

Butterworths Money Laundering Law

Bulletin Editor
Martyn J Bridges

This Bulletin covers a selection of material available from 1 April to 30 June 2015.

UK NEWS

HM Treasury

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 10 July 2015; it is available (together with any later updates) here:

www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets.

Home Office

Circular 022/2015: Money laundering: the confidentiality and sensitivity of suspicious activity reports (SARs) and the identity of those who make them (Published 18 June 2015)

The Proceeds of Crime Act 2002 (POCA 2002) requires banks and other businesses in the regulated sector to report knowledge or suspicion of money laundering to the National Crime Agency (NCA). These reports are commonly known as Suspicious Activity Reports (SARs). Disclosure of SARs in certain circumstances might cause a real risk of serious prejudice to an important public interest. Where disclosure is likely to be ordered in such a case, the prosecution has to carefully weigh the options as to whether it should proceed with the prosecution or withdraw proceedings. The personal safety of the reporter, and the interests of the disclosing institution should disclosure become necessary, will be among a number of considerations taken into account on a case by case basis, but depending upon the circumstances of the case, may not be sufficient to prevent disclosure of the reporter's identity.

The circular may be found here: www.gov.uk/government/publications/circular-0222015-money-laundering-the-confidentiality-and-sensitivity-of-suspicious-activity-reports-sars-and-the-identity-of-those-who-make-them/circular-0222015-money-laundering-the-confidentiality-and-sensitivity-of-suspicious-activity-reports-sars-and-the-identity-of-those-who-make-them.

Home Office Circular: Amendment of the Proceeds of Crime Act 2002

On 27 May 2015 the Home Office has published a circular detailing amendments to POCA 2002 with the provisions taking effect as of 1 June. The circular gives details of amendments to POCA 2002 made by the Serious Crime Act 2015, the Policing and Crime Act 2009 and the Crime and Courts Act 2013.

The Circular may be found here:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/429570/HO_Circular_-_Amendments_to_the_Proceeds_of_Crime_Act_2002.pdf.

FCA

Eight convicted for role in unauthorised collective investment scheme

The Financial Conduct Authority imposes £2.1 million fine and places restriction on Bank of Beirut after it misled the regulator

In a case brought by the Financial Conduct Authority (FCA) Scott Crawley, Dale Walker, Daniel Forsyth, Brendan Daley, Aaron Petrou, Ross Peters, Adam Hawkins, and Ricky Mitchie have been convicted for their parts in the operation of an unauthorised collective investment scheme which led to 110 investors losing over £4.3 million.

The convictions of Mr Crawley, Mr Walker, Mr Forsyth, Mr Petrou and Mr Peters have to date led to sentences totalling 26 years' immediate imprisonment in this case.

FG1517 – Guidance on financial crime systems and controls

The Financial Conduct Authority (FCA) has made minor changes to its guidance on financial crime systems and controls following feedback received on proposed examples of good practice. Two thematic reviews considered small banks' anti-money laundering and financial sanctions, and small commercial insurance brokers' anti-bribery and corruption, systems and controls. Generally, respondents agreed with the usefulness of the examples, although some were concerned they might be seen as prescriptive and provided areas where they would welcome further clarification. The guidance takes effect from 27 April 2015.

Derisking: Banks' management of money-laundering risk – FCA expectations

This guidance was modified on 27 April 2015 and may be found here: www.fca.org.uk/about/what/enforcing/money-laundering/derisking.

HMRC

Ten arrested in £4 million VAT and money laundering fraud

It was reported by BBC news that ten people have been arrested in a suspected £4 million VAT and money laundering fraud linked to the transport industry.

Addresses in Cambridgeshire, Yorkshire, Essex, Surrey and Counties Tyrone and Down were raided by police and HM Revenue and Customs (HMRC) officers.

Computers, mobile phones and cash were seized during the raids.

The nine men and one woman have been questioned and released on bail until November.

Two men and a woman were arrested in Cambridge and a man was arrested in Runnymede, Surrey.

One man was arrested in Basildon in Essex and two men were arrested in Yorkshire – one in Bradford and one in Hull.

Three men were arrested in Northern Ireland – two at addresses in County Tyrone and the third was arrested in County Down.

