

Butterworths Money Laundering Law

Bulletin Editor
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This Bulletin covers material available from **1 April** to **30 June 2014**.

UK NEWS

HM Treasury

Policy paper: Preventing money laundering

On 5 June 2014 HMT published guidance on preventing money laundering. It can be found here – <https://www.gov.uk/government/publications/preventing-money-laundering/preventing-money-laundering>.

Advisory notice

A revised Advisory Notice will be issued shortly following the June FATF Public Statement.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255118/Advisory_Notice_October_2013.pdf.

Financial Sanctions

A consolidated list of asset freeze targets designated by the United Nations, European Union and United Kingdom under legislation relating to current financial sanctions regimes was updated on 19 June 2014; it is available (together with any later updates) here – <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets>.

FCA

FG1415 – Examples of good and poor practice in ‘Banks’ control of financial crime risks in trade finance

In July 2013, the FCA consulted on examples of good and poor practice in ‘Banks’ control of financial crime risks in trade finance’. They proposed to include these examples in Financial Crime: A Guide for Firms, the regulatory guidance, which sets out expectations of firm’s financial crime systems and controls.

Most respondents found the examples of good and poor practice useful. But some respondents were concerned that some of the examples of good and poor practice were too prescriptive. They felt that this was disproportionate and incompatible with the risk-based approach. The FCA amended our proposed guidance to address these concerns.

What happens next?

- The FCA published feedback on the responses we received to our consultation.
- They are in the process of amending our regulatory guidance, Financial Crime: A Guide for Firms, as set out in the instrument.
- The guidance takes effect on 12 June 2014.

HMRC

Estate Agency sector

On 1 April 2014 HMRC assumed responsibility for this sector from the OFT.

On 2 April 2014 HMRC published a Registration Guide for Estate Agency businesses which can be found here – <https://www.gov.uk/registration-guide-for-estate-agency-businesses>.

HM Inspector of Constabulary Report

In 2009/10 HM Inspector of Constabulary (HMIC) conducted a review of HMRC's performance in recovering the proceeds of crime from tax and duty evasion and benefits fraud. In a critical 2011 report HMIC made 15 recommendations for action to be undertaken by HMRC.

Following the inspection, HMRC developed an action plan to manage the delivery of the recommendations, with HMRC managers appointed as sponsors for each recommendation. This action plan was updated periodically and shared with HMIC.

HMIC revisited, between September and December 2013 to examine how well HMRC had discharged the recommendations in its 2011 report. A further very critical report was released in 2014.

The revisit has found that progress has been slow. HMIC considers that HMRC has failed to adhere to and implement the 2011 report's recommendations in a way HMIC would have expected.

Although HMRC had developed an action plan, there was a lack of effective governance to ensure that sufficient priority and focus was given to addressing these recommendations.

Contrary to HMRC's March 2013 action plan which stated that all recommendations had been 'closed', HMIC found that only three of the 15 recommendations have been discharged. The revisit also established that recommendations 6, 7 and 8 have been partially discharged.

The 70-page report provides an interesting insight into the work of HMRC (or lack of it) and may be found here – www.hmic.gov.uk/wp-content/uploads/hmrc-proceeds-of-crime-revisit.pdf.

SFO

Boiler Room fraudster sentenced

John Laurence Curtin was sentenced to three years' imprisonment at Southwark Crown Court for his part in a £4m boiler room fraud.

Curtin, an Irish National (DoB 09/02/1976) was one of five conspirators convicted for their roles in this conspiracy to defraud investors in the UK. He was also sentenced to nine months' imprisonment for breaching the general prohibition in the Financial Services and Markets Act 2000, for dealing, arranging and advising on investments without authorisation. He is the final defendant in the Secure Trade and Title Ltd prosecution brought by the SFO and was arrested in France in October 2013 under a European Arrest Warrant. He consented to return to the UK shortly afterwards and pleaded guilty in March this year. The offences took place between 2005 and 2007.

Curtin was a salesman and manager involved in the fraudulent sale of company shares to British residents at vastly inflated prices. He did this by acting through unregulated businesses. He worked in Barcelona and then Limerick, selling worthless shares over the phone and he also trained new salesmen to call potential investors. Together with a man called Damien Smith, he ran the Limerick outfit. Over the course of just a few months, the conspirators' global business (Secure Trade and Title Ltd) accumulated over £4m from investors. Investors had no idea that most of the money for the shares which they transferred into a UK Lloyd's bank account, was not going to the company in which they had been encouraged to invest. Instead it was siphoned off by the boiler rooms.

Further charges in LIBOR investigation

The Serious Fraud Office issued criminal proceedings against Jay Vijay Merchant, Alex Julian Pabon and Ryan Michael Reich, all former employees at Barclays Bank plc, for conspiracy to defraud in connection with its investigation into the manipulation of LIBOR. The investigation continues.

Money laundering investigation opened

The Director of the SFO has opened a criminal investigation into possible money laundering arising from suspicions of corruption in Ukraine. The SFO has obtained a restraint order freezing approximately \$23m of assets in the UK in connection with this case.

