

# Butterworths Money Laundering Law

**Bulletin Editor**  
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This Bulletin covers material available from 1 October to 31 December 2014.

## UK NEWS

### HM Treasury

#### *Advisory Notice*

On 18 November 2014 HM Treasury issued the latest in a series of advisory notices regarding the risks posed by unsatisfactory money laundering controls in a number of jurisdictions.

The advice replaces all previous advisory notices issued by HM Treasury on this subject.

The full text of the notice can be found here:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/376414/Advisory\\_Notice\\_November\\_2014.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376414/Advisory_Notice_November_2014.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 is available (together with any later updates) here:

[www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets#history](http://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets#history).

### FCA

#### *TR14/16 – How small banks manage money laundering and sanctions risk: update*

The FCA published this report on 14 November 2014. The report follows the Financial Services Authority's 2011 report on Bank's management of high money-laundering risk situations and the subsequent enforcement action and

regulatory guidance. It sets out the findings of the thematic review into how small banks manage their anti-money-laundering and sanctions risk.

The report may be found here:

[www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-16](http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-16).

### ***TR14/17 – Managing bribery and corruption risk in commercial insurance broking: update***

The FCA report follows the Financial Services Authority's 2010 report on Anti-bribery and corruption in commercial insurance broking and the subsequent regulatory guidance and enforcement action. It sets out the findings of a thematic review into how small wholesale insurance intermediaries (intermediaries) manage their bribery and corruption risks.

The report may be found here:

[www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-17](http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr14-17).

### ***Anti-money laundering Guide***

Also on 14 November 2014 the FCA re-published their one-minute guide relating to systems and controls relating to anti-money laundering. The guide may be found here:

[www.fca.org.uk/firms/being-regulated/meeting-your-obligations/firm-guides/systems/aml](http://www.fca.org.uk/firms/being-regulated/meeting-your-obligations/firm-guides/systems/aml).

### ***Press Release: FCA finds small firms need to manage financial crime risks more effectively***

The FCA has found that many small banks and commercial insurance intermediaries fail to effectively manage financial crime risk. The two reviews referred to above follow related work by the FCA's predecessor on banks in 2011 and intermediaries in 2010.

While the reviews found some firms had made good progress in addressing areas of weakness and saw examples of good practice, there were significant shortcomings at other firms. The FCA has proposed further guidance for all firms to ensure that expectations are clear.

Tracey McDermott, FCA director of enforcement and financial crime, said:

“Firms must take their responsibility to reduce the risk of financial crime seriously. Significant improvements are still required in this area.

To do that successfully requires firms to use their judgement and common sense. That is not about box ticking or wholesale de-risking. It is about firms getting the basics right – understanding their customers, the risks they pose and managing those risks proportionately and sensibly.”

The FCA reviewed ten commercial insurance intermediaries and 21 banks – ten of these firms (five banks and five intermediaries) were also part of the 2010 and 2011 thematic reviews. The FCA found:

- Despite extensive work over recent years to address key issues, there were significant and widespread weaknesses in most banks’ anti-money laundering systems and controls, and in some banks’ sanctions controls. Although senior management engagement had improved, a third of banks had inadequate resources; staff often had weak knowledge of money laundering risks; and some overseas banks struggled to reconcile their group policies with higher UK requirements. Since the FCA’s review, several banks have replaced their Money Laundering Reporting Officers; four firms have temporarily restricted their business whilst they correct the weakness in their controls; and the FCA has instructed three banks to undertake an independent review of their systems and controls (a skilled person’s review); and two firms have been referred to the enforcement division for investigation.
- Overall, most intermediaries’ controls failed to manage bribery and corruption risk effectively. While some intermediaries’ policies on remuneration, hospitality and training had improved since the last review, bribery and corruption risk assessments were often too narrow and many firms failed to take a rounded view of the risks associated with individual relationships. Half of the third party and client files reviewed were inadequate and senior management oversight was often weak.

These reviews, enforcement action, and proposed new guidance – which updates the FCA’s financial crime guide for firms – reflect the FCA’s objectives to ensure markets work well, enhance the integrity of the UK financial system and ensure consumers are appropriately protected.

## HMRC

### *Four jailed in £145 million money laundering plot*

Two people who ran a money laundering service to criminals through their family-owned London bureaux de change have been jailed for 19 years, after ‘cleaning up’ £145 million of dirty cash. Two others who acted as money couriers were also jailed.

The three bureaux gave the impression of being legitimate, high street currency exchanges serving the London tourist market. But a criminal investigation by HM Revenue and Customs (HMRC) found their main trade was actually exchanging large amounts of Sterling for high denomination Euro notes for organised crime groups.

Peter Millroy, Assistant Director, Criminal Investigation, HMRC, said:

“This gang of criminals were under the delusion they could escape detection – they were wrong and are now paying the price behind bars. Their activities bore no relation to what is expected from high street

bureaux de change. Instead they used their business as a front to launder the profits made by many of the UK's most serious and dangerous crime gangs.”

