The Business Crime Solution

CANADA'S COMPLIANCE RESOURCE

HELPING BUILD PRACTICAL COMPLIANCE STRATEGIES

Conference 2013: The Development of an Agenda

Every turn of the calendar year prompts the planning team for the Money Laundering in Canada Conference to begin the process of developing the year's agenda. How we get the final product is often a mix of sources gathered in a myriad of ways.

The process traditionally begins with a review of the previous year's event, including workshop suggestions from delegates, what topic or speaker was well received, and/or what might have been not so interesting. The evaluation forms submitted by delegates on every session are extremely valuable and provide hints and ideas that we can work with when planning the following year's event.

In some cases, we have delegates coming forward with an idea and offering to speak on their topic of choice. Other professionals contact us throughout the year with their ideas, which are measured against the theme for that year --- some get selected and others postponed to another year. We pay close attention to current trends across all reporting sectors in order to see what topics are of interest to different sectors.

The last two conferences were crafted from the ideas and suggestions of a small committee of compliance professionals, who worked with us to put together an agenda. The outcomes were excellent and we want to thank them for their ideas, time, and active participation in leading and chairing sessions.

2013, however, is somewhat different. We have decided to focus the agenda in one direction, common across all reporting sectors and entities, and still the main challenge for every AML/CTF compliance officer in Canada --- the Compliance Regime. All fifteen workshops at this year's event will explore one aspect of

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THIS MONTH:

January OSFI Updates

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The Business Crime Solution

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A Word from the Editors

A new year brings a series of exciting products and services for both ABCsolutions and CAMLI. Our new *Credit Union Anti-Money Laundering/Counter Terrorist Financing Training Program* is now available and is being implemented in a number of credit unions across the country. In addition to the five core, role-specific courses, we are pleased to announce the introduction of our Wealth Management module. Contact us to arrange a demonstration of our new program.

As has been discussed on the front page of this edition, planning has already begun for the 2013 instalment of the Money Laundering in Canada conference. Visit our website read about this year's theme and workshop structure as well as information on sponsorship opportunities. Announcements will be made via our mailing list and Twitter feed as more information becomes available.

CAMLI is pleased to announce its first Internal Audit Seminar, *Effectiveness Testing the AML Compliance Regime: Enhancing the Internal Auditor's Skills*, scheduled for June 11-12 in Toronto. Seminar participants will explore the legislated AML Compliance Review process, with particular emphasis on the three prime areas of a review: policy and procedures; risk management program; and corporate training program. Registration is limited, so visit www.camli.org to reserve your spot.

Next Month:

- ⇨ Inherent Money Laundering Risks in Wealth Management Services (Part Two)
- ⇨ Money Laundering in Portugal

Upcoming Events:

June 11 - 12, 2013
Effectiveness Testing the AML Compliance Regime: Enhancing the Internal Auditor's Skills
1 King West Hotel
Toronto, ON
www.camli.org/events/index.php

September 29 - October 1, 2013
Money Laundering in Canada 2013
Sutton Place Hotel
Vancouver, British Columbia
www.moneylaundering.ca/public/events/mlincanada/2013/index.php

October 2, 2013
CAMLI Post-Conference Workshop
Sutton Place Hotel
Vancouver, British Columbia

Headlines

The Latest Money Laundering & Financial Crime Headlines

Cash Only at the Vatican

The Vatican has gone cash-only. Effective January 1st, the Italian Central Bank has suspended all foreign bank and credit card payments in the diminutive city-state. The Central Bank ordered Deutsche Bank Italia to stop providing electronic payment services to the Holy See, saying that Deutsche Bank had not obtained permission to install point-of-sale (POS) machines at the Vatican. A Central Bank spokesperson stated "any other European supervisory authority would have behaved in the same way, in compliance with community law".

"I'm surprised by the measures taken by the Bank of Italy to block all credit card services of the Deutsche Bank in the Vatican," said the Vatican's recently appointed Financial Information Authority director René Brülhart, in an interview with Italian newspaper Corriere della Sera.

The Vatican had undergone a third evaluation by the Council of Europe's MONEYVAL committee in July 2012, in which it passed 9 of 16 recommendations. However, the Vatican received failing marks for its bank and its financial intelligence authority, the independence of which was unclear. The evaluation found that the bank had insufficient rules covering customer due diligence, wire transfers, and suspicious transaction reporting. Citing this report, the Bank of Italy published a note on its website stating that that "the presence of an effective anti-money laundering regime (has) still not been proved".

Until the issue is resolved, the Vatican will be accepting cash only at its museums, post office, and souvenir shops. The five million tourists who visited the Vatican museum last year spent more than 90m euros (£73m; $120m) on tickets and souvenirs, according to the BBC.