GlaxoSmithKline plc investigation

The Director of the SFO has opened a criminal investigation into the commercial practices of GlaxoSmithKline plc and its subsidiaries.

Nine convictions linked to £70m boiler room fraud

Two men were convicted at Southwark Crown Court for their roles in what is believed to be the largest boiler room fraud ever pursued by a UK authority. Their convictions bring to nine the number of individuals convicted in relation to this conspiracy. The convictions and sentences of the other seven last year, in linked cases, can only now be reported fully.

Jeffrey Revell-Reade, 49, an Australian national was convicted of one count of conspiracy to defraud in relation to an investigation that was launched by the Serious Fraud Office in 2007. From 2003–2007, a total of around £70m was obtained fraudulently from UK investors under a boiler room fraud scheme he masterminded.

The court heard that Mr Revell-Reade set up the scheme, under which sales entities operating from Madrid sold shares in US-listed companies on a fraudulent basis. Investors in the companies bought shares that had restrictions on their resale for a 12-month period. When the investors came to sell the shares after the expiry of this period, they often found that they were unable to do so as they were worthless, and that the shares were in shell companies or companies that were not operating at all.

Anthony May, 58, who lived in Switzerland and then moved to Spain, was also found guilty of one count of conspiracy to defraud. Mr May administered the processing of shares distributed to investors and managed the finances of the conspiracy, using and managing off-shore bank accounts to distribute the funds obtained as part of the conspiracy.

Mr Revell-Reade and a third defendant, Robert Manning, 63, from Leeds, was found not guilty of one charge of corruption arising from the conduct of the fraud.

SFO Director David Green CB QC said:

‘Over 1000 UK investors were defrauded by these criminals, who caused substantial financial damage and hardship. The victims were deliberately charmed, lied to and bullied, whatever it took to make them send their money to these criminals. The profits from this fraudulent scheme were used to fund lavish lifestyles featuring numerous overseas properties, wine collections, luxury yachts and private jet hire.

The convictions mark the culmination of seven years hard work by a dedicated team of investigators, lawyers and accountants at the SFO, and close work with other agencies. This case illustrates that key attributes required in an SFO investigation are determination and persistence, qualities necessary to follow the complex money flows and elaborate company structures in numerous jurisdictions.

I would like to thank the City of London Police, overseas law enforcement partners and regulators for their assistance with this wide ranging and successful investigation.’

Related convictions

Six individuals were sentenced to between three and seven years in custody in May 2013 as a result of the same SFO boiler room fraud investigation. These sentences followed the defendants being convicted by a jury on an indictment containing a single count of conspiracy to defraud.

Due to reporting restrictions, the outcome of the trial has only recently been fully published. The six defendants formed the senior management and operations team for three Madrid boiler rooms and conspired with Mr Revell-Reade and Mr May to defraud investors with or through the entities Tresaderns & Partners SL, Price Stone Group SL and Anderson McCormack SL.

The defendants were arrested between 2007 and 2009 and were charged in 2010.

Their details and sentences are listed below:

Daniel Gooding, aged 39, from Brentwood, Essex – seven years in custody

Shaun David Rumsey, aged 33, from Basildon, Essex – five years in custody

Philip Morris, aged 38, from Biddenden, Kent – five years in custody

Jon Steven Frank Emery, aged 36, from Romford, Essex – five years in custody

Ian Hughes, aged 34, from Hainault, Essex – four years in custody

Emma Farmer, aged 41, from Brentwood, Essex – three years in custody

A seventh defendant, Michelle Coleman, aged 62, from Brentwood, Essex pleaded guilty to three counts of money laundering. The total laundered sum was £252,425 of which £158,000 was retained by Ms Coleman personally.

Following her plea, the defendant was sentenced to 21 months imprisonment, to be suspended for two years.

A confiscation hearing concerning Ms Coleman is scheduled to begin in June, while confiscation hearings for Mr Gooding, Mr Rumsey, Mr Morris, Mr Emery, Mr Hughes and Ms Farmer are scheduled to begin in August.

Two sentenced in £70m boiler room fraud trial

Two fraudsters, who ran what is believed to be the largest boiler room fraud scheme ever pursued by a UK authority, were sentenced to prison.

Jeffrey Revell-Reade, 49, an Australian national, who masterminded the scheme, was sentenced to a further eight years and six months in prison (having already served the equivalent of a year in prison overseas while contesting extradition). He had been found guilty of conspiracy to defraud in relation to an investigation that was launched by the Serious Fraud Office in 2007.

Anthony May, 58, who lived in Switzerland and then moved to Spain and was also found guilty of conspiracy to defraud, was sentenced to seven years and four months in prison (having already served two months in custody before facing trial).

Revell-Read was also disqualified from being a director of a company for 12 years and May for 10 years.

Commenting on the sentences handed down, HHJ Gledhill said:

‘Many investors lost every penny they had ... the consequences of those losses have been dreadful and in some consequences catastrophic.

