not being arrested if what they are doing is illegal;
- ↔ Why the black market is becoming more popular as the source of foreign currency as compared to banks and bureau de changes; and
- ↔ What recommendations help to restore sanity in the financial sector.

The research made the following findings:

- ↔ One hundred percent (100%) of all businesses and travelers consulted buy foreign currency from the black market;
- ↔ One hundred percent (100%) of all businesses and travelers consulted confessed that they are aware that buying foreign currency from the black market is illegal. That said, they have no choice since their banks do not give foreign currency;
- ↔ On the underlying reasons why there are few or no arrests targeting illegal money changers, a number of reasons were given. A significant majority (60%) pointed out that illegal money changers are politically connected and hence are not being arrested. Twenty percent (20%) indicated that there are no arrests because of the fact that there is no law outlawing the changing money on the streets. Another 20% blames the law enforcement agents for inaction or giving a blind eye to these illegal activities.
- ↔ The black market is said to be more popular as compared to formal banks and bureau de changes because foreign currency is not only in abundance but there is no paper work involved and questions asked. Furthermore, businesses and individuals have no choice since banks have no foreign currency.

The study also confirmed that the government of Zimbabwe's policies are partly responsible for the flourishing black market because of the following:

- ↔ It has failed and/or neglected to make foreign currency available in local banks;
- ↔ Poor policies, especially the policy that made it difficult for businesses to operate Nostro Accounts without restraints;
- ↔ Whilst the government could be blaming others for supplying foreign currency to the black market, it has also been accused of supplying huge amounts to artisanal miners. However, more of the artisanal miners do not have Nostro accounts, which means that they transact on the black market.

In keeping with the above, the businesses and individuals consulted made the following recommendations:

- ↔ The law enforcement agents must be allowed to operate without fear, favour and interference from PePs;
- ↔ Relevant authorities should strengthen laws dealing with illegal money changers;
- ↔ Local banks should give foreign currency to entities and individuals who needs it for business out of the country;

In keeping with the above, the following are specific recommendations to some authorities:

Recommendations to law and policy makers

- ↔ There is urgent need for a policy and legal framework to deal with the problem of illegal money changers in Zimbabwe;

Recommendations to law enforcements agents

- ↔ The law enforcement agents should coordinate efforts to curb illegal activities in the financial sector. There is need for cooperation of all security agents such as ZACC, ZRP, and FIU among others
- ↔ Training law enforcement agents to ensure that they keep pace with the ever changing tactics used by criminals and their syndicates;
- ↔ The law enforcement agents should not give a blind eye to the illicit activities in the financial sector;

Tertiary Institutions (Colleges and Universities)

- ↔ Revise curricula in order to produce a cadre of professional financial investigators and experts who are able to adequately keep pace with the ever changing environment

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1. INTRODUCTION AND BACKGROUND INFORMATION

Street money changers who have mushroomed in all major cities of the country seem to be operating publicly without any fear of arrest whatsoever. Regardless of being labeled as 'illegal' these street money changers operate publicly in full view of the law enforcement agents and policy-makers. The government introduced several interventions but in futility. Maybe inaction by the government is a form of acknowledgement of an important role that these money changers are playing considering that some registered banks are not giving adequate foreign currency to businesses and individuals traveling out of the country.

One such response was the promulgation of Statutory Instrument 246 of 2018, through which illegal currency traders risked being sentenced up to 10 years in jail. The regulations-Presidential Powers (Temporary Measures) (Amendment of Money Laundering and Proceeds of Crime Act and Exchange Control Act) Regulations, 2018 came into effect as the authorities moved in to eradicate the foreign currency black market.¹

The interventions were triggered by the mushrooming of illegal money changers, offering alternative services that were ordinarily not being offered by local banks. For instance, importers approaching formal banks were told to wait in the queue for several months before being allocated requested foreign currency. However, several businesses waited for far too long and the black market had emerged as the only available source of foreign currency.

The viability of the black market is alleged to have been facilitated by well established businesses run by some Politically Exposed Persons (PePs), their families, friends and compatriots. A PeP is an individual with a high profile political role, or who has been entrusted with a prominent public function. PEPs represent a higher risk for financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) because they are more likely to become involved in financial crimes like money laundering or the financing of terrorism than other clients.² The PePs capture a broad category of officials that include political party officials, government officials, and their families.³ All those involved often show off their ill-gotten wealth through lavish lifestyles.