Las Vegas Sands Complies

Las Vegas Sands Corp. is making changes to its AML compliance practices as it finds itself under federal investigation. It is no longer making international money transfers for its high-end customers, according to the Wall Street Journal, which cited "people familiar with the matter".

The company has also recently hired three former FBI agents to assist in strengthening its anti-money laundering regime and improve the background checks on VIP customers and junket operators. Junket operators are middlemen who recruit high rollers

(Continued on page 7)

$10 Million Penalty for TCF National

The Office of the Comptroller of the Currency (OCC) has issued a $10 million fine against Minnesota's third largest bank for violating the Bank Secrecy Act.

An OCC examination of TFC Financial Corp.'s banking and transaction activity found that 2,357 suspicious activity reports (SAR's) were filed late during the period between 2008 and 2010. The OCC stated in a press release, the "suspicious activities primarily consisted of cash transactions which indicated structuring and wire transfers where the source and purpose of the funds were unknown. In addition, upon further investigation, OCC found instances where SARs failed to adequately explain or identify potential terrorist financing."

According to the Duluth News Tribune, regulators focused on 13 cases, involving a total of approximately $7.2 million, in which the bank failed to properly file reports related to possible terrorist financing.

TFC Financial has agreed to pay the fine, re-file the 13 SARs, and conduct additional employee training. According to banking industry expert, Nancy Bush, the fine was so small that it appeared to be a symbolic gesture, and that banks are not taking suspicious activity reporting seriously.

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the five pillars of the mandated AML/CTF Compliance Regime: the CAMLO; Policy and Procedures; Risk Assessment Program; Training Program; and the Compliance Review. The plan is to have each of the five workshop groupings look at one of the Pillars. Three different sessions on each pillar exploring specific details and best practices associated with those details. The four plenary sessions will cover topics that impact on the Compliance Regime as a whole and represent common interests of everyone tasked with some role in AML/CTF control and management.

The goal is to have the workshop speakers emphasize problem management and best practices when discussing their topic. In this way, delegates will be able to compare their own compliance model with the speaker's ideas, looking for strengths and/or limitations that can verify and enhance their approach. In many respects, the conference will serve as an opportunity for delegates to evaluate their regime in an environment that fosters the sharing and promotion of ideas among individuals with a common outcome of enhancing effectiveness and managing application in a complex regulatory environment.

We look forward to providing more detail regarding the various topics that make up the 2013 agenda in the coming weeks and to welcoming you in Vancouver on September 29th for what we believe will be an outstanding conference. See you there!!

Money Laundering Case Studies

Launderers Recruit Individuals for the Use of their Bank Account

An FIU received suspicious transaction reports from three financial institutions concerning international fund transfers. Through police investigation, it was discovered that several individuals were acting as money collectors for a cocaine trafficking organization.

The job of these individuals was to identify and "recruit" professionals already established in various trades and services who might be amenable to earning some extra money by allowing their bank accounts to be used in a laundering scheme. The professionals would place cash in their accounts and then transfer the sum to accounts indicated by the money collectors.

The professionals who became involved in this activity were active in several types of business, including travel agencies, and import/export in commodities and computers. In return for their services, they received a commission on the funds transferred through their accounts. The transfers out of the accounts were justified by fictitious invoicing that corresponded to their particular business.

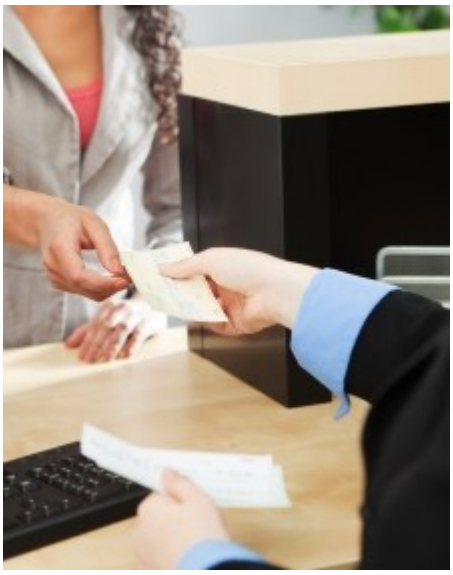
Results:

An organization was laundering the proceeds of cocaine trafficking believed to be worth US$ 30 million. Several members of the group were identified and tried in two countries.

Lessons:

This scheme illustrates how criminals put additional measures into place further to distance the money from the narcotics trafficking operation. Cash is collected from the drug dealer; the collector passes the funds to the launderer; the launderer then passes them to the recruited business professional, who then transfers the funds abroad for further processing.

The money continues to move, and the trail becomes more complex. The use of professionals can establish a 'break' in the trail, and so thwart financial investigators.