Even in the process of one firm dying and another being born, deceit and fraud were employed.

Some believe fraud is a victimless crime; this case proves the fallacy of that.’

A confiscation investigation is being conducted and any orders for compensation and/or costs will be dealt with in due course.

The investigation was assisted by the City of London Police, the National Crime Agency, the Financial Conduct Authority (FCA) as well as overseas law enforcement partners and regulators, including in New Zealand, Hong Kong and the US.

Two more guilty in Innospec Conspiracy Trial

A jury at Southwark Crown Court have convicted Dennis Kerrison and Miltiades Papachristos of conspiracy to commit corruption, following an investigation conducted by the Serious Fraud Office.

The convictions of Mr Kerrison, a former CEO of Associated Octel Corpn (subsequently renamed Innospec Ltd) and Dr Papachristos, former Regional Sales Director for the Asia-Pacific region, complete the SFO’s six-year investigation into Innospec, which led to two other individuals and Innospec entering guilty pleas.

Innospec itself pleaded guilty in March 2010 to bribing state officials in Indonesia and was fined \$12.7m. The bribes were intended to secure, or serve as rewards for having secured, contracts from the Government of Indonesia for the supply of Innospec products including Tetraethyl Lead, also known as TEL, a highly dangerous organo-lead compound that was created as an octane booster to be added to engine fuel. Leaded fuel, ie fuel that contains TEL, was banned in the UK in 2000 due to links between the compound and severe neurological damage.

David Green CB QC, Director of the SFO said:

‘Today’s convictions finally bring to an end a long-running investigation into corruption at Innospec.

As former Secretary General of the UN Kofi Annan said, “corruption leads to violations of human rights, distorts markets and erodes the

quality of life.” By investigating and prosecuting this case, the SFO has helped curb those damaging consequences of bribery.

While other defendants took the decision to plead guilty at an early stage, the SFO case team has had to resist a sustained and extensive campaign designed to prevent these defendants facing trial. That they have now done so is testament to the skills, professionalism and tenacity of those involved.

I am very pleased that a jury has had the opportunity to deliver its verdict on the defendants’ conduct.’

Another former Innospec CEO, Paul Jennings, pleaded guilty in June 2012 to two charges of conspiracy to commit corruption and a further charge of conspiracy to commit corruption in July 2012. David Turner, former Innospec Sales and Marketing Director pleaded guilty to three charges of conspiracy to commit corruption in January 2012.

The sentencing of Dr Turner, Mr Jennings, Mr Kerrison and Dr Papachristos is expected to take place on 1 August 2014.

The SFO investigation into the conduct of these individuals was assisted by the US Department of Justice, the US Securities & Exchange Commission, the City of London Police, the Cheshire Constabulary, Indonesia’s Corruption Eradication Commission and the Swiss and Singaporean authorities.

SFO applies for voluntary bill of indictment

On 24 January 2013, the SFO charged Eric Evans, Alan Whiteley, Frances Bodman, Richard Walters, Leighton Humphreys and Stephen Davies QC with conspiracy to defraud in relation to the sale of four open-cast mining sites in South Wales.

Following applications from five of the defendants, Mr Justice Hickinbottom dismissed the charge of conspiracy to defraud on 18 February 2014.

After carefully considering the ruling, the SFO applied to the High Court for a voluntary bill of indictment on 28 April 2014. An application for a voluntary bill of indictment is an exceptional procedure which, if the High Court consents, will allow the SFO to re-institute criminal proceedings against the individuals, notwithstanding the earlier ruling of the Crown Court.

A judge has now been allocated to hear the application in due course.

Xclusive Tickets Director sentenced to additional six years’ imprisonment

Terence Shepherd, the director behind the fraudulent online tickets operation ‘Xclusive’, has been sentenced at Westminster Magistrates’ court to six years’ imprisonment for failure to pay a million pound confiscation order.

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Shepherd, aged 55 years, of Blackheath, London was originally convicted and sentenced to eight years' imprisonment in July 2011 for fraudulent trading, money laundering and acting as a company director while disqualified.

Xclusive 'sold' but failed to supply thousands of tickets to the value of at least £3.7m for various 'big ticket' events including the Beijing Olympics and various music festivals that took place during the summer of 2008. Xclusive companies collapsed in August 2008 leaving more than 10,000 people without tickets and causing substantial losses.

In October 2012 Shepherd was ordered to pay a confiscation order of £1,250,000 of which £1,036,872.13 was to be paid in compensation to victims. He was ordered to pay the sum within six months or face six years' imprisonment in default of payment. To date he has paid £103,344.00 towards his confiscation order; this has been paid to victims in compensation.

In activating Shepherd's default sentence District Judge Ikram said:

'You have culpably neglected or wilfully refused to pay this sum and I am not in a position to grant a further adjournment.'

The default sentence imposed today will be served after the original sentence unless the confiscation order plus accrued interest is paid in full.