¹ The key changes included the amendment of section 2 of Cap. 9:24 of Money Laundering and Proceeds of Crime Act [Chapter 9:24] (No. 4 of 2013) and the insertion of a new Chapter – IIIA – in Cap. 9:24 3. Reads part of SI-246: “Amendment of section 5 of Cap. 22:05. The Exchange Control Act [Chapter 22:05] is amended in section 5 (“Offences and penalties”) by the insertion of the following subsection after subsection (4) — “(a4) Where the offence of which a person is convicted in terms of subsection (l)(a) or (b) involves the unauthorised dealing in (other than the exportation, externalisation or expatriation from Zimbabwe) of any foreign currency, gold or precious stone, the court may, in addition to the fine referred to subsection (4), impose a sentence of imprisonment not exceeding ten years.” Under regulations that are already in effect, Government is now tracking unexplained movement of money in the financial system through the Unexplained Wealth Orders Statute. The Unexplained Wealth Orders Statute empowers the High Court may, on an ex parte application made by an enforcement authority, to make an unexplained wealth order in respect of any property if the court is satisfied that each of the requirements for the making of the order is fulfilled. “An unexplained wealth order is an order requiring the respondent to provide a statement — (a) setting out the nature and extent of the respondent’s interest in the property in respect of which the order is made; and (b) explaining how the respondent obtained the property (including, in particular, how any costs incurred in obtaining it were met); and (c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order; and (d) setting out such other information in connection with the property as may be so specified,” reads part of the amended regulations.

² <https://complyadvantage.com/knowledgebase/politically-exposed-persons/>

³ The PEPs include:

Government Officials: Current or former officials appointed to domestic government positions, or positions in a foreign government. This may include heads of state or individuals working in executive, legislative, administrative, military, or judicial branches, in elected and unelected roles.

Political Party Officials: Senior officials appointed to roles in major political parties at home or in foreign countries.

For instance, the alleged participation of rich companies such as Sakunda Holdings, Access Finance, Croco Motors and Spartan Securities are not only shining examples but the most disturbing.⁴ These companies were allegedly linked to money laundering, and black market trading. The naming and shaming of the four institutions did not come as a surprise since during the month of October 2018, ACT-SA had long suspected and fingered the RBZ, local banks, the police and PePs as the main drivers of illegal foreign currency trading and other illicit financial activities in the country. In Zimbabwe money laundering has had an adverse impact on the economy and should therefore be immediately curtailed.

There is a rallying cry to bring currency manipulators and money launderers to book since they are a national security threat. However, it is disturbing when they are neither arrested nor stopped from operating knowing very well that they pose a security threat to the country.

In 2006, the RBZ raised a number of issues captured in its Press Statement of 31 October 2016 shown in Table 1 below:



PRESS STATEMENT

WARNING TO BUSINESSES AND THE PUBLIC AGAINST ILLICIT CASH DEALINGS

1. The gap between the demand and supply of foreign exchange is engendering undesirable practices that include illicit cash dealings and rent seeking behaviour that are exacerbating the inefficient use of scarce foreign exchange resources within the national economy.

Selling of Cash Against RTGS Balances

2. Some business entities and individuals are reported to be selling cash, at a premium, against RTGS or bank transfers from the cash buyers' accounts.
3. Some cash-generating businesses, especially retailers and wholesalers, have not been banking all their cash receipts, as required under the Bank Use Promotion Act [Chapter 24:24]. Instead, they offer the cash to companies and individuals, who would make RTGS or inter account transfers of the equivalent amount, plus an agreed premium, into the cash vendor's account.
4. In some cases, the illicit cash buyers make third-party RTGS payments to suppliers of goods and services, on behalf of some businesses, in return for corresponding cash payments from the business entities.
5. Such practices are not only illegal, but also have negative effects on the economy as they hamper the efficient and equitable circulation of scarce foreign exchange resources within the economy through the banking system.
6. The underhand cash transactions also promote and encourage money laundering, tax evasion and cash smuggling out of the country.
7. The Reserve Bank of Zimbabwe wishes to warn businesses and individuals engaging in these illicit practices to desist forthwith.