HSBC Avoids Prosecution and Pays Record Penalty for Money Laundering & Terrorist Financing Activities

The U.S. Department of Justice announced during December that it had reached an agreement with the Hong Kong and Shanghai Banking Corporation Ltd. (HSBC). In what is known as a "deferred prosecution agreement", HSBC will be accused of violating the U.S. *Bank Secrecy Act* and *Trading with the Enemy Act.* In return for being spared from prosecution, it has agreed to a five-year agreement with the Justice Department that would see it strengthen its internal controls against money laundering. The U.S. Department of Justice used this type of arrangement previously when settling cases involving large corporations.

HSBC is Europe's largest bank. Founded in 1865 to accommodate the increased trade between Europe, China, and India, it presently operates in 80 countries and was investigated by a U.S. Senate investigative committee that revealed the bank's Mexican affiliate transferred USD$7 billion in cash that flowed through the United States. The Senate investigative committee reported that this large amount of cash was indicative of illegal drug proceeds. It also determined that HSBC affiliates skirted the U.S. government ban on financial transactions with Iran and other countries.

In the damning report, the bank's U.S. division provided money and banking services to banks in Saudi Arabia and Bangladesh, which where alleged to have helped finance al-Qaeda and other terrorist groups. U.S. Regulators were also blamed for not enforcing U.S. laws. They knew that the bank had lax controls to detect problems and had failed to follow up and verify whether adequate corrective measures were instituted. The Senate report stated that the Bank had operated a "pervasive polluted culture that lasted for years".

HSBC chief executive Stuart Gulliver, conceded that his bank's anti-money laundering measures were inadequate and he would be taking steps to beef-up controls. He said that the financial institution is a fundamentally different organization than the one that made those mistakes in 2007-2008. In fact, the bank had replaced it's senior management. HSBC announced the appointment of Robert Weiner, a former head of the Treasury Department responsible for sanctions against money laundering and terrorist financing. He will head the new position, Head of Group Financial Crime Compliance and Money-Laundering Reporting Office.

U.S. law enforcement officials said that the penalty that HSBC agreed to pay would include USD$1.25 billion in forfeiture, the largest anti-money laundering fine ever levelled against any financial institution. The bank would also pay USD$625 million in civil penalties. Despite the huge historic levy, critics said that this penalty amounted to a slap in the face to the mammoth European bank. They complained that the penalties are equivalent to 9% of the company's pre-tax profits.

Independent observers have concluded that HSBC's challenge stemmed from the bank's rapid growth in size after acquiring numerous banks around the world as its affiliates. These far flung affiliates operated with a degree of autonomy that gave little authority and control to senior banking officials. Each affiliate had its own officer overseeing compliance and experts said that each of these officers often operated in different and conflicting international regulatory environments.

Secret Structures, Hidden Crimes

The European Network on Debt and Development (Eurodad) has released a new report entitled "Secret Structures, hidden crimes", which looks at tax evasion in developing countries and outlines how individuals abuse shell companies, trusts, and other vehicles in order to evade taxes. Better information about the true ownership of these companies is critical to repatriating trillions of dollars worth of offshore wealth and in helping prevent future capital flight, according to the authors of the report.

The report proposes that all forms of tax evasion are better fought when they are defined as predicate offences for money laundering, as this makes it a criminal offence for anyone to help conceal the funds.

The report argues that the first step is to implement the Financial Action Task Force's recommendations from February 2012. 2013's review of the EU's Anti-Money Laundering Directive will present a significant opportunity to:

- Create publically-available government registers of the real owners and controllers of companies, trusts, and other such legal structures.
- Make all tax evasion, a predicate offence of money laundering.
- Improve compliance with and enforcement of anti-money laundering rules and introduce credible sanctions.

Tax Evasion, Money Laundering & Hidden Beneficial Ownership

The study sites a number of interesting statistics: according to Oxfam, tax evasion by individuals cost developing countries US$124 billion; Christian Aid puts the cost to developing countries of tax evasion by multinational companies at roughly US$160 billion annually, through techniques such as "false invoicing and blatant transfer mispricing". According to the Tax Justice Network (TJN), tax evasion by individuals has led to a total of US$21–32 trillion in untaxed offshore wealth, of which 25 to 30% (US$5.3–9.6 trillion) is from the developing world.

Much of this untaxed capital is held by "opaque" legal structures and corporations over multiple jurisdictions and is moved between these using fake invoices and business loans. The secretive nature of shell corporations, and who owns and controls them, helps to facilitate the money laundering and tax evasion process. One method, known as "round-tripping", allows tax evaders to send cash out of the country, then bring it back in in the guise of foreign investment, thereby qualifying for lower tax rates designed to attract direct foreign investment.