The bureaux were run by two different companies; Universal Money Exchange (UME), operating from premises on Shaftesbury Avenue and Oxford Street, and Buckingham Money Exchange (BME), operating from premises on Buckingham Palace Road.

Both companies were under the control of husband and wife, Moothathamby and Thilageswary Sriskantharajah.

Masterminded by Moothathamby Sriskantharajah, the companies would place significant orders for high denomination Euro notes from money wholesalers. The deliveries of this cash would coincide with visits from money couriers – Marlene Cumbo and her sister Lucia Cumbo. The sisters transported Sterling to the bureaux on behalf of their criminal associates to be exchanged for Euros. Once this was done they would return the Euros to their ‘customers’.

HMRC officers raided Universal Money Exchange in September 2011 and found more than £100,000 in cash on the premises. They also found a set of keys that fitted two safe deposit boxes at Harrods, registered to Thilageswary Sriskantharajah and containing over £250,000 in cash and high value gold jewellery. The items were seized and all four defendants were arrested on suspicion of money laundering offences.

Marlene Cumbo was caught by HMRC officers in August 2011 after she had visited one of the bureaux and left with a Harrods carrier bag containing nearly €91,000 in €200 notes. During a search of her home, her sister Lucia arrived carrying an envelope in her handbag containing a further €34,750 mostly in €200 notes. Both women were arrested on suspicion of money laundering offences.

All four defendants were later charged under the Proceeds of Crime Act 2002.

### ***Money Laundering Regulations: nominated officers and employee training***

HMRC have issued guidance on how to appoint a nominated officer and train employees to comply with Money Laundering Regulations.

The guidance may be found here:

[www.gov.uk/money-laundering-regulations-nominated-officers-and-employee-training](http://www.gov.uk/money-laundering-regulations-nominated-officers-and-employee-training).

### ***Money Laundering Regulations: risk assessments***

HMRC have published guidance regarding how to use a risk-based approach to carry out a risk assessment of your business. This may be found here:

[www.gov.uk/money-laundering-regulations-risk-assessments](http://www.gov.uk/money-laundering-regulations-risk-assessments).

***Guidance Money Laundering Regulations: report suspicious activities***

Businesses regulated by the Money Laundering Regulations must report activity that may be linked to money laundering or terrorist financing. The HMRC guidance may be found here:

[www.gov.uk/money-laundering-regulations-report-suspicious-activities](http://www.gov.uk/money-laundering-regulations-report-suspicious-activities).

***Money Laundering Regulations notices***

This collection brings together all public notices issued by HMRC for Money Laundering Regulations.

[www.gov.uk/government/collections/money-laundering-regulations-notices](http://www.gov.uk/government/collections/money-laundering-regulations-notices).

***Money Laundering Regulations: business inspections***

The guide covers why HMRC might visit your business and what to expect if they do.

[www.gov.uk/money-laundering-regulations-business-inspections](http://www.gov.uk/money-laundering-regulations-business-inspections).

**SFO*****LIBOR manipulation: banker pleads guilty to conspiracy to defraud***

A senior banker from a leading British bank pleaded guilty at Southwark Crown Court on 3 October 2014 to conspiracy to defraud in connection with manipulating LIBOR. This arises out of the Serious Fraud Office investigations into LIBOR manipulation.

This is the first criminal conviction arising from the Serious Fraud Office's LIBOR investigation. 11 other individuals stand charged and await trial.

The investigation into others continues.

***Property investment fraudster ordered to serve an additional six years***

Teesside Magistrates' Court have ordered that John Potts should serve a term of six years' imprisonment for failure to pay a confiscation order.

Following an investigation by the Serious Fraud Office, John Potts of Sunderland was convicted of an offence of conspiracy to defraud and sentenced to five years' imprisonment.

Between 2001 and 2003 he defrauded investors in Practical Property Portfolios Ltd (PPP Ltd) of about £80 million. In September 2010, a £1.5 million confiscation order was made against him and he was told that unless he pays this sum in full within two years he would serve an additional six years' imprisonment. That sentence was activated.

Elizabeth Baker, SFO Joint Deputy Head of the Proceeds of Crime Division said:

“This was a pernicious fraud, with large amounts of money paid over in good faith by investors. As a result John Potts enjoyed an extravagant lifestyle, using other people's money to pay for home improvements and

purchase race horses and expensive cars. The Serious Fraud Office is committed to ensuring criminals surrender the benefits of their crimes.”

The default sentence was activated by two magistrates sitting at Teesside Magistrates’ Court, and will be served unless the confiscation order plus accrued interest is paid in full.

### ***City directors sentenced to 28 years in total for £23m green biofuel fraud***

Three men were sentenced at Southwark Crown Court as a result of the Serious Fraud Office’s investigation and prosecution of Sustainable Growth Group (‘SGG’) including its subsidiary companies Sustainable AgroEnergy plc (‘SAE’) and Sustainable Wealth (UK) Investments Ltd (‘SWI’).