Senior Executives: Individuals serving in senior executive roles, such as directors or board members, in government-owned commercial enterprises or international organizations – that is corporations, businesses, or other entities formed by or for the benefit of any such individuals.

Family Members: An immediate family member of a government or political official, or senior executive – meaning spouses, parents, siblings, children, and spouses' parents and siblings

(Source: <https://complyadvantage.com/knowledgebase/politically-exposed-persons/>)

⁴ Ndoro, T (2019) BREAKING: RBZ Freezes Sakunda, Croco Motors Accounts In Major Blow For Queen B (UPDATED). [online] Available at <https://ihearare.com/rbz-freezes-sakunda-croco-motors-accounts-in-major-blow-for-queen-b/> [Accessed on 13 December 2019]

8. **With immediate effect, suppliers of goods and services shall not accept RTGS or inter-account transfers made by third parties on behalf of their customers. For the avoidance of doubt, a supplier or service provider shall only accept payment emanating from the bank account of the customer making the purchase.**
9. Banks will be required to report all RTGS / inter account transfers that are suspected to involve selling / purchasing of cash.
10. The Bank Use Promotion and Suppression of Money Laundering Unit of the Reserve Bank of Zimbabwe, will be stepping-up monitoring activities to ensure that businesses comply with the legal requirement to bank all cash receipts. Inspectors of the Unit will also focus on identifying illicit cash transactions and referring such cases to law enforcement agencies.
Illegal selling / buying of high denomination foreign exchange bills
11. In a related development, the Reserve Bank of Zimbabwe has also noted with concern that there are individuals and businesses that are buying high denomination foreign exchange bills, for a premium, in exchange for low denomination bills.
12. Those who are buying the high denomination bills are doing so mostly to facilitate smuggling of cash out of the country. Such practices are illegal as they are associated with money laundering and externalization of funds.
13. The Bank wishes to warn those engaging in the above practices to desist from doing so, with immediate effect.
14. The public is urged to report such practices to the Reserve Bank, which will work with law enforcement agencies to bring the perpetrators to book.
15. Meanwhile the Bank will continue importing low denomination bills as a way of curbing the smuggling of foreign exchange bills out of the country.

**Reserve Bank of Zimbabwe
31 October 2016**

Source: <https://www.rbz.co.zw/documents/publications/press/press-statement-on-illicit-cash-dealings-31-october-2016.pdf>

The role of Politically exposed Persons (PePs) as currency manipulators and money launderers is more disturbing. In May 2019, police detectives raided Number 3 Sanfenand Flats on Fife Avenue in Harare, the offices of Neville Mutsvangwa, the son of Information Minister Monica Mutsvangwa and former Presidential Adviser Chris Mutsvangwa, and found US\$200,000 in cash. However, instead of taking steps to prosecute the accused person/s, the four police detectives who raided the house were themselves arrested for under-declaring money seized during the raid. Detectives Tafadzwa Chidawa, Tendai Mangena, Edward Selemanni and Sydney Mugomba, all from the Criminal Investigations Department's 'Theft from Car' were charged with criminal abuse of office.⁵ Ordinarily such developments has serious drawbacks on the fight against money laundering as either investigations are influenced by the political elite or investigators are forced to cow-in for fear of victimization and backlash.

However, regardless of all these efforts made, the foreign currency black market still operates and flourishes with impunity.

This study was commissioned to get an in-depth understanding of the underlying reasons for the thriving financial black market. What is more devastating are the ramifications of these illicit deals on the economy at the micro and macro levels. After the promulgation

⁵ ZimLive (2019) Mutsvangwa son's illegal forex business raided, 4 cops arrested. [online] Available at <https://bulawayo24.com/index-id-news-sc-national-byo-163363.html> [Accessed on 13 December 2019]

of Statutory Instrument 246 of 2018, factors that led to the flourishing of the parallel market have not been addressed to date. The following are some of the outstanding issues that facilitate the thriving black market:

- a) Local banks are not giving foreign currency which leaves the black market as the only remaining option;
- b) High profile individuals are fingered as the leading suppliers of cash to the black market;
- c) The Fidelity Printers and Refiners pays artisanal miners in foreign currency yet on the other side these artisanal miners cannot easily open Nostro accounts and withdraw the foreign currency that they need to use on a daily basis;
- d) The black market is deemed to be the best alternative provider of lucrative foreign currency exchange rates as compared to the formal market.