The report stresses the importance of transparent beneficial ownership in combatting and preventing illicit capital flight. Illicit flow from corruption, crime, and tax evasion cost developing countries approximately US$859 billion in 2010 alone. The United Nations Office on Drugs and Crime (UNODOC) estimated that the total value of laundered money world-wide to be equivalent to 3.6% of global GDP, or roughly US$2.1 trillion, for the year 2009.

Trust and Company Service Providers

Trust and Company Service Providers (TCSPs) can be used "to set up companies, equivalent legal persons (i.e. foundations), and legal arrangements such as trusts. Second, they can play a role in running these vehicles, for example, acting as trustees or as company officers. Third, they can provide an address and mailbox for companies and other legal structures." While these functions may be legitimate, they can also be used to set up shell companies in jurisdictions with weak anti-money laundering standards, making it easy to hide the true ownership of these companies, thereby rendering these owners "unaccountable for their actions and obligations".

The report concludes with the following recommendations:

- Ensure full beneficial ownership disclosure and prevent misuse of legal structures by registering all legal structures and their beneficial ownership information.

- National authorities should collect and verify all information about all forms of legal structures as a precondition to establishing the structure in that jurisdiction.
- Trusts and foundations should be required to register in any country where they hold a bank account.
- The names of settlors and trustees should be reported.
- All records of legal structure ownership and control should be published online and be made available in a searchable format with no charge to the public.
- Ensure definitions of beneficial ownership include both control and ownership. This is essential to knowing who ultimately receives the income for taxation purposes.
- Legal structures such as trusts and foundations should be required to publish accounts in each country where they have a fiduciary or bank account.
- Substance requirements should be introduced, meaning that companies with no meaningful staff or business in a country should be made to close.
- The actual place of business for a company should be disclosed.
- In the absence of public registries, nominees should be compelled to always collect beneficial owner(s) details, and nominees should always be flagged as such in the company registration and other official documents.
- Effective due diligence standards need to be introduced and implemented, by requiring financial institutions to verify the identity of the beneficial owner before determining the required degree of due diligence. If beneficial ownership cannot be verified, the authorities should be notified. Furthermore, due diligence requirements should be on-going throughout the business relationship.
- Both foreign and domestic tax crimes should be made predicate offences for money laundering.
- Effective compliance, cooperation, and enforcement must be assured. Tougher sanctions for institutions involved in money laundering need to be imposed, and individuals acting within corporations need to be held responsible and to face prosecution.
- Corporate company officers should not be allowed. "A real person, not a legally constructed person, is needed to perform the oversight functions that ensure good corporate governance."
- Improve FATF mutual evaluations. "Recommendation 24, which relates to transparency and beneficial ownership of legal persons (companies), and Recommendation 25, which covers transparency and beneficial ownership of legal arrangements (for example trusts), should become main assessment criteria."
- International organizations and publicly-owned banks should have their compliance monitored by an independent regulator.
- Statistics and data related to money laundering should be published by authorities. Disaggregated records on SARs, financial crimes, corruption, organized crime, and terrorist financing should be made available to the public.

Source: http://eurodad.org/wp-content/uploads/2013/01/Secret-structures-

(Headlines - Continued from page 3)

to the casino, extending them credit and collecting debt. Junket operators account for roughly 70% of Las Vegas Sands Corp's Macau casino gambling revenue.

Again citing people familiar with the matter, the Journal reports that Sands is ending the practice of allowing gamblers to transfer funds between their bank accounts using aliases. Sands is also retraining its staff on U.S. anti-bribery laws and anti-terrorist financing measures.

The gaming corporation has been negotiating with federal authorities to resolve an investigation into whether Sands failed to file Suspicious Activity Reports on two of its customers at its Las Vegas casino, as well as whether it paid bribes to officials in its Chinese operations. The company has operations in Las Vegas, Macau, and Singapore.

Egmont Annual Report Details Exemplary Case Study Typology from Russian Financial Intelligence Units

The Egmont Group's *2011-12 Annual Report* showcases award winning typologies from the Russian and Pilipino Financial Intelligence Units (FIU) as part of the organization's "Best Egmont CASE Award". This award is an initiative that was spearheaded by the Secretariat and Training Working Group to highlight exemplary analytical and information-sharing collaboration between its 127 member-states. Approximately 65 cases were submitted and judged on criteria that demonstrated how instructive the case was from an educational viewpoint, the money laundering techniques' degree of complexity, the size and source of funds, the number of fellow FIUs and jurisdictions involved, and lastly, evidence that the domestic and international collaboration contributed to a successful outcome.

From the perspective of this newsletter, we have recognized one of the co-finalist's case studies that was submitted by the Russian FIU, Rosfinmonitoring.

The predicated offence in this case was identified as theft (misappropriation of $100 million dollars) and the panel of judges gave one of the two awards to Rosfinmonitoring because of the complexity of the typology and the fact that the activity was repeated on ten different occasions in eight different government districts within the Russian federation.