HMRC making anti-money laundering spot checks on estate agents

The National Association of Estate Agents (NAEA) says HMRC have been making unscheduled visits to individual agency offices to check on their compliance with anti-money laundering procedures.

'We wholeheartedly support HMRC in conducting these checks and in the wider battle to fight the criminals. We also want to ensure that NAEA agents are the best in the business, but understand that with so many other priorities it's easy to let your knowledge slip, and even the most diligent of agents need refreshers now and again' says a statement issued by the association.

It is not known exactly how many visits have been made but it is believed that they were not triggered by suspicions of illegal activity or flouting of the approved anti-money laundering processes.

As a response the NAEA has issued a round-up of the duties of agents on this issue.

It says that in terms of suspicious activity, agents should look out for:

- any activity which does not make professional or commercial sense or where clients appear uninvolved or uninterested in the process;

UK NEWS

- property prices that do not correspond with market value. An agent's own experience of the market should indicate whether a property has been properly valued;
- properties that have multiple owners or are owned by nominee companies – they may be an attempt to disguise the true owner and/or to confuse the audit trail;
- purchases made without a property being viewed (not including auctions), or having only been viewed over the internet;
- sudden or unexplained changes in ownership, or immediate resale (flipping) of property at a higher, artificially inflated value;
- a previously sold property which reappears on the market having been extensively renovated, without an obvious source of funding (run-down properties may be bought legally, but then renovated using criminal funds);
- customer similarity (a group of purchasers with similar profiles purchasing new builds or off-plan). This can be an indicator of organised mortgage fraud (mortgage fraud for profit) or 'flipping';
- inconsistent or weak reasons for paying cash; offering large amounts of cash as the means of payment for property purchases, deposits, rent, interest or fees;
- the use of cash coupled with a quick sale, or cash exchanges directly between seller and buyer, including cash deposit;
- doubtful or unusual sources of funds. This includes unusual involvement of third parties, cash gifts, or large payments from private funds, particularly where the buyer appears to have a low income. This type of funding may be an attempt to disguise the true owner of the property; and
- poor explanations for the early redemption of previous mortgages, especially where there has been a penalty cost involved.

The NAEA news report may be found here: www.naea.co.uk/news/june-2015/money-laundering-agents-against-crime/.

Gang leader ordered to pay back £700,000 or face four years in prison

The leader of a criminal gang jailed for fraud and money laundering has been ordered to pay back more than £700,000 or serve a further four years behind bars.

Michael Bostock, 40, from Staffordshire, was jailed in 2012 after an investigation by HM Revenue and Customs (HMRC) uncovered his role as the head of a criminal gang that fraudulently claimed £1.5 million in VAT refunds through his scrap metal business. While in prison he received a further custodial sentence for money laundering offences.

HMRC investigates suspected Money Laundering Regulations breaches

Five properties in the Lothians and Fife, the registered addresses for around 1,500 companies, were searched by officers from HM Revenue and Customs (HMRC). The searches are part of an investigation linked to suspected Money Laundering Regulations breaches and illegal film distribution.

HMRC, along with Police Scotland and the Federation Against Copyright Theft (FACT), seized computer and business records from five business and residential properties in the Edinburgh and Fife areas. The addresses searched are believed to be the registered offices of around 1,500 legal entities, including Limited Partnerships (LPs), Limited Liability Partnerships (LLPs), and Limited Companies, which are being investigated by HMRC.

Anne-Marie Gordon, Assistant Director, Criminal Investigation, HMRC, said:

‘Breaching Money Laundering Regulations is a serious crime. This activity could open the door to allow organised criminals and terrorists to profit from their illegal activities. Money laundering costs millions of pounds in lost revenue that should be funding public services.

Today’s operation, working closely with Police Scotland, a partner in the Serious Organised Crime Task Force, and FACT, sends a clear message that HMRC will investigate any activity suspected of flouting Money Laundering Regulations.’

Payback time for fugitive money launderer

A runaway tax fraudster and money launderer has been ordered to repay over £207,000, concluding a long-running investigation by HMRC.

Michael Voudouri, 47, once Scotland’s most wanted tax fraudster, was sentenced to 11 and a half years in prison in June 2014. He received ten years in prison for VAT fraud and money laundering offences, and 18 months for fleeing the UK to Northern Cyprus in an attempt to escape justice – a breach of his bail conditions.