Following the promulgation of the instruments, there were a few arrests of illegal money changers in Bulawayo, Harare and Kwekwe. However, it is not clear whether there were any convictions. Evidence shown to the researchers shows that the law enforcement agents resorted to giving a blind eye whilst in a few cases where arrests were made, the suspects are charged under the Third Schedule (Section 46) (2) (f) for encumbering or obstructing the free passage along any street, road or thoroughfare, sidewalk or pavement.⁶ This shows clearly that the country remains unequipped to deal with the crisis.

Financial crimes such as money laundering are overly complex and therefore require a strengthened operational and legal capacity, technological tools, financial intelligence and human resources necessary for the expeditious conclusion of such cases. Without such capacities, Zimbabwe will continue to face immeasurable difficulties in successfully mitigating the damages of money laundering and related crimes.

That said, this report gives findings of a mini assessment commissioned by the Anti-Corruption Trust of Southern Africa (ACT-SA). It is structured in a way that includes: the following:

- ↔ The main sources of foreign currency for business and travelers;
- ↔ Awareness of the illegal nature of the black market;
- ↔ Why street illegal money changers do not get arrested;
- ↔ Factors fuelling the black market, and
- ↔ Recommendations on the way forward

2. IMPORTANT FINDINGS

The following are the research findings made:

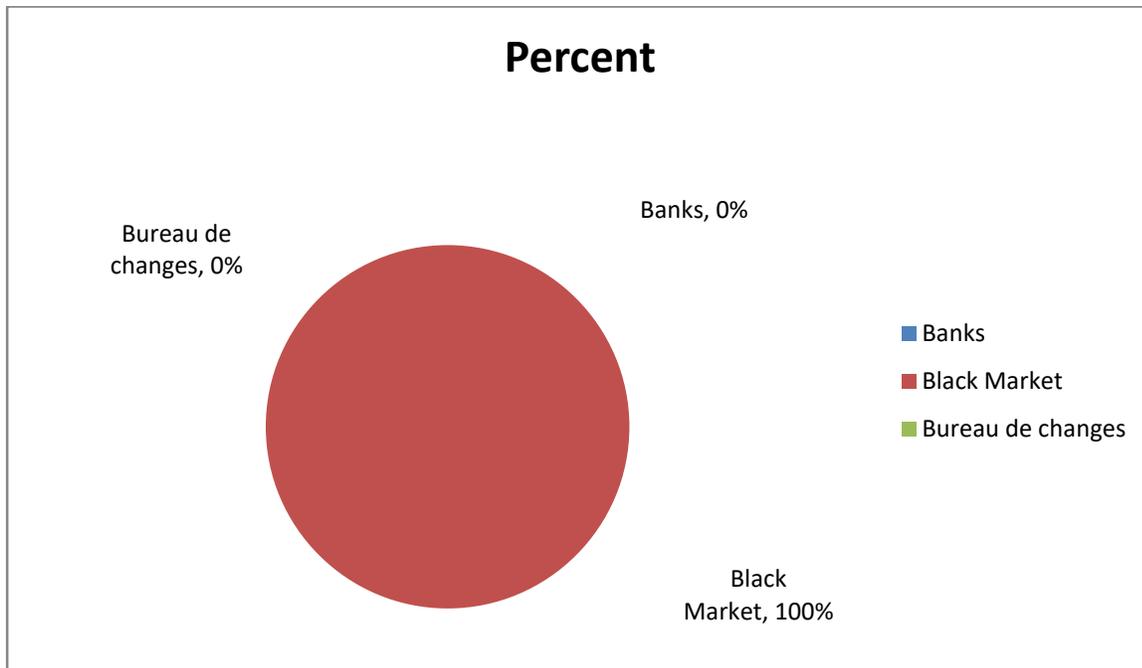
⁶ Reference is given to Z.69J Number 0057624A in possession of the research team

2.1 Main Sources of Foreign Currency

Respondents were asked to select their main sources of foreign currency from four options: banks, black market, bureau de changes and others. Figure 1 reveals startling results. One hundred percent (100%) of the respondents pointed out they get foreign currency from the black market.