The Egmont Annual Report explained that initially, law enforcement was not aware of the perpetration until Rosfinmonitoring's timely cooperation took place.

The FIU initially received a report from a former head of a municipal organization who claimed that a reported bankruptcy declaration contained his and a director of a public utility company's forged signatures. The initial intelligence and local analysis showed the extent and scale of the criminal activity. Subsequent analysis showed that members of an organized criminal syndicate, along with municipal government officials and employees of a financial institution, had created fictitious liabilities (debt) in the name of district administration in Region "A" in the favour of a local public utility company (see level 3 in the diagram on the following page). The total fictitious liability was found to be in excess of 100 million U.S. dollars. Subsidiaries of the public utility (see level 4 of diagram) assigned debts claims in favour of the financial lending institution. They documented that the municipal government body of region "A" used loans from the financial lending institution, which were underwritten by government guarantees in region "A" to repay the debts. The funds that were generated from the transaction were transferred to accounts of a legal entity controlled by the criminal organization shown in the diagram as Cyclopes Ltd. Subsequently, government guarantor in region "A", using funds from the region "A" budget, repaid the loans. After the criminal scheme was revealed and the location of the stolen money identified, further work was conducted to establish the money laundering offence, the final placement of the criminal proceeds, and to determine the identities of the perpetrators of the offences.

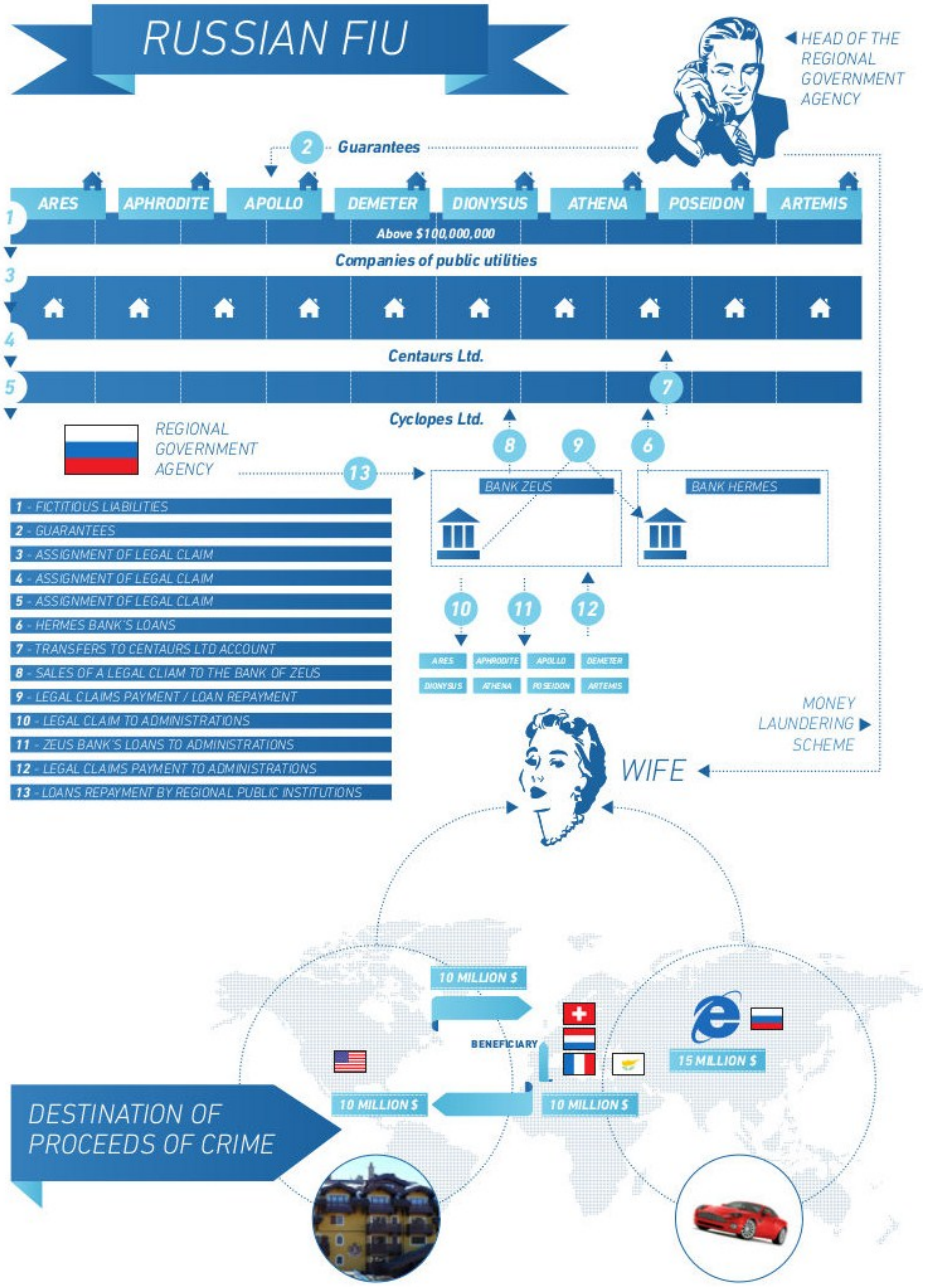
Essentially, the typology described in the Annual Report depicted how the criminal proceeds of the original theft had been "layered" using a complex scheme that saw the illegal funds transferred to and laundered in several overseas jurisdictions.