SFO Annual Report and Accounts

The SFO Annual Report and Accounts for 2013–2014 was been laid before Parliament on 30 June 2014. The report can be found here – www.sfo.gov.uk/media/268927/sfo%20ar-2014%20sps-26-6.pdf.

NCA

Belfast court grants NCA asset recovery orders

The NCA has been granted three Recovery Orders by Consent in Belfast High Court, recovering a total of nine properties, two plots of land, and the contents of a number of bank accounts owned by Joseph and Lorraine Corr, Gerard Corr, Gerald Robert McCann (also known as Gerard Robert McCann) and Geraldine McCann.

On 28 March 2014, an Order was made against assets owned by Joseph and Lorraine Corr recovering three properties and a plot of land in the Greater Belfast area and the contents of a number of bank accounts.

In its proceedings, the NCA alleged that Joseph Corr's assets were acquired with the proceeds of drug dealing, mortgage fraud, and income tax evasion, while it was alleged that Lorraine Corr's assets were derived from benefit fraud, tax evasion and mortgage fraud.

On 3 April 2014, further Recovery Orders were granted in the same investigation against assets owned by Gerald Robert McCann, Geraldine McCann and Gerard Corr.

The recovered assets comprise six properties and plot of land in the Greater Belfast area and the contents of a number of bank accounts. The NCA alleged that Gerard Corr's assets included the proceeds of mortgage fraud and tax evasion.

In its proceedings, the NCA alleged that Gerald Robert McCann's assets were acquired with the proceeds of drug dealing, mortgage fraud and income tax evasion.

Closing time for £180m money laundry

Three members of a UK criminal network – which laundered at least £180m of cash for drug traffickers – face prison after the latest in a series of major trials concluded at Birmingham Crown Court.

Ali Usman, Aqeel Yousaf and Naiz Ali join 29 accomplices previously convicted of enabling the international transfer of money acquired through organised crime.

Sentences already handed down total more than 140 years, and include 11 years for Muhammad Younas, who ran Mian International Ltd, a Manchester money service business (MSB). Its company bank accounts processed in excess of £160m between September 2008 and March 2011, all of which was directed into US dollar accounts before being transferred to Asia and the Middle East.

The laundering operation involved the collection of criminal cash from organised crime groups by a network of couriers controlled by Jamshid Haidary in the north of England and Nagibullah Mohammad in the midlands and south. Those exchanges would be arranged using coded text messages.

When in the control of the laundering operation, the cash – which might be English, Scottish or Northern Ireland bank notes – would be taken for counting and bagging at the home of Mohammad Khan Khoshalkhil in Birmingham, or premises in Leicester run by Jasvir Singh Sandar.

Using 'quick drop' cash bags which had a unique identification number, the money would then be taken to banks in Birmingham or Manchester and deposited into Mian's accounts.

Younas and other members of the criminal network created false records in a bid to account for those money flows. Receipts totalling £72m were faked in an attempt to justify the sums being credited to Mian International Ltd's accounts.

For a single date in 2009, Noble (UK) Ltd, another Manchester MSB linked to the conspiracy, had invented records of 422 dealings totalling more than £228,000, all of which were shown to be just under the £600 threshold at which MSBs must ask for identification from customers.

A further method of money laundering used by members of the crime group has become known as 'cuckoo smurfing'.

This involved the payment of criminal cash into the bank accounts of unwitting recipients, typically students from Iran who were expecting transfers from home into their UK accounts. They instead found that money was being paid into their accounts from seemingly random locations in the UK. Investigators believed that replacing legitimate money with criminal cash in this way made other, 'clean', money available to overseas organised criminals.

Ali Usman, Aqeel Yousaf and Naiz Ali were involved in more than £500,000 of laundering using this method.

The network was dismantled by a series of arrests, as well as cash seizures by investigators totalling £2.6m.

Courier Ajmal Mohsen was in possession of £240,000 in a holdall when officers stopped him in 2010, and Larry Foster, who represented a drug trafficking group, was arrested with nearly £140,000 in cash in his van immediately prior to a planned meeting with Haidary in an industrial side street in Birmingham.

Officers additionally analysed phone data to ascertain that members of the laundering network were in contact with each other when they were transporting and banking the criminal money.

The NCA's Simon Flowers said:

'This investigation has successfully targeted and dismantled one of the most significant money laundering networks seen in the UK. Criminality like this is the nuts and bolts of organised crime, as the perpetrators can neither do business nor hope to evade detection without making illicit cash flows appear legitimate.

The NCA is using its international reach and partnerships across law enforcement and many other sectors in the UK to identify criminal groups, stop them doing business, and bring their members to justice.'

On 9 April 2014, the NCA was granted a Confiscation Order of £930,000 against Nagibullah Mohammad, which he has six months to pay. Failure to do so will result in an addition of four-year and nine-month prison sentence, after which he would still be liable for the money.

The investigation was supported by Greater Manchester Police, Central Motorway Patrol Group, West Midlands Police and law enforcement bodies in the Netherlands, Germany, Australia and the UAE.