Voudouri originally pleaded guilty in October 2012 to laundering the proceeds of a VAT fraud totalling £11.6 million. He is now paying back his ill-gotten gains.

Anne-Marie Gordon, Assistant Director, Criminal Investigation, HMRC, said:

‘Tax fraudsters line their pockets at the UK’s expense, depriving public services of much needed funds. Voudouri paid the price for his VAT fraud and subsequent absconding when he was jailed for 11 and a half years. Today’s decision is more good news for all honest taxpayers. Voudouri is now facing the consequences of his fraud with both a lengthy jail sentence and confiscation of his criminal profits.

This result took a great deal of collaborative working and we will continue to stop criminals profiting from their illegal activities by working with partners across the UK and internationally.'

Speaking after the conclusion of the case, Lindsey Miller, Procurator Fiscal for Organised Crime and Counter Terrorism, said:

'The confiscation order secured against Voudouri today adds another layer of punishment and monitoring to the suite of measures already secured against him.

As well as a lengthy jail sentence and 15 years of close monitoring, he will now be made subject to a financial life sentence, ensuring that we will continue to recover all assets from him until he has repaid the total of his illegal earnings.'

SFO

Ponzi fraudster sentenced

David Gerald Dixon, the creator of a multi-million pound Ponzi fraud was sentenced at Southwark Crown Court to a total of three years and ten months imprisonment on each count to be served concurrently, after having pleaded guilty last month to five fraud related offences.

This follows a joint investigation by the Serious Fraud Office and Hampshire Constabulary which was conducted after the collapse of Arboretum Sports (UK) Limited in 2007.

Mr Dixon created the scheme through two companies known as Arboretum Sports (USA) Incorporated and Arboretum Sports (UK) Limited. Through those companies, collectively referred to as 'Arboretum Sports', victims were induced into placing money into what they were told was a no-risk gambling syndicate with the potential for dramatic rates of return. In reality, the scheme was a dishonest vehicle for Mr Dixon to appropriate the funds of its members.

Mr Dixon initially fled to Malaysia and a Warrant for his arrest was issued by Westminster Magistrates Court on 18 October 2011. He was extradited from Malaysia in September 2014. In passing sentence HHJ McCreath disqualified Mr Dixon from being a company director for ten years.

Confiscation proceedings are scheduled to commence in January 2016 at a date to be fixed at Southwark Crown Court.

Convicted boiler-room fraudster sentenced to four more years

Brian O'Brien, a convicted fraudster, was sent to prison for an additional four years by Westminster Magistrates' Court for failure to pay his confiscation order.

In April 2012, following his extradition from the USA, O'Brien was convicted after trial for his involvement in a £4 million fraud. He was sentenced to eight years' imprisonment.

In April 2013 he was ordered to pay £364,938.53 in confiscation and a default sentence of four years was fixed. The full amount of the confiscation order was to be used as compensation to the victims of his fraud. To date he has paid nothing towards the order.

In activating the default sentence District Judge Roscoe said there was ‘no evidence of any attempt to pay’ either sums making up the tainted gifts or hidden assets aspects of the confiscation order indicating ‘culpable neglect’ on the part of O’Brien.

At the heart of his fraud was a UK company, Secure Trade & Title Company Ltd (‘STT’), which Brian O’Brien and his partner Lynne D’Albertson controlled from their home in Sussex. STT conducted share-pushing operations based in Spain and Ireland and purported to offer independent protection for prospective shareholders, but in fact enabled the majority of funds placed for investment to be siphoned away for the benefit of the fraudsters.

Davenport and Rastogi mansions sold to satisfy court orders

The SFO has recovered nearly £18.4 million from two high-profile fraudsters in order to satisfy outstanding high value confiscation and compensation orders. The recoveries result from the sale of two properties in London.

Edward Davenport, convicted and sentenced for his role in a multi-million pound venture capital fraud, has satisfied £13 million worth of his confiscation and compensation orders.

In order to make the payment, Davenport sold 33 Portland Place, a 24-bedroom mansion in Marylebone, London. The sale completed on 11 May 2015, enabling Davenport to pay the relevant sums to Her Majesty’s Courts and Tribunals Service.

Davenport was convicted, along with eight others, for his role in Gresham Ltd, a company that purported to offer the sourcing and provision of commercial funding by way of loans or joint venture capital, for which ‘advance fee’ payments were sought from individuals.