Using well-established, computerized analytical tools such as I2 and IBridge, the FIU was able to establish how the funds had moved into overseas jurisdictions. This prompted Rosfinmonitoring to engage several Egmont FIUs (British Virgin Islands, Italy, Ireland, Cyprus, Latvia Luxemburg, United States, France, Switzerland, and Lithuania) to help trace the movement of funds.

Evidence gathered showed that the perpetrators had laundered 10 million U.S. dollars in high value assets. Additional intelligence showed that 10 million U.S. dollars were laundered in Russia and approximately 15 million U.S. dollars had moved to overseas jurisdictions and that the perpetrators and their associates were enjoying the proceeds. The FIU

also made use of suspicious transaction reports and collaborated with Russian law enforcement that, in turn, sought assistance from other Russian financial institutions and the State Deposit Insurance agency.

The case from Russia demonstrated how successful cooperation between national law enforcement agencies, financial institutions, other domestic agencies, and Egmont partners enabled Rosfinmonitoring to establish a typology of regional and municipal misappropriation of funds that was repeated in numerous other cases. The typology is based on the creation of artificial debt of state-run institutions transferred to public utilities companies and the subsequent transfer of this debt to companies controlled by criminals with the debts being sold for legal tender to lending agencies that receive state-backed guarantees.



January UNAQTR List Updates

During January, the Office of the Superintendent of Financial Institutions (OSFI) released its latest Terrorist Financing announcement updating the lists of Names subject to the *Regulations Establishing a List of Entities* made under the *United Nations Al-Qaida and Taliban Regulations* (UNAQTR).

According to the January 16th Advisory, the United Nations Security Council (UNSC) announced that "the Al-Qaida Sanctions Committee and the Taliban Sanction Committee approved the deletion of one individual and three individuals, respectively, from their Consolidated List of individuals and entities".

Details of the amendments to the list are contained in the UNSC press releases that can be viewed using the following links:

http://www.un.org/News/Press/docs//2013/sc10884.doc.htm

http://www.un.org/News/Press/docs//2013/sc10885.doc.htm

The UNAQTR require every federally regulated financial institution to review its records on a continuing basis for the names of individuals or entities covered by the UNAQTR (Designated Persons).

Beyond Our Borders

Jersey & Money Laundering

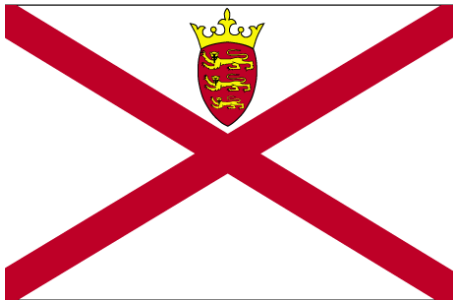
Jersey is located in Western Europe; it is an island in the English Channel, northwest of France. The Bailiwick of Jersey (BOJ) is one of the Channel Islands and is a Crown Dependency of the United Kingdom. The Islands are known as Crown Dependencies because the United Kingdom is responsible for their defense and international relations. Jersey's sophisticated array of offshore services is similar to that of international financial services centres worldwide. According to the ***U.S. International Narcotics Control Strategy Report 2012 (INCSR)***, the financial services industry is a key sector, with banking, investment services, and trust and company services accounting for approximately half of Jersey's total economic activity. As a substantial proportion of customer relationships are with non-residents, adherence to know-your-customer rules is an area of focus for efforts to limit illicit money from foreign criminal activity. Jersey also requires that beneficial ownership information be obtained and held by its company registrar. Island authorities undertake efforts to protect the financial services industry against the laundering of the proceeds of foreign political corruption derived from industries such as oil, gas, and transportation.

Due to Jersey's investment services, most of the illicit money in Jersey is derived from foreign criminal activity. Domestically, local drug trafficking and corruption of politically-exposed persons (PEP) are sources of illicit proceeds found in the country.