All three were convicted following a prosecution which focused on the selling and promotion of SAE investment products based on “green biofuel” Jatropha tree plantations in Cambodia. The green biofuel products were sold to UK investors who invested primarily via self-invested pension plans (SIPPs). These investors were deliberately misled into believing that SAE owned land in Cambodia; that the land was planted with Jatropha trees, and that there was an insurance policy in place to protect investors if the crops failed.

Sentences handed down:

- Gary Lloyd West, of Hertfordshire, former Director and Chief Commercial Officer of SAE was sentenced to a total of 13 years’ imprisonment.
- James Brunel Whale, of Sussex, former Director, Chief Executive Officer and Chairman of SGG was sentenced to a total of 9 years’ imprisonment
- Stuart John Stone, of Shropshire, Director of SJ Stone Ltd, a sales agent of unregulated pension and investment products was sentenced to a total of 6 years’ imprisonment.

Both Mr West and Mr Whale were disqualified from being a director for 15 years whilst Mr Stone was disqualified for 10 years.

When handing down sentence HHJ Beddoe described the fraud as a “thickening quagmire of dishonesty ... there were more than 250 victims of relatively modest means some of whom had lost all of their life savings and their homes.” The judge added that the bribery was an aggravating feature.

Joint Head of Fraud Jane de Lozey commented:

“This is the first of a number of SFO cases to come to trial involving the mis-selling of investment products connected with self-invested pension plans (SIPPs) in which savers on modest incomes have tried to invest for their retirement only to find themselves the victims of fraud. Pension scams can be difficult to detect even for experienced investors.

The SFO is working closely with partner agencies across law enforcement to tackle this type of serious economic crime.”

Legal proceedings to establish compensation and confiscation orders against the three defendants have commenced.

***Former JJB Sports head and co-defendants sentenced to total of 7 years***

Three individuals were handed prison sentences following their convictions for fraud, furnishing false information and attempting to pervert the course of justice as a result of a Serious Fraud Office investigation into JJB Sports plc (JJB).

Christopher Ronnie, former Chief Executive of JJB, was sentenced to 4 years in prison for three offences of fraud totalling around £1 million, to run concurrently, and 1 year in prison for two offences of furnishing false information, also to run concurrently.

David Ball and David Barrington, beneficial owners of Fashion and Sport Ltd, a company that sold clothing brands and supplied stock to JJB, were each sentenced to 18 months in prison for two offences of attempting to pervert the course of justice, to run concurrently.

The SFO’s investigation into JJB centred on Mr Ronnie’s failure to declare his interest in contracts entered into by JJB Sports with Fashion and Sport Ltd as well as attempts by Mr Ball and Mr Barrington to destroy evidence and mislead the SFO.

Handing down the sentence, HHJ Loraine-Smith said of Mr Ronnie’s crime:

“It was very greedy ... this was a flagrant and disgraceful breach of your duty as a CEO of a plc. It was dishonest in the extreme.”

Of Mr Ball and Mr Barrington, the judge said:

“Both of you did whatever you could to frustrate the SFO investigation ... The concealment [of incriminating evidence] took place over a period of years and resulted in these proceedings. Perverting the course of justice took place before and after the case came to trial.”

Commenting on the sentencing, Director of the SFO David Green CB QC said:

“These defendants contrived to hide information regarding their dealings from both JJB’s board of directors and the SFO once its investigation began. That the investigation resulted in these convictions, despite such attempts to derail it, reflects the SFO’s determination in tackling complex and elaborate fraud.”

Mr Ronnie was disqualified from being a director of a company for 8 years.

A confiscation timetable has been set for Mr Ronnie and the Judge ordered Mr Ball and Mr Barrington to pay £40k costs each within 12 months.

### NCA

#### *Ikea meetings led to capture of money laundering syndicate*

Five members of a money laundering syndicate who used the car park of an Ikea store to carry out illicit cash handovers have been jailed.

The network, which National Crime Agency (NCA) investigators believe laundered millions of pounds over nine months, centred on two money transfer businesses based in North Finchley, and was headed up by Iranian-born Ciavash Pishehvarz, 60.

Their downfall began in September 2011, when cash couriers Elyass Benelabed, 59, Mahmood Saadat, 44, and Mohammed Korejany, 40, met in the car park of Ikea in Wembley.

The men were unaware that they were under surveillance and that officers were watching as they transferred a package from one car to another. In the run up to the meeting Korejany and Saadat had both been in phone contact with Pishehvarz.

Benelebad and Korejany met in the same place the following day, when investigators witnessed another bag being handed over. Again, Korejany had been in phone contact with Pishehvarz. The two men were arrested, and officers found the bag contained almost £150,000 in used notes.

Searches of their home addresses led to the discovery of another £57,000. At Korejany's address in Golders Green investigators interrupted his wife Solmal Jalali, 31, and Saadat, attempting to remove evidence, including bank deposit slips, business records, mobile telephones and £43,350 in cash.

A further £14,000 cash was recovered from the home address of Benelabed.