Ali Usman, Aqeel Yousaf, and Naiz Ali will be sentenced at a later date.

Analysis of serious and organised crime threats

The National Crime Agency has published the most comprehensive public-facing analysis to date of the serious and organised crime threats affecting the UK.

The National Strategic Assessment (NSA) draws together knowledge from across the whole law enforcement community. It provides an objective picture

of serious organised crime threats, enabling UK law enforcement as a whole to prioritise, coordinate and target the response.

Key themes in the 2014 assessment include:

- The growth of online streaming of real-time child sexual abuse.
- An anticipated growth in the targeted compromise by cyber criminals of UK networked systems, including more ransomware attacks and distributed denial of service (DDOS) attacks.
- The threat to the UK economy from money laundering.
- A likely increase in the supply of heroin from Afghanistan, the processing/production of amphetamine in the UK, and the supply of new psychoactive substances.
- An increase in the criminal exploitation of the legitimate supply of firearms.

The NSA is presented in two sections:

The first section identifies and assesses the scale and nature of serious and organised crime in the UK in terms of criminals, their impact on victims, and five cross-cutting issues they exploit: cyber, borders, corruption, money laundering/criminal finance, and identify theft/fraud.

The second section assesses the identified threats and how those are likely to develop over the next 1–3 years, including: child sexual exploitation, criminal use of firearms, cyber-crime, drug trafficking, economic crime, human trafficking (including modern slavery) and people smuggling, organised acquisitive crime, and the threats posed by serious and organised criminals in prison and under lifetime management.

NCA Director General Keith Bristow said:

‘To relentlessly disrupt serious and organised crime as effectively as possible we need to take informed decisions about how law enforcement coordinates and targets its resources. The National Strategic Assessment provides us with the baseline for doing that.

This assessment, which is the first one published by the NCA, is the most detailed and broad-ranging crime threat analysis ever produced by law enforcement.

Importantly, because of the way the NCA has been set up to lead and coordinate the UK response to serious and organised crime, this is also the first time that the shared threat assessment fits within a national framework, fundamentally connecting our strategic understanding of the threats with a UK-wide tactical response to them.

The assessment, and the response to it, is owned by the whole of law enforcement, including police forces and other national agencies, as well as Whitehall departments, local government, industry partners and the third sector.

It helps us maximise our collective impact in order to cut serious and organised crime.’

The full assessment can be found here – www.nationalcrimeagency.gov.uk/publications/207-nca-strategic-assessment-of-serious-and-organised-crime/file.

Other Financial Crime News

Money laundering reporting officer and two employees jailed for £100m scam

The owner of a London bureau de change and two of his employees have been jailed for laundering more than £100m of criminal cash through their central London branches.

Southwark crown court heard how the men’s underworld contacts would queue with unsuspecting tourists to exchange bags of ‘dirty’ money, including cash from drug deals, for ‘clean’ €500 notes – used because they were easy to conceal.

Thillianathan Kumarathas and Ramanathan Thayaparan recruited Dinesh Kumar Anandan into their money laundering enterprise at two branches of Premier Exchange in Victoria.

The three defendants were thought to have taken a cut of up to 3% per transaction between 2005 and 2009. Their money laundering service was discovered by HM Revenue and Customs during an investigation into two London cocaine traffickers.

The three men invested the money in properties in the UK, France and India.

Kumarathas and Thayaparan also used it to pay for their children’s private school fees.

Other investments seized by HMRC officers included cars, restaurants and supermarkets, plus more than £80,000 cash from raids at the two branches and the men’s homes.

Thayaparan was employed as a money laundering reporting officer with the job of alerting the authorities to criminal transactions.

On Friday, Kumarathas, 58, and Thayaparan, 42, both from Harrow, were jailed for nine years and five years respectively.

Anandan, 42, from Enfield, was sentenced to two years in prison.

The men were found guilty of money laundering offences under the Proceeds of Crime Act 2002.

David Margree, assistant director of HM Revenue and Customs, said: ‘This was a calculated attempt to make a dishonest living and help organised criminals go undetected by exchanging the money they got from criminal activity.’

British money exchanges stopped selling €500 notes in 2010 because they were used by money launderers. The Serious and Organised Crime Agency had estimated that 90% of the notes in circulation were held by criminals.

While £1 m in £20 notes weighs 50kg, the equivalent in euros weighs just over 2kg – and one cereal box could hold €300,000, making the notes easier to smuggle.

Guidance: Fraud, bribery and money laundering offences – Definitive guideline

Companies found guilty of money laundering, fraud or bribing foreign officials to win contracts will face fines of up to 400% of their illicit profits under new guidelines published by the Sentencing Council. The guidelines allow judges, for the first time, to weigh harm done to the victim rather than purely the financial amount defrauded. The publication also marks the first time there has been a guideline for the sentencing of money laundering, with the Council recognising that this offence is an integral part of much serious crime.