Money Laundering & Terrorist Financing

Jersey is able to provide mutual legal assistance to any jurisdiction, including the U.S., in accordance with the Criminal Justice (International Co-operation) (Jersey) Law 2001 and the Civil Asset Recovery (International Co-operation (Jersey) Law 2007. Although not yet used in practice, Jersey has an ability to designate persons and freeze their assets in conformity with UNSCR 1373; however, no formal procedure is in place to receive and assess requirements based on a foreign request. Jersey has established a Financial Intelligence Unit (FIU) known as the Joint Financial Crime Unit (JFCU). This unit is responsible for receiving, investigating, and disseminating suspicious transaction reports (STRs). The unit includes Jersey Police and Customs officers, as well as a financial crime analyst.

The UK is responsible for Jersey's international affairs and, at Jersey's request, may arrange for the ratification of any Convention to be extended to Jersey. The



UK's ratification of the 1988 UN Drug Convention was extended to include Jersey in July 1998; its ratification of the UN Convention against Corruption was extended to include Jersey in November 2009; and its ratification of the International Convention for the Suppression of the Financing of Terrorism was extended to Jersey in September 2008. The UK has not extended the UN Convention against Transnational Organized Crime to Jersey.

Next Steps

The Government of Jersey has established an anti-money laundering program that, in such instances as the regulation of trust company businesses and the requirement for companies to file beneficial ownership with Jersey's Financial Services Commission (JFSC), go beyond what international standards require in order to directly address Jersey's particular vulnerabilities to money laundering. According to the INCSR 2012, Jersey should:

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Inherent Money Laundering Risks in Wealth Management Services:

The Disastrous Perils of HSBC U.S. & HSBC Mexico

Part One

In the article on page 5 of this publication, we reported that the United States had levied one of the largest anti-money laundering fines on HSBC in its history for lax compliance controls and glaring regulatory breaches. In this article we bring you the *first* of a *two-part* series on the inherent risks of money laundering in wealth management services, also known as "private banking".

You might wonder why, in the HSBC case, we should focus on wealth management. Wealth management is one of the underlying reasons for the bank's failings at that time. The United States Senate Permanent Subcommittee on Investigations report entitled *U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History* released on July 17th, 2012 concluded that it was the bank's rapid expansion strategy and thirst for profits that contributed to a culture of wilful blindness.[1]

The 2012 report highlighted that the HSBC Bank USA (HBUS) opened correspondent accounts for approximately 80 HSBC affiliates around the world. The bank's wealth management services, otherwise marketed as *HSBC Premier*, caters to high net worth clientele, provides banking, investment, wealth planning, trust and fiduciary, insurance, and philanthropic advisory services.[3]

HSBC Group at a Glance

General Statistics	Wealth-Management Services
• 6,900 offices • 80+ countries and territories • 89M customers (2011) • $22 B in profits (2011) • 16,500 employees (2009) • 200 employees, Compliance Unit (2009)	• Cheque books, narrative statements, direct debits, standing orders • Debit cards and credit cards • Domestic and international wire transfers • Cash management and professional services • Treasury and foreign exchange • Safekeeping services • Deposit products and short-term investments

For those of you who are less familiar with the concept of 'wealth management', it is the provision of investment services in a closely managed relationship for high net worth clients.[4]

As a result of its unique characteristics, wealth management is deemed to be vulnerable to money laundering. The degree to which it poses a risk varies depending on which jurisdiction the client's wealth comes from. A client whose wealth originates from jurisdictions with weak money laundering controls is obviously a higher risk rating than a client who lives in a country with stringent controls. For this reason, if you are a Relationship Manager in your organization, you need to develop a very good understanding of your clients and the nature of their transaction activities. You must also guard against developing too much of a close personal relationship with your customers because this false sense of security can result in a potential conflict of interest. Under these circumstances, you need to remain professional at all times. The U.S. Senate report recommends that the level of due diligence carried out in wealth management should be higher than in retail banking. Understand the client's business sector thoroughly. Follow the chain of title to know who the beneficial owner is and try to conduct your business, wherever possible, in a

manner that is face-to-face with your client.[5]

Why is wealth management (private banking) a growth area for the financial sector? Putting it bluntly, banks are attracted to wealth management services because they offer potentially higher returns through the provision of value-added services. The rich obviously have more money to invest and spend on their services. These wealthy clients can lend more money than they borrow. Based on simple economics, this revenue stream has become more important today because financial institutions need to fund more of their balance sheets from deposits than from any capital markets earnings.