Analysis of CCTV pictures showed that cars belonging to the two had visited Ikea on numerous separate occasions previously. Each time large cash payments were then received at a money transfer business, run by Korejany and his wife from premises in High Road, North Finchley.

Korejany, Jalali and Saadat would then break up the money and pay it into accounts at banks and automated banking machines across north London in small chunks in an effort to conceal the scale.

Pishehvarz and Jalali were arrested in July 2012. £50,000 was found at Pishehvarz's address, along with a memory stick which contained a ledger, amongst its entries the cash handed over by Benelabed. The total of all the entries in the ledger was £9.25 million.

Searches of the two money transfer businesses, both run out of the same address, unearthed paying in slips totalling just under £2 million for a nine month period.

Investigators also found evidence of the group's links to other organised criminals, among them Mohammed Farooq and Ahmed Shah, two Midlands-based drug traffickers who were jailed for 29 years each in 2013 for their roles in a plot to bring 500 kilos of heroin to the UK.



Phone evidence showed that they were in contact with Pishehvarz and Saadat in August 2011.

NCA Branch Commander Oliver Higgins said:

“Organised criminals need people who can launder their cash to make it look legitimate.

These men were professional money launderers responsible for processing millions of pounds of criminal cash during a period of just nine months.

As well as pursuing money launderers, NCA continues to work with the financial sector to protect businesses and individuals.”

The NCA is now working towards confiscating the proceeds of crime from all five.

### ***Drug trafficker stripped of west London homes***

An international drug trafficker and money launderer who used the proceeds of his crimes to buy seven homes in the UK has been stripped of his assets by the National Crime Agency, despite putting some of the properties in family members’ names in an attempt to protect them.

Amir Azam, 43-years old, is currently serving a four-year sentence, after being convicted of drug offences earlier this year.

The NCA launched a civil recovery investigation against Azam, in a bid to recover the proceeds of his criminality.

At a hearing in September 2014, a Civil Recovery Order was granted against five of the seven homes in Isleworth, Hounslow, Chiswick, Greenford and Hillingdon, as well as money from five bank accounts located in the UK and Luxembourg.

The remaining properties – two homes in Southall and Hounslow – were given the go ahead to be recovered by the High Court on Thursday October 30.

The assets seized totalled approximately £3.3million.

Stephanie Jeavons, Deputy Director of the NCA’s Economic Crime Command said: “Azam and his extended family were able to enjoy the fruits of his drug trafficking without interruption for many years.

“He thought he could get round the law by putting the homes in family members’ names. He was wrong.

Rest assured, the National Crime Agency will continue to pursue and disrupt those that seek to benefit from assets derived from serious and organised crime.”

### ***'Lord of Fraud' given six months to hand back £1.2m***

A self-styled 'Lord' who was jailed over his involvement in two major multi-million pound frauds has been given six months to hand over more than £1 million, or face another seven years in prison.

Hugh James Rodley, 67, from Tewkesbury in Gloucestershire, was initially jailed for eight years in 2009 for his role in an attempt to steal £229 million by hacking into the computers of a Japanese bank.

Then, in 2012, while still serving his sentence, he was given an extra seven years after a City of London Police investigation resulted in him being convicted for conning 741 pensioners out of £6 million. He had sold them worthless shares in a boiler room scam.

At Southwark Crown Court, Rodley was given six months to hand over £1,236,737, which NCA and City of London Police financial investigators, working with the Crown Prosecution Service, were able to identify as profits he made from both criminal enterprises.

Among the assets identified as being acquired from Rodley's criminality were luxury cars and Rodley's manor house in Gloucestershire.

### ***£300k criminal cash seized as NCA targets money launderers***

Four men who were part of an Albanian led money laundering network have been convicted, following an investigation by the NCA which led to around £300,000 in criminal cash being seized.

## **Other Financial Crime News**

### ***New fraud sentencing guideline in force***

The definitive sentencing guideline on fraud, bribery and money laundering offences comes into effect on 1 October 2014, the Sentencing Council has confirmed. Companies now face fines of up to 400% of their illicit profits, if found guilty. The new guideline also places victim impact at the centre of considerations when determining an appropriate sentence.

### ***New guidance report on anti-money laundering***

The International Bar Association, the Council of Bars and Law Societies of Europe and the American Bar Association have jointly issued a new guidance report on anti-money laundering, called A Lawyers Guide to Detecting and Preventing Money Laundering.

The guide is aimed at providing practical advice to legal professionals around the world as to the risks that they may face in order to place them in the best possible position to address those risks. The report provides legal professionals with the tools to minimise their chances of becoming unwittingly involved in money laundering.

See more at:

[www.lawsociety.org.uk/support-services/advice/articles/new-global-aml-guidance/#sthash.NaA9Kpxg.dpuf](http://www.lawsociety.org.uk/support-services/advice/articles/new-global-aml-guidance/#sthash.NaA9Kpxg.dpuf)

### ***Private schools scrutinised for money laundering***

Independent, 16 October 2014: Private schools in the UK are coming under increasing scrutiny from international anti-corruption groups for inadvertently accepting laundered money for school fees from rich foreign criminals and corrupt officials.