The Guidance can be found here – www.sentencingcouncil.judiciary.gov.uk/docs/Fraud_bribery_and_money_laundering_offences_-_Definitive_guideline.pdf.

INTERNATIONAL NEWS

FATF

Money laundering and terrorist financing through trade in diamonds

This typologies report identifies the ML/TF vulnerabilities and risks of the 'diamond pipeline', which covers all sectors in the diamond trade: production, rough diamond sale, and cutting and polishing, jewellery manufacturing and jewellery retailers. The report concludes that the diamonds trade is subject to considerable vulnerabilities and risks.

The report can be found here – www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf.

Virtual Currencies: Key Definitions and Potential AML/CFT Risks

In a short period of time, virtual currencies, such as Bitcoin, have developed into a powerful payment method with ever growing global acceptance. Virtual currencies offer an innovative, cheap and flexible method of payment. At the same time, the unique and often unfamiliar business model of virtual currencies poses a challenge to regulators around the world who are unsure how to deal with this payment method. The policy responses vary considerably, with some countries embracing this new technology and others severely or totally limiting its legitimate use.

The FATF conducted research into the characteristics of virtual currencies to make a preliminary assessment of the ML/TF risk associated with this payment method. An important step in assessing the risks and developing an

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appropriate response, is to have a clear understanding of the various types of virtual currencies and how they are controlled and used. This report establishes a conceptual framework of key definitions, which could form the basis for further policy development.

The legitimate use of virtual currencies offers many benefits such as increased payment efficiency and lower transaction costs. Virtual currencies facilitate international payments and have the potential to provide payment services to populations that do not have access or limited access to regular banking services.

However, other characteristics of virtual currencies, coupled with their global reach, present potential AML/CFT risks, such as:

- the anonymity provided by the trade in virtual currencies on the internet;
- the limited identification and verification of participants;
- the lack of clarity regarding the responsibility for AML/CFT compliance, supervision and enforcement for these transactions that are segmented across several countries; and
- the lack of a central oversight body.

The report provides law enforcement examples a number of examples of money laundering offences involving virtual currencies to demonstrate how this payment method has already been abused for money laundering purposes.

The full report can be found here – www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf.

Risk of terrorist abuse in non-profit organisations

The FATF have published a report dealing with the Risk of Terrorist Abuse in Non-profit Organisations.

Terrorist organisations and non-profit organisations have very different objectives, but often rely on similar logistical capabilities: Funds, material, personnel and public influence are key resources for non-profit organisations (NPOs). Terrorist organisations seek the same resources to further their cause, which makes NPOs vulnerable for abuse by terrorists or terrorist networks.

FATF Recommendation 8 requires that countries review their laws and regulations to ensure that NPOs cannot be abused for the financing of terrorism.

This typologies report examines in detail, how and where NPOs are at risk of terrorist abuse. The report uses case studies as well as input collected from law enforcement, other government actors and NPOs themselves to increase awareness of the methods and risk of abuse for terrorism of the NPO sector, both domestically and internationally.

The report highlights that NPOs are at risk of being abused for terrorism at different levels: from the misappropriation of street-level fundraising to the infiltration of terrorist organisations at the program delivery level to promote their ideology.

There are other factors that make the NPO sector very attractive to terrorist organisations, some of which are:

- **Globalisation**, which changed the way NPOs operate, drawing them into areas where terrorist networks operate. This has created interconnected financial and transportation networks that are of interest to terrorist organisations.
- **The large transitory workforce of NPOs**, with an important portion of that workforce made up of volunteers. Staff, and in particular volunteers, are often not given a thorough background check. NPOs also face difficulties attracting and retaining personnel that have technical expertise in risk assessment, compliance and legal matters.
- **The high level of public trust** in the good work done by the NPO sector. NPO activities are generally not scrutinized as consistently as other sectors. Terrorist networks abuse this public trust by piggyback on the legitimate activities of an – unwitting – NPO, or by mimicking legitimate NPOs.

The report provides an insight into the risk of terrorist abuse of each of the operational areas of NPOs:

- Collection of Resources;
- Transfer of Resources;
- Transfer of Resources;
- Expenditure of Resources;
- Delivery of programs.

Supported by the case studies collected for this research project, this typologies report provides a number of red flag indicators to help all stakeholders, including NPOs, government officials, financial institutions and designated non-financial business or professions (DNFBPs) identify and investigate possible cases of abuse.

The report can be found here – www.fatf-gafi.org/media/fatf/documents/reports/Risk-of-terrorist-abuse-in-non-profit-organisations.pdf.

FATF Public Statements, 27 June 2014

The latest FATF statements on high-risk and non-cooperative jurisdictions/ Improving Global AML/CFT Compliance: on-going process, were issued on 27 June 2014 and can be found here –

www.fatf-gafi.org/media/fatf/documents/statements/Public-Statement-27-June-2014.pdf.

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www.fatf-gafi.org/media/fatf/documents/statements/Compliance-27-June-2014.pdf.