He was sentenced to seven years, eight months in prison in October 2011, following a prosecution brought by the SFO. The SFO’s Proceeds of Crime Division applied for confiscation and compensation orders to be imposed on Davenport and these were handed down in July last year.

In a separate case, Virendra Rastogi, convicted and sentenced in 2008 for his role in a multi-million pound financial trading fraud, has paid £5.4 million towards his £20 million confiscation order.

The fraud was committed to support trading on the London Metal Exchange through a company structure based around RBG Holdings Limited. In August 2010 a £20 million confiscation order was imposed with the total sum recovered to be used to compensate the victims of the fraud.

UK NEWS

In February 2013, following an application by the SFO's Proceeds of Crime Division, Rastogi was ordered to serve a further 2555 days (seven years) in prison as a result of his failure to pay the confiscation order.

At the confiscation hearing the court found that Rastogi's family home, which was held in the name of a trust fund, was beneficially his and considered it available to satisfy the order. Litigation, which was contested by the trust fund, to secure possession of the property, located in Orchard Court, London, was commenced in July 2013. Control of the property was subsequently removed from the trust fund by the High Court and the sale completed on 15 May allowing the equity to be used to satisfy, at least in part, Rastogi's outstanding order. The total amount recovered from Rastogi is being used to compensate the victims of the fraud through the liquidator appointed over RBG Resources Plc.

Mark Thompson, Head of the SFO's Proceeds of Crime Division, said:

‘The sales and subsequent payments to satisfy the court orders demonstrates the SFO's commitment to pursuing the recovery of fraudsters' ill-gotten gains. Criminals should not be able to benefit from the fruits of their crimes and the sale of the properties should serve as a timely warning to those considering committing fraud that their assets, including family homes, are not protected and remain liable to confiscation.

The SFO has been pursuing confiscation proceedings against Davenport for nearly four years and Rastogi for nearly five years. I would like to pay tribute to the dedication and professionalism of the SFO team who have worked on these complex cases.’

NCA

Criminal assets no longer safe overseas following landmark judgement

A convicted drug dealer has lost US\$500,000 of ‘hidden’ assets as a result of a landmark judgement in Luxembourg won by the National Crime Agency (NCA). This will bring the total amount seized by the NCA from Amir Azam to more than £3.3 million.

The ruling – handed down by the District Court of Luxembourg – states that the proceeds of crime hidden by Mr Azam in Luxembourg can be seized on a civil basis by the NCA in the UK.

Importantly, this is the first time that a foreign state has recognised and enforced a UK Civil Recovery Order. The decision represents a significant step forward in the fight to recover the millions of pounds worth of assets that UK criminals have traditionally hidden abroad to evade law enforcement's reach.

Mr Azam is a British national who is currently serving a four-year prison sentence after being convicted of drug offences last year. In September 2014 the NCA was granted a Civil Recovery Order in respect of five properties and money from five bank accounts in the UK and Luxembourg. In October 2014 the High Court ruled that two further properties could be recovered.

The UK assets have already been seized and the ruling by the Luxembourg court means that Azam has now also lost the assets hidden in Luxembourg.

Stephanie Jeavons, Deputy Director of the NCA's Economic Crime Command outlined the importance of the ruling:

‘This decision is a significant step forward for the NCA, and for all UK law enforcement, in the fight to recover the millions of pounds worth of criminal assets hidden abroad.

The NCA is working with a number of countries to retrieve the criminal proceeds squirreled away overseas and this ground-breaking judgment paves the way for other countries to follow suit.’

NCA helps return £1.3 million to victims in unprecedented legal case

£1.3 million has been returned to victims of a property fraudster as a result of a ground breaking ruling at the Royal Courts of Justice and work by the NCA.

Civil recovery action against Gary Robb, 52, of Teesside, has led to approximately £1.6 million of assets being frozen and £1.3 million shared among 57 of the victims of a property development scam in north Cyprus.

In 2001 Robb set up a property development business, AGA Developments, and after taking payments from predominantly British customers, failed to complete a single house in the Amaranta Valley development in north Cyprus. He had absconded to north Cyprus in 1997 after he permitted his Teesside nightclub to be used to supply cocaine and ecstasy. In 2009, Robb was removed from north Cyprus to the United Kingdom, where he was arrested, convicted and sentenced to five years in prison for this.