### ***R v Roper***

Sentence – Confiscation order. The Court of Appeal, Criminal Division, in dismissing the defendant’s appeal against a confiscation order, held that funds and credits paid into the defendant’s bank account by a friend, whom he had allowed to use the account, had fallen squarely within the benefit provisions of s 76(4) of the Proceeds of Crime Act 2002.

### ***Drug dealer jailed for 10 years***

A man who sold drugs running a “legal high” website made £2.5m from his illegal activity.

Christopher Holloway, 32, imported chemicals before mixing and packaging them for sale as “research chemicals”, understood by customers to be legal highs, Newport Crown Court heard.

Holloway, from Raglan, admitted charges relating to the import and sale of drugs and money laundering. He was jailed for 10 years.

More than 8kg of drugs were seized by police with a street value in excess of £3.5m.

Police said Holloway was running a sophisticated operation out of his own home and was selling drugs to people across the world.

### ***Married doctors jailed for total of 12 years for £3.5 million money laundering scam***

A Bradford doctor has been jailed for nine years for playing a leading role in a plot to send £3.5 million of criminal cash out of the country.

Zakir Ahmed’s wife and co-accused, Manjula Salian was jailed for three years for her part in the money laundering scam.

A third defendant, Mohammed Ibrar, was also jailed for three years.

## **Bribery**

### ***The OECD have published a Foreign Bribery Report “AN ANALYSIS OF THE CRIME OF BRIBERY OF FOREIGN PUBLIC OFFICIALS”***

It was found that Senior management was involved in over 50% of 427 foreign bribery cases reviewed by the OECD; in 12%, the CEO/President was implicated.

The report may be found here:

[www.oecd-ilibrary.org/docserver/download/2814011e.pdf?expires=1424289218&id=id&accname=guest&checksum=67EA2E12D3A6367C72C37DE082DEFB41](http://www.oecd-ilibrary.org/docserver/download/2814011e.pdf?expires=1424289218&id=id&accname=guest&checksum=67EA2E12D3A6367C72C37DE082DEFB41).

### ***Government acts to tackle corruption***

Individuals involved in bribery and corruption, or those who hide their illicit assets in the UK, will be brought to justice, the Home Office has stated in the UK anti-corruption plan. The plan outlines 60 actions for government and its partners, as well as setting the strategic direction for all anti-corruption activity over the coming year. Measures include the establishment of a specialist unit within the National Crime Agency to tackle bribery and corruption, and the creation of a new offence of police corruption.

The anti-corruption plan may be found here:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/388894/UKantiCorruptionPlan.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf).

### ***UK printing company and two men found guilty in corruption trial***

Smith and Ouzman Ltd and two employees were convicted at Southwark Crown Court as a result of a Serious Fraud Office investigation into corrupt payments made for the award of business contracts to the company.

The corrupt payments totalling £395,074 were made to public officials for business contracts in Kenya and Mauritania.

The company, Smith and Ouzman Ltd, a printing firm based in Eastbourne which specialises in security documents such as ballot papers and certificates, was convicted of three counts of corruptly agreeing to make payments, contrary to section 1(1) of the Prevention of Corruption Act 1906.

Christopher John Smith, chairman of Smith and Ouzman, age 71, from East Sussex, was convicted of two counts of corruptly agreeing to make payments.

Nicholas Charles Smith, sales and marketing director of Smith and Ouzman, age 43, from East Sussex was convicted of three counts of corruptly agreeing to make payments.

Timothy Hamilton Forrester, international sales manager of Smith and Ouzman, age 57, from East Sussex was acquitted of all three counts of corruptly agreeing to make payments.

Mr Abdirahman Mohamed Omar, a sales agent for Smith and Ouzman, age 38, from London, was acquitted of one count of corruptly agreeing to make payments in relation to a contract in Somaliland.

Director of the SFO, David Green CB QC commented:

*“This is the SFO’s first conviction, after trial, of a corporate for offences involving bribery of foreign public officials. Such criminality, whether involving companies large or small severely damages the UK’s commercial*

*reputation and feeds corrupt governance in the developing world. We are very grateful to the Kenyan authorities for their assistance in this case.”*

Sentencing is due to take place in February 2015.

### ***Stuart Alford QC Speech: Enforcing the UK Bribery Act – The UK Serious Fraud Office’s Perspective***

The text of the speech may be found here:

[www.sfo.gov.uk/about-us/our-views/other-speeches/speeches-2014/stuart-alford-qc-enforcing-the-uk-bribery-act—the-uk-serious-fraud-office’s-perspective.aspx](http://www.sfo.gov.uk/about-us/our-views/other-speeches/speeches-2014/stuart-alford-qc-enforcing-the-uk-bribery-act—the-uk-serious-fraud-office’s-perspective.aspx).