The research had targeted retailers, manufacturers, cross border traders and other entities that often travel in and out of Zimbabwe. Figure 1 below gives the results.

Figure 1: Source of Foreign Currency



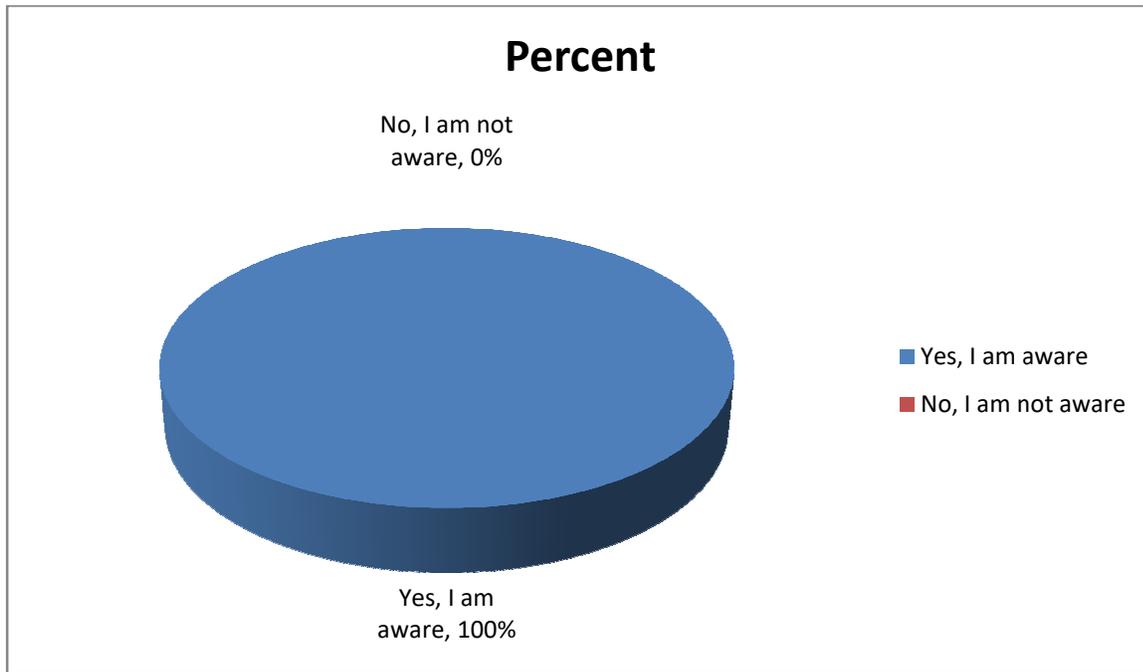
The question remains on why businesses prefer the black market than the local banks and bureau de changes.

2.2 Awareness of the Illegal Nature of the Black Market

Considering that 100% of the respondents obtained foreign currency from the black market, a follow-up question, was asked on whether they were aware that buying from the black market was illegal.

Again, all the respondents (100%) pointed out that they were fully aware of the illegal nature of transacting at the black market. Figure 2 below shows that they are all aware that it is illegal but have no choice.