After completing his custodial sentence he was extradited to Cyprus and was sentenced by authorities there to 11 months in prison for illegal use of the land for his Amaranta Valley development.

In March 2012, SOCA, one of the NCA's precursors, was successful in its civil recovery action against Robb. Following this, and an appeal for victims to come forward, the victims submitted a joint claim. The NCA then assisted them by providing relevant information obtained during its investigation to support their claims and trace back the money they had invested to Robb's frozen fund.

The funds were awarded to victims today at the Royal Courts of Justice. This is the first time the POCA 2002 has been used in this way.

Donald Toon, Director of the NCA's Economic Crime Command, said:

‘This case is the first time that this legislation has been used to both disrupt serious criminal activity, and enable victims to reclaim funds.

Achieving today's result has taken a determined effort over several years. The NCA will be patient and persistent, and will continue to use every tool at its disposal to disrupt criminals like Robb and deprive them of the assets they acquire through crime.’

Belfast sex shop owner's estate to be handed over to the NCA

The NCA has been granted a Consent Order against the estate of a former Belfast sex shop owner and the assets of his former partner valued at more than £850,000.

In its Property Freezing Order application, the NCA submitted that Francis Eugene Young and Jane Culbertson had derived the majority of their assets through unlawful conduct namely; the unlicensed sale of adult retail products, money laundering and tax offences.

On 25 February 2015, Young's Executor and Culbertson, agreed to settle the NCA's civil recovery claim by handing over assets including:

- two houses in Northern Ireland, one in Portrush and another in Coleraine; and
- more than £730,000 in six bank accounts.

On 1 March 2006, Francis Eugene Young and Jane Culbertson were arrested in relation to tax offences and released on bail. They failed to meet their bail conditions and subsequently fled the jurisdiction to take up residence in Malaga, Spain.

Following Young's death, the case was referred to the then Serious Organised Crime Agency by HMRC for civil recovery investigation.

Bribery

Alstom to face further criminal charges

Charges have been brought by the SFO against Alstom Network UK Ltd and an Alstom employee in phase three of its ongoing investigation.

Alstom Network UK Ltd, formerly called Alstom International Ltd, a UK subsidiary of Alstom, has been charged with a further two offences of corruption contrary to section 1 of the Prevention of Corruption Act 1906, as well as two offences of conspiracy to corrupt contrary to section 1 of the Criminal Law Act 1977.

Michael John Anderson, 54, of Kenilworth in Warwickshire, who was working as a business development director for Alstom Transport SA in France, has been charged with the same offences.

The alleged offences are said to have taken place between 1 January 2006 and 18 October 2007 and concern the supply of trains to the Budapest Metro.

In addition to the charges that were announced as part of phase three in April this year, the SFO has charged Jean-Daniel Lainé and he appeared together with Michael John Anderson, 54, and representatives of Alstom Network UK Ltd, at Westminster Magistrates' Court. The matter has been sent for trial at Southwark Crown Court.

Mr Lainé, 68, is a French national who attended court to answer two charges of corruption contrary to section 1 of the Prevention of Corruption Act 1906, as well as two offences of conspiracy to corrupt contrary to

section 1 of the Criminal Law Act 1977. The alleged offences are said to have taken place between 1 January 2006 and 18 October 2007 and concern the supply of trains to the Budapest Metro.

Prior to retirement, Mr Lainé was Senior Vice President Ethics & Compliance, and a director of Alstom International Limited. He is the sixth individual to be charged by the SFO in its investigation of Alstom.

Guilty plea in multi-million pound energy corruption case

Following a joint investigation by the SFO and City of London Police into the awarding of contracts in a series of high-value infrastructure projects, Graham Marchment pleaded guilty and was sentenced to two and a half years imprisonment for his role in the conspiracy.

Marchment, (57), a British national originally from West Sussex, but resident in the Philippines in recent years, pleaded guilty at Southwark Crown Court to three counts of conspiracy to corrupt, contrary to section 1(1) of the Criminal Law Act 1977. He was sentenced to two and a half years' imprisonment on each count, to be served concurrently.