Mutual Evaluation Reports

Several reports were issued during the quarter, a list may be found here – www.fatf-gafi.org/topics/mutualevaluations/.

US Attorney General Eric Holder Announces Guilty Plea in Credit Suisse Offshore Tax Evasion Case

The US Department of Justice filed a criminal information against Credit Suisse AG – a bank that is one of the largest wealth managers in the world. In the course of our painstaking, years-long investigation, the Department discovered that Credit Suisse and its subsidiaries engaged in an extensive and wide-ranging conspiracy to help US taxpayers evade taxes. The bank actively helped its account holders to deceive the IRS by concealing assets and income in illegal, undeclared bank accounts. These secret offshore accounts were held in the names of sham entities and foundations. This conspiracy spanned decades. In the case of at least one wholly-owned subsidiary, the practice of using sham entities to conceal funds began more than a century ago. Credit Suisse not only knew about this illegal, cross-border banking activity; they wilfully aided and abetted it. Hundreds of Credit Suisse employees, including at the manager level, conspired to help tax cheats dodge US taxes.

In the course of these activities, Credit Suisse deceived the IRS, the Federal Reserve, the Securities and Exchange Commission, and the Department of Justice. The bank went to elaborate lengths to shield itself, its employees, and the tax cheats it served from accountability for their criminal actions. They subverted disclosure requirements, destroyed bank records, and concealed transactions involving undeclared accounts by limiting withdrawal amounts and using offshore credit and debit cards to repatriate funds. They failed to take even the most basic steps to ensure compliance with tax laws. And when the bank finally began to feel pressure to correct illegal practices and comply with the law – as a result of the Justice Department’s investigation, of which they were notified in 2010 – Credit Suisse failed to retain key documents, allowed evidence to be lost or destroyed, and conducted a shamefully inadequate internal inquiry.

Credit Suisse has agreed to plead guilty to criminal charges related to this pervasive illegal activity. This is the largest bank to plead guilty in 20 years. The bank will pay a total of \$1.8bn in the form of a fine of over \$1.13bn and nearly \$670m in restitution to the IRS. They have admitted criminal wrongdoing in a detailed Statement of Facts filed alongside the information in this case. And they have stopped these activities, fundamentally changed their business operations, and agreed to provide critical information that will aid in our enforcement efforts – so the bank can move forward in full compliance with the law.

This plea agreement caps a years-long investigation that has already led to law enforcement actions with respect to several individual employees Credit

Suisse. Since 2011, the Department has indicted eight employees at the bank, including some at the manager level; two of these have so far pleaded guilty.

This announcement should send a firm and unequivocal message to anyone who would engage in dishonest or illegal financial activity that the Justice Department does not, and we will not, tolerate such activities. When a bank engages in misconduct this brazen, it should expect that the Justice Department will pursue criminal prosecution to the fullest extent possible, as has happened here.

This case shows that no financial institution, no matter its size or global reach, is above the law. When the Department of Justice conducts investigations, we will always follow the law and the facts wherever they lead. We will never hesitate to criminally sanction any company or individual that breaks the law. A company's profitability or market share can never and will never be used as a shield from prosecution or penalty. And this action should put that misguided notion definitively to rest.

This resolution, and today's announcement, were conducted in close coordination with the bank's financial regulators – in this case, the Board of Governors of the Federal Reserve, which today announced a \$100m penalty; the New York State Department of Financial Services, which announced a resolution totalling \$715m; and the SEC, to which Credit Suisse paid \$196m this past February.

Because criminal charges involving a financial institution have the potential to trigger serious follow-on actions by regulatory agencies, this coordination was imperative. As the regulators have conveyed this afternoon, notwithstanding this plea agreement, the bank will move forward. And although I cannot comment on, or specify the targets of, other ongoing investigations, I am confident that this robust cooperation will serve us well in the weeks and months ahead.

US imposes record fine on BNP

French bank BNP Paribas BNPPA has pleaded guilty to two criminal charges and agreed to pay almost \$9bn to resolve accusations it violated US sanctions against Sudan, Cuba and Iran, a severe punishment aimed at sending a clear message to other financial institutions around the world.

The guilty plea is the direct consequence of a broader US Justice Department shift in strategy that is expected to try to snare more major banks for possible money laundering or sanctions violations.

In an unprecedented move, regulators banned BNP for a year from conducting certain US dollar transactions, a critical part of the bank's global business, in addition to the fine which was a record for violating American sanctions.

Through a series of egregious schemes to evade detection and with the knowledge of multiple senior executives, BNP employees concealed more

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than \$190 billion in transactions between 2002 and 2012 for clients subject to US sanctions including Sudan, Iran and Cuba,' the New York State regulator said.

US authorities said the severe penalties reflected BNP's drive to put profits first, even after US officials warned the bank of its obligation to crack down on illegal activity.

The bank essentially functioned as the 'central bank for the government of Sudan,' concealed its tracks and failed to cooperate when first contacted by law enforcement, US authorities said.