## INTERNATIONAL NEWS

### **FATF**

#### ***Guidance on Transparency and Beneficial Ownership***

This FATF Guidance will assist countries to design and implement measures that will deter and prevent the misuse of corporate vehicles, such as companies, trusts and other types of legal persons and arrangements – for money laundering, terrorist financing and other illicit purposes.

The guidance may be found here:

[www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf](http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf).

#### ***Risk-Based Approach for the Banking Sector***

The risk-based approach is central to the effective implementation of the FATF Recommendations. A risk-based approach means that countries, competent authorities, and banks identify, assess, and understand the money laundering and terrorist financing risk to which they are exposed, and take the appropriate mitigation measures in accordance with the level of risk.

This flexibility allows for a more efficient use of resources, as banks, countries and competent authorities can decide on the most effective way to mitigate the money laundering / terrorist financing risks they have identified. It enables them to focus their resources and take enhanced measures in situations where the risks are higher, apply simplified measures where the risks are lower and exempt low risk activities. The implementation of the risk-based approach will avoid the consequences of inappropriate de-risking behaviour.

This guidance will help in the design and implementation of this approach for the banking sector, taking into account national risk assessments and the national legal and regulatory framework. It will help develop a common understanding of the risk-based approach between supervisory authorities and banks. The practical examples in this guidance will further assist in understanding the various elements of this approach.

This guidance consists of three sections:

## INTERNATIONAL NEWS

- Section I explains the key elements of the risk-based approach
- Section II provides specific guidance for banking supervisors
- Section III provides specific guidance for banks

The guidance may be found here:

[www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Banking-Sector.pdf](http://www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Banking-Sector.pdf).

### ***High-risk and non-cooperative Jurisdictions – October 2014 Public Statement***

The FATF has updated its public statement identifying jurisdictions with strategic deficiencies in anti-money laundering / countering the financing of terrorism measures. FATF calls on countries to apply counter-measures to Iran and the Democratic People's Republic of Korea. FATF also calls its members to consider the risks emanating from Algeria, Ecuador, Indonesia and Myanmar.

The statement may be found here:

[www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/public-statement-oct2014.html](http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/public-statement-oct2014.html).

### ***Improving Global AML/CFT Compliance: on-going process. October 2014 Public Statement***

The FATF identifies jurisdictions with strategic AML/CFT deficiencies that have provided a high-level political commitment to address the deficiencies through implementation of an action plan developed with the FATF. The situation differs in each jurisdiction and therefore each presents different degrees of ML/FT risks. The FATF encourages its members to consider the strategic deficiencies identified in this second public document which may be found here:

[www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-oct-2014.html](http://www.fatf-gafi.org/topics/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-oct-2014.html).

## **Other International News**

### ***Bank of Tokyo-Mitsubishi to pay \$315 million over whitewashed report***

Benjamin M. Lawsky, Superintendent of Financial Services, announced an enforcement action – including an additional \$315 million monetary penalty, and disciplinary action for individual Bank employees – against Bank of Tokyo Mitsubishi UFJ (BTMU) for misleading regulators regarding its transactions with Iran, Sudan, Myanmar, and other sanctioned entities. A year-long New York State Department of Financial Services (DFS) investigation uncovered that BTMU employees pressured the Bank's consultant, PricewaterhouseCoopers (PwC), into removing key warnings to regulators in

a supposedly “objective” report that the Bank submitted to DFS. That report related to the extent of BTMU’s illicit conduct on behalf of those sanctioned countries and entities.

Superintendent Lawsky said: “BTMU employees pressured PwC into watering down a supposedly objective report on the Bank’s dealings with Iran and other sanctioned countries, thereby misleading regulators. It is clear that we – as a regulatory community – must work aggressively to reform the cozy relationship between banks and consultants, which far too often has resulted in shoddy work that sweeps wrongdoing under the rug.”

Under the DFS order, BTMU will pay an additional \$315 million monetary penalty – beyond a \$250 million penalty BTMU paid in a previous June 2013 DFS agreement over its sanctioned transactions. As such, the total monetary penalty that BTMU has paid in this case is \$565 million. Additionally, at the direction of DFS, the Bank will also take disciplinary action against individual BTMU compliance personnel involved in the watering down of the PwC report.

- After demands from DFS that BTMU terminate his employment, Tetsuro Anan (Manager, Anti-money Laundering Compliance Office, Compliance Division) has resigned from BTMU. On multiple occasions, despite being responsible for anti-money laundering compliance, Tetsuro Anan asked PwC to remove from its report specific issues of material concern to regulators about the Bank’s misconduct.
- Additionally, two former Bank compliance employees who now work at BTMU affiliates – Akira Kamiya (Deputy President, Mitsubishi UFJ Securities Holdings) and Tetsuji Kamisawa (Executive Deputy President, Defined Contribution Plan Consulting of Japan) – will be banned from conducting business involving any New York banks (or other financial institutions) regulated by the Department, including BTMU’s New York branch.