Figure 2: Awareness of the illegal nature of the black market



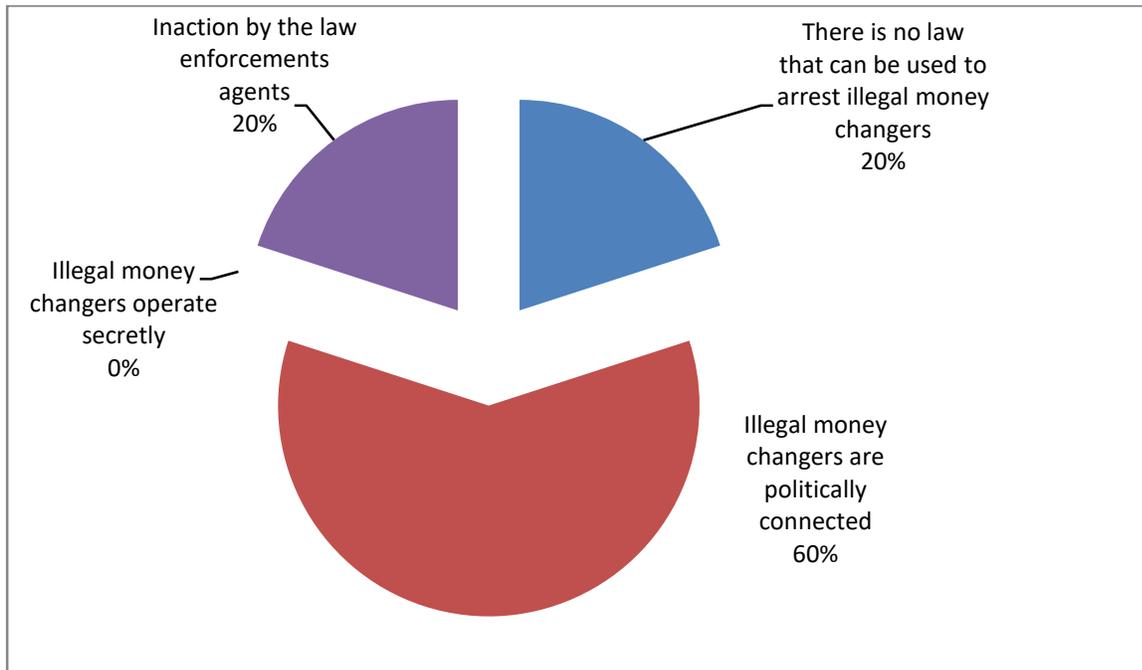
Why taking a risk, knowing if caught their reputation will be at stake. Most of the respondents indicated they buy foreign currency secretly through agents. Using agents means they are not directly exposed to risk. It is the agent who will be at risk. The research also established that agents will not divulge information on entities supplying cash or Ecocash to buy foreign currency.

2.3 Why Illegal Money Changers are not arrested?

Regardless of the illegal nature of the black market, the participants are not arrested. The research sought to understand, why there were no arrests against illegal money changers among other players in the black market. Figure 3 below gives the findings.

A significant majority (60%) pointed out that illegal money changers are politically connected and hence are not being arrested. Twenty percent (20%) indicated that there are no arrests because of the fact that there is no law outlawing the changing of money in the streets. Another 20% blames the law enforcement agents for inaction or giving a blind eye to these illegal activities.

Figure 3: Why there are no arrests



Zimbabwe witnessed several arrests of illegal money changers but it is not clear on whether there were any convictions. However, the researchers noted with concern that in Kwekwe, these illegal money changers are charged for acts constituting criminal nuisance under the Third Schedule (Section 46) (2) (f) for encumbering or obstructing the free passage along any street, road or thoroughfare, sidewalk or pavement.⁷

Another challenge is linked to political interference into the arrests, investigation and prosecution of accused persons. There are several incidents in which police officers investigating cases of illegal money changers were threatened and told to release accused persons and hence 60% of the respondents alleged political interference.