They also found BNP had evaded sanctions against entities in Iran and Cuba, in part by stripping information from wire transfers so they could pass through the US system without raising red flags.

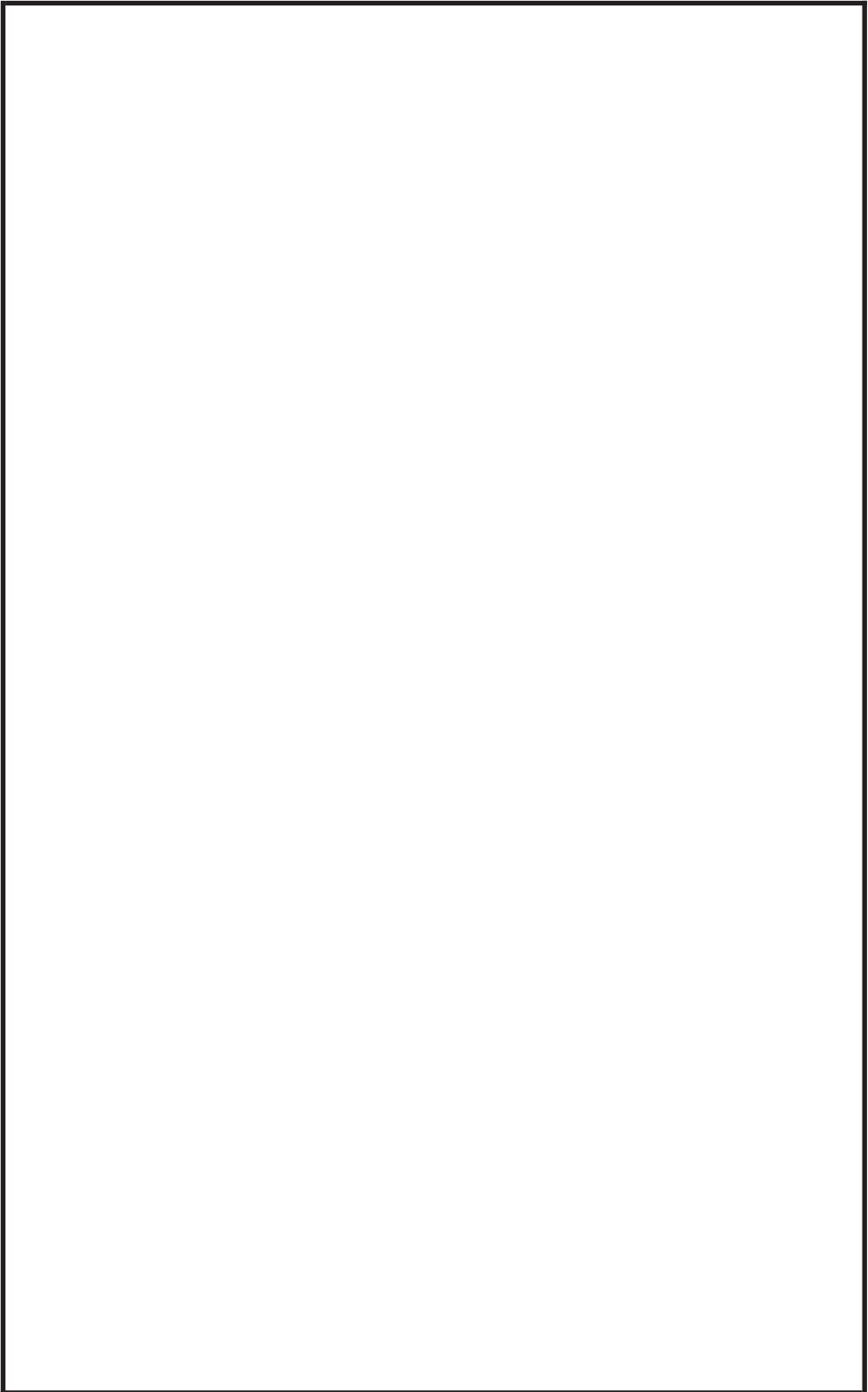
With its Sudanese clients, the bank admitted it set up elaborate payment structures that routed transactions through satellite banks to disguise their origin.

'BNPP banked on never being held to account for its criminal support of countries and entities engaged in acts of terrorism and other atrocities, but that is exactly what we did today,' said Manhattan US Attorney Preet Bharara, whose office helped to prosecute the case.

'We deeply regret the past misconduct that led to this settlement,' BNP's Chief Executive Officer Jean-Laurent Bonnafe told analysts and investors. He said the bank would implement a significant strengthening of its internal controls and processes.

Leslie Caldwell, who leads the Justice Department's criminal division, said in an interview that a unit within the department has its sights set on a range of firms potentially involved in illicit money flows.

The penalties imposed on BNP Paribas dwarf any previously handed out for sanctions avoidance and are far bigger than those against Credit Suisse CSGN.VX in May, which became the largest bank in decades to plead guilty to a US criminal charge, for helping Americans to evade taxes. (Reuters).



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