Superintendent Lawsky continued: “We continue to believe that fines – while often necessary – are not sufficient to deter misconduct on Wall Street. We must also work to impose individual accountability, where appropriate, and clearly proven, on specific bank employees that engaged in wrongdoing.”

### ***BTMU Pressured PwC to Alter Report Bank Submitted to Regulators***

PwC – under pressure from BTMU executives – improperly altered an “historical transaction review” (HTR) report submitted to regulators on wire transfers that the Bank performed on behalf of sanctioned countries and entities. During the last month of a year-long engagement, PwC found that BTMU had issued special instructions to Bank employees to strip wire messages of information that would have triggered sanctions compliance alerts – after the Bank denied having such a policy only weeks before in a meeting with regulators. PwC understood that this improper data manipulation could significantly compromise the HTR’s integrity and PwC inserted into an earlier draft of the report an express acknowledgement informing regulators that “had PwC know[n] about these special instructions at the

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initial Phase of the HTR then we would have used a different approach in completing this project.” Specifically, PwC would have conducted a more in-depth, forensic investigation into the Bank’s scheme – rather than simply a more rote, mechanical review of the transactions provided to it by the Bank. In other words, the discovery of the Bank’s scheme to falsify wire transfer information cast doubts on whether PwC had a complete set of data to review (among other issues).

However, at the Bank’s request, PwC ultimately removed the original warning language from the final HTR Report the Bank submitted to regulators and, in fact, inserted a passage stating the exact opposite conclusion: “We have concluded that the written instructions would not have impacted the completeness of the data available for the HTR and our methodology to process and search the HTR data was appropriate.” Moreover, also at the Bank’s request, PwC removed other key information from drafts of the HTR Report, including:

- deleting the English translation of BTMU’s wire stripping instructions, which referenced the Bank doing business with “enemy countries” of the U.S.;
- deleting a regulatory term of art that PwC used throughout the report in describing BTMU’s wire-stripping instructions (“Special Instruction”) and replacing it with a nondescript reference that lacked regulatory significance (“Written Instruction”);
- deleting most of PwC’s discussion of BTMU’s wire-stripping activities;
- deleting information concerning BTMU’s potential misuse of OFAC screening software in connection with its wire-stripping activities;
- deleting several forensic questions that PwC identified as necessary for consideration in connection with the HTR Report; and
- deleting a section of the HTR Report that discussed the appearance of special characters (such as “#” “-” and “,”) in wire transfer messages, which disabled PwC’s filtering system from detecting at least several transactions involving Sudan and Myanmar. (E.g. SUD#AN).

### ***BTMU Violations of Law***

In the order, BTMU admits that it misled DFS and that it:

- failed to maintain or make available at its New York Branch true and accurate books, accounts and records reflecting all transactions and actions in violation of Banking Law § 200-c; and
- knowingly violated the Department’s regulation 3 NYCRR § 300.1, which requires BTMU to submit a report to the Superintendent immediately upon the discovery of fraud, dishonesty, making of false entries and omissions of true entries, and other misconduct, whether or not a criminal offense, in which any BTMU employee was involved; and



- knowingly made or caused to be made false entries in its books, reports and statements and omitted to make true entries of material particularly pertaining to the U.S. dollar clearing business of BTMU through its New York Branch or other New York-based financial institutions, misleading the Superintendent and examiners of the Department who were lawfully appointed to examine BTMU's conditions and affairs.

### ***Extension of Independent Consultant***

Under the previous June 2013 settlement, DFS ordered BTMU to install an independent consultant (IC) to conduct a review of the Bank's sanctions compliance programs, policies and procedures. Under the order, at the conclusion of the IC's engagement in March 2015, the Department shall in its sole discretion, determine if an extension of the engagement is required for a period of up to 18 months. This consultant has and will adhere to the code of conduct, anti-tampering provisions and other reforms that DFS has outlined for consulting engagements following the Department's June 2013 enforcement action against Deloitte. That code of conduct is designed to help ensure the independence and autonomy of the consultant from the bank, and to make explicit that the consultant works for DFS rather than BTMU.

The Bank further agreed to relocate its U.S. Bank Secrecy Act/Anti-money Laundering Compliance (BSA/AML) and Office of Foreign Assets Control (OFAC) sanctions compliance programs to New York, and agrees that these programs will have U.S. compliance oversight over all transactions affecting the New York Branch, including those transactions performed outside the U.S. that affect the New York Branch. The IC will oversee, evaluate, and test the implementation of those programs, as well as the BSA/AML and OFAC sanctions compliance programs that operate outside the U.S. and relate to transactions affecting the New York Branch.

The consent Order may be found here:

[www.dfs.ny.gov/about/press2014/pr1411181-consent.pdf](http://www.dfs.ny.gov/about/press2014/pr1411181-consent.pdf)

### ***Portugal ex-PM Jose Socrates held***

Portugal's former PM, Jose Socrates, has been remanded in custody on suspicion of corruption, tax fraud and money laundering.