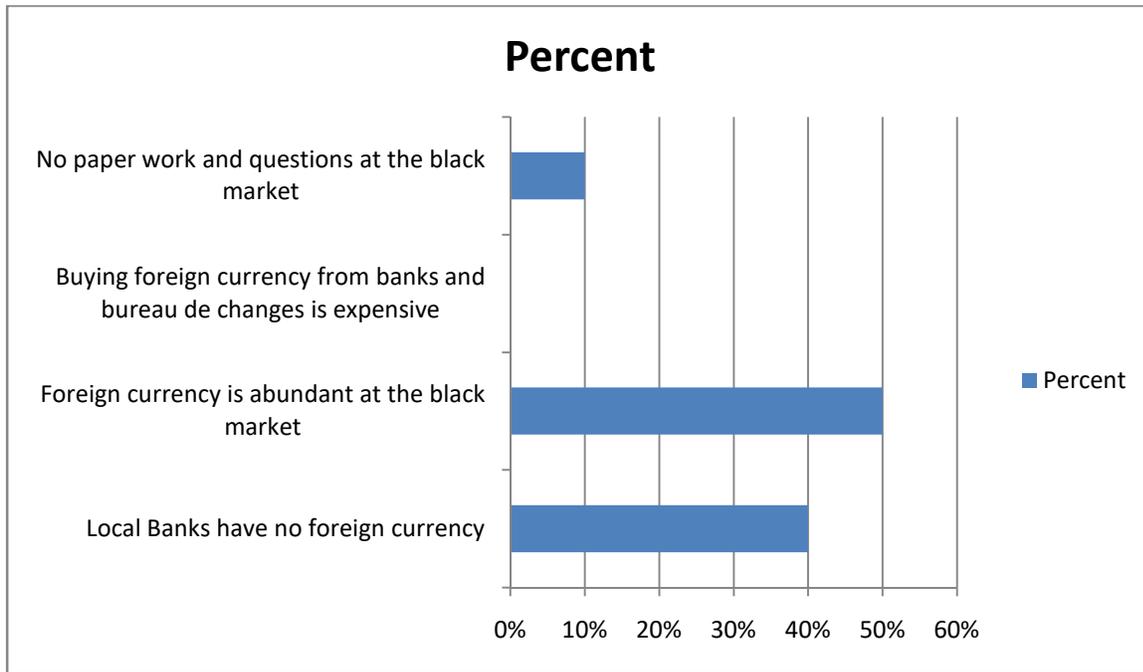
There are also allegations that police inaction is part of the problem. Twenty percent (20%) confirmed that police inaction is part of the problem.

2.4 Underlying Reasons for the Flourishing of the Black Market

Another follow-up question was asked on why businesses and travelers among others prefer buying foreign currency from the black market than banks and bureau de changes. Figure 3 shows that adequate foreign currency is abundant on the black market. This was testified by 50% of the respondents, whilst another group of respondents feel that there is no paper work and questions asked at the black market than at local banks and bureau de changes. Forty percent (40%) stated that local banks have no foreign currency.

⁷ Reference is given to Z.69J Number 0057624A in possession of the research team

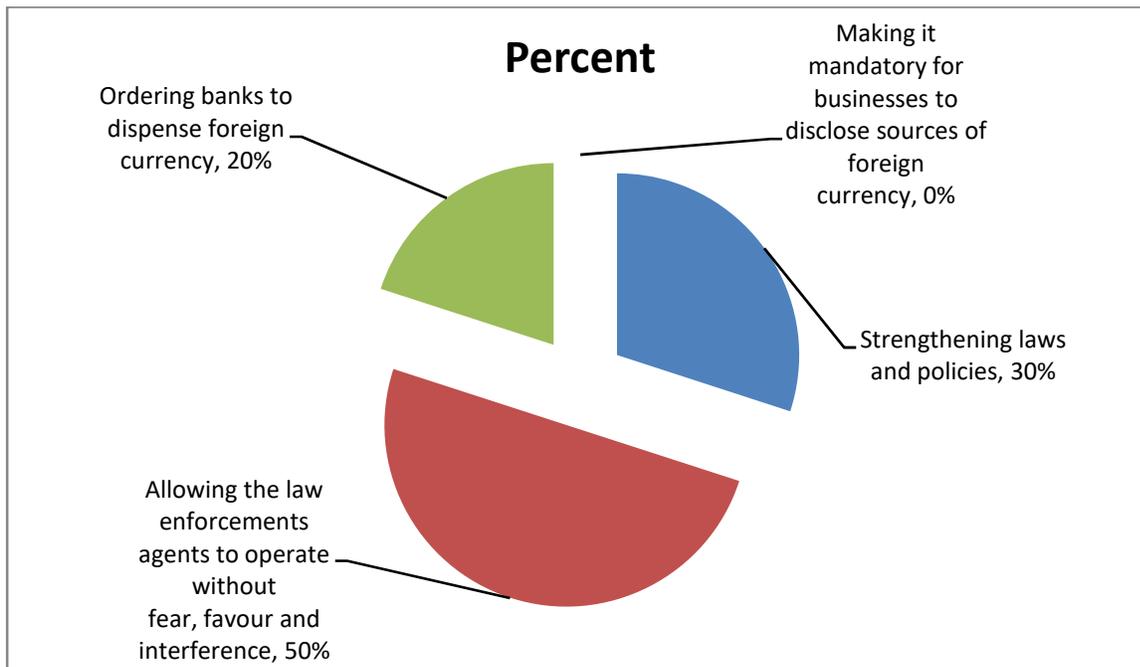
Figure 4: Why the black market is becoming popular