Total Investible assets of the world's wealthy[6]:

- $122.8 trillion (2012)
- $151 trillion (2016)
- Asia & Latin America show the fastest regional growth

Typically, private banking caters to wealthy clients with financial assets above $1 million on the low end and $10 million-30 million dollars in assets on the high end of the spectrum. The wealthy are attracted to "private banking" because it suits their penchant for confidentiality, concealment and tailored investment solutions. For these same reasons, criminals are equally attracted to private banking because of the availability of complex products and services that are operated by reputable, legitimate and discreet establishments. When you combine this with the fact that private banking offers, among other things, high-value transactions, off shore accounts and the availability of complex financial structures such as shell companies and multi-pooled omnibus accounts this scenario appeals to criminals.

What Is an Omnibus Account?

An omnibus account is a specific kind of stock holding account that involves multiple anonymous investors. In these accounts, a stockbroker trades on behalf the client base; thus each investor does not have his or her name attached to the account.[7]

What You Might Learn from the HSBC Money Laundering Case?

After taking a closer look at the HSBC case, we discovered that the U.S. Senate report documented that there were serious issues with the way that HSBC Group assessed risk in Mexico. From 2002 to 2009 clients in Mexico "were not subject to enhanced monitoring by HBUS and this was despite repeated warnings by U.S. law enforcement, the U.S. Congress and the State Department and other international consensus that identified Mexico's drug trafficking and money laundering threats.

If you are a Relationship Manager in a small or medium size financial institution, the U.S. Senate Investigative Report provides you with some useful advice. First, a Relationship Manager's role in Wealth Management Services is inherently "judgmental" because he or she needs to make an assessment of the client before account opening and establishing a formal and legally binding relationship according to the Financial Action Task Force.[8] This assessment requires that the Relationship Manager obtain accurate and updated customer information. Secondly, depending on the size of the financial institution you work in, Relationship Managers may, in certain circumstances, have multiple roles such as head of compliance. In these types of institutions, there is a need for effective oversight controls to monitor transactions and account opening. In these cases, the ethical stance of senior management is critical and has a direct effect on the institution's approach to risk management. Obviously, in the HSBC Mexico affiliate's situation, senior management's approach was preoccupied with the pursuit of expansion and profit prior to 2009.

In Part Two of this series on *Wealth Management & its Inherent Risks,* we will further explore what was uncovered by the U.S. Senate investigative report and discuss solutions for the wealth management sector.

References:

1. United States Senate PERMANENT SUBCOMMITTEE ON INVESTIGATIONS Committee on Homeland Security and Governmental Affairs July 2012 Report
2. United States Senate PERMANENT SUBCOMMITTEE ON IVESTIGATIONS Committee on Homeland Security and Government Affairs July 2012 report, page 2
3. United States Senate PERMANENT SUBCOMMITTEE ON IVESTIGATIONS Committee on Homeland Security and Government Affairs July 2012 report, page 14
4. Financial TIMES Lexicon
5. DRAFT Guidance Notes On the prevention of the use of the financial system for the purpose of money laundering and terrorist financing BANKING SECTOR 2010 version 7
6. Boston Consulting Group's Global Wealth 2012: The Battle To Regain Strength,
7. Business Dictionary.com
8. FATF Guidance, Anti-money laundering and terrorist financing measures and financial inclusion, June 2011

You Asked...

Each month, The Business Crime Solution takes time to answer questions submitted by our readers

Question:

The FINTRAC Guidelines do not go into great detail when defining what is deemed to be an account. I am particularly interested in whether a "lease" is considered to be an account and subsequently subject to the money laundering legislation and supporting regulations. I noted that Section 6G – 3.3 does give some guidance; however, it does not specifically address if a lease is an account. I am wondering if you have ever come across this or possibly had an interpretation given from FINTRAC that I might be able to reference ? --- *Financial Institution, Alberta*

Answer:

According to comments we have heard, FINTRAC has no immediate plans to define the term "account" in either the AML/CTF legislation or its supporting Regulations. The rationale for this position makes sense to us as the term "account" can mean different things to different reporting entities and to come up with a prescribed definition that would be acceptable across the reporting sectors would be close to impossible.

However, when one takes into consideration the fact that leasing for a financial institution is a product that must be assessed from a "risk perspective" as part of the overall Risk Management Program, then the picture changes significantly given that money laundering control experts agree unanimously that the lease and purchase of luxury goods such as automobiles, airplanes and boats is a common method for them to use their proceeds of crime to their benefit. That being said, any reporting entity in the leasing business should make it an integral part of its risk mitigation program to undertake appropriate Know Your Customer (KYC) practices, including asking for and verifying customer ID and keeping records of the lease contract and its fulfillment by the customer. ❖❖❖

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- continue to maintain and enhance its level of compliance with international standards to assist with efforts to counter drug-related crime;
- establish reporting requirements for the cross-border transportation of currency and monetary instruments; and
- continue to demonstrate its commitment to fighting financial crime by enhancing its anti-money laundering/ counterterrorist financing regime in areas of vulnerability and ensure sufficient resources are available to continue to function effectively.