A judge delivered the decision after investigators looked into suspicious money transfers and banking operations.

Mr Socrates, who denies any wrongdoing, is being investigated alongside his driver, a close friend, and a lawyer.

The former prime minister was in office from 2005 to 2011. His lawyer, Joao Araujo, said that his client would appeal against the decision.

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### *U.S. extends scrutiny of Standard Chartered on sanctions compliance*

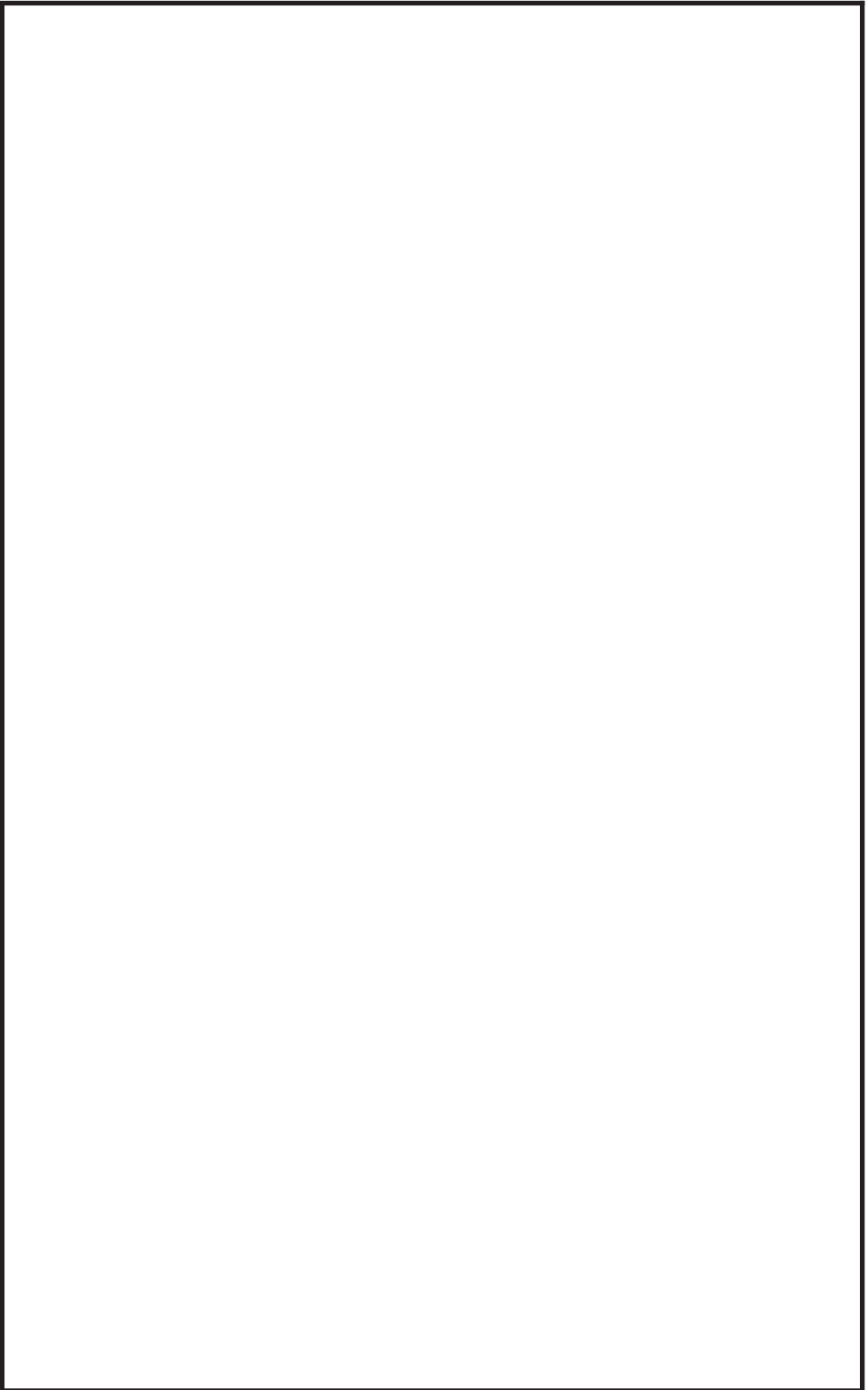
Standard Chartered will face another three years of scrutiny by U.S. prosecutors for compliance with government sanctions against certain countries, according to documents filed that also noted another probe of the bank is underway.

The original deferred prosecution agreements, struck with the U.S. Justice Department and the Manhattan district attorney over the bank's violations related to U.S. sanctions on Iran and other countries, was due to expire.

The agreement to extend the deals means that the bank will face enhanced oversight for a longer period of time and could be hit with harsher penalties.

The deferred prosecutions could be pulled back in the next three years and criminal charges against the bank could be filed, said Joan Vollero, a spokeswoman for the Manhattan district attorney.

In a statement, the bank said it agreed to the extension and would work with authorities to reach the standard required.



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