2.5 Recommendations

The assessment also sought recommendations from the respondents. The following recommendations were given by the respondents:

Figure 5: Recommendations



In keeping with the above, the respondents gave the following recommendations listed in their order of priority:

↔ The law enforcement agents must be allowed to operate without fear, favour and interference from PePs;

- ↔ Relevant authorities should strengthen laws dealing with illegal money changers;
- ↔ Local banks should give foreign currency to entities and individuals who needs it for business out of the country;

3. CONCLUSION AND RECOMMENDATIONS

In view of the above findings, it appears that the financial black market is more competitive and popular than the formal market. It is the only source of foreign currency since most banks do not give foreign currency to the business sector and others. In addition, respondents claimed that the black market is hassle-free since there is no paperwork and that there are no questions asked. The situation has been made worse by police inaction as well as the inadequate policy frameworks to address the problem of illegal money changers.

Ultimately, due to the absence of effective sanctions against those who commit acts of financial malfeasance, those who benefit from illicit activities continue to find the crime of money laundering more attractive. Furthermore, the people involved have formed syndicates that have accrued so much power that can be used in state capture. If unchecked these activities can continue to adversely affect the newly introduced Zimbabwean dollar. Such practices have been associated with a number of bank failures which saw many investors losing millions. The issue of the financial black market is an issue of national security and hence the urgent need for action.

In keeping with the above, the following recommendations are made:

Recommendations to law and policy makers

- ↔ There is urgent need for a policy and legal framework to deal with the problem of illegal money changers in Zimbabwe;

Recommendations to law enforcements agents

- a) The law enforcement agents should coordinate efforts to curb illegal activities in the financial sector. There is need for cooperation of all security agents such as ZACC, ZRP, and FIU among others
- b) Training law enforcement agents to ensure that they keep pace with the ever changing tactics used by criminals and their syndicates;
- c) The law enforcement agents should not give a blind eye to the illicit activities in the financial sector;

Tertiary Institutions (Colleges and Universities)

- ↔ Revise curricula in order to produce a cadre of professional financial investigators and experts who are able to adequately keep pace with the ever changing environment

REFERENCES

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ANNEXES

↔ Questionnaire- Factors Militating against the Arrest of Illegal Money Lenders in Zimbabwe

1) Personal Details

1.1 Date:	
1.2 Place:	
1.3 Gender:	

2) Where do you get foreign currency in case you want to buy goods or travel out of Zimbabwe?

2.1 Banks	
2.2 Black market (Street)	
2.3 Bureau de changes	
2.4 Others	

3) Are you aware that you are not allowed to buy foreign currency from the Black market?

3.1 Yes, I am aware	
3.2 No, I am not aware	

4) Why do you buy foreign currency from the black market?

4.1 Local Banks have no foreign currency	
4.2 Foreign currency is abundant at the black market	
4.3 Buying foreign currency from banks and bureau de changes is expensive	
4.4 Others	

5) In your own opinion, which of the following options describe why illegal money changers are not being arrested?

5.1 There is no law that can be used to arrest illegal money changers	
5.2 Illegal money changers are politically connected	
5.3 Illegal money changers operate secretly	
5.4 Inaction by the law enforcements agents	
5.5 Others	

6) Which of the following recommendations do you think will address the problem of illegal money changers? (Select maximum of 2 recommendations)

6.1 Strengthening laws and policies	
6.2 Allowing the law enforcements agents to operate without fear, favour and interference	
6.3 Ordering banks to dispense foreign currency	
6.4 Making it mandatory for businesses to disclose sources of foreign currency	
6.5 Others	