His guilty plea follows the conviction after trial of four co-conspirators as part of the same case in January 2012. Between 2004 and 2008, Marchment conspired with his co-defendants, Andrew Rybak, Ronald Saunders, Philip Hammond and others to obtain payments by supplying confidential information in relation to oil and gas engineering projects in Egypt, Russia and Singapore. Marchment worked as a procurement engineer and deliberately leaked confidential information to bidders in exchange for payments disguised as commission. The contracts that Marchment was involved in, which were worth around £40 million, related to projects in the following locations:

1. Western Desert, Egypt
2. Sakhalin Island, Russian Federation
3. Singapore

In passing sentence, HHJ Taylor said:

'You [Marchment] with your experience knew that the information you were passing was confidential and would be useful to rival bidders ... You were in a position of trust ... [yet] were motivated by greed.'

Joint Head of Bribery at the SFO, Matthew Wagstaff said:

'This result brings to a close a seven-year SFO-led investigation that covered numerous foreign jurisdictions. Collaboration with national and international agencies enabled the SFO to secure Marchment's conviction, despite his attempts to evade justice for this greedy and parasitic crime. Special thanks go to City of London Police, who referred the case to the SFO and with whom we worked closely throughout the investigation.'

Marchment was living in the Philippines when the SFO informed him that he was wanted for questioning in the UK. At the time, there was no extradition

treaty between the Philippines and the UK. Marchmont refused to return to the UK and so did not stand trial with his co-defendants. When his passport expired and he was unable to renew it because of the outstanding arrest warrant, he returned to the UK in December 2014, whereupon he was arrested and charged. He was denied bail.

City of London Police Detective Constable Martina McGrillen said:

‘Marchmont’s imprisonment is a tribute to both the Serious Fraud Office and the City of London Police’s determination to see justice served in full for all those involved in this case of international corruption. It also sends out a clear message that if you break UK laws you should expect to face the consequences in a British court. Hiding away overseas is not the answer; it is just delaying the inevitable.’

Compensation and confiscation will be determined at a later date.

Defendants acquitted in Nigerian corruption trial

Three employees of Swift Technical Solutions Ltd were found not guilty at Southwark Crown Court of corruption offences in relation to the tax affairs of a Nigerian subsidiary.

The jury was unable to reach a verdict on one count against the third defendant and was discharged. The SFO indicated in court that it did not intend to seek a retrial on that count and a verdict of not guilty was entered.

The defendants were:

Bharat Sodha (age 51) of Middlesex, the former International Tax Manager.

Nidhi Vyas (age 49) of Middlesex, the former Financial Controller.

Trevor Bruce (age 46) of Northern Ireland, the former Area Director for Nigeria.

Bharat Sodha was acquitted of two counts of conspiracy to make corrupt payments.

Nidhi Vyas was acquitted of one count of conspiracy to make corrupt payments on the direction of the judge at the close of the prosecution case and was acquitted by the jury of another similar count.

Trevor Bruce was acquitted of one count of conspiracy to make corrupt payments and the jury was unable to reach a verdict on the other.

The prosecution case was that these defendants conspired to make corrupt payments to officials of two Nigerian Boards of Internal Revenue, one in Rivers State and the other in Lagos State.

Swift co-operated with the SFO, providing documents and making staff available for interview. It was not charged with any offence.

Other Financial Crime News

R v GH

Criminal law – Proceeds of crime. The Supreme Court, in allowing the prosecution’s appeal, held that an arrangement between a fraudster (B), who had allegedly duped victims into buying into non-existent motor insurance, and the defendant, who had set up two bank accounts into which the victims had paid money, was capable of constituting an offence under section 328 of the POCA 2002. Accordingly, a ruling by a trial judge that the defendant had no case to answer, which had been upheld in the Court of Appeal, Criminal Division, was erroneous. What rendered the property ‘criminal property’ in the present case was not the arrangement made between B and the defendant, but the fact that it had been obtained from the victims by deception.

INTERNATIONAL NEWS

FATF

High-risk and non-cooperative Jurisdictions – June 2015

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 and Myanmar.

The statement may be found here:

www.fatf-gafi.org/documents/news/public-statement-june-2015.html.

Improving Global AML/CFT Compliance: ongoing process. June 2015

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/documents/news/fatf-compliance-june-2015.html.

Statement: Drivers for ‘de-risking’ go beyond anti-money laundering/terrorist financing

Situations where financial institutions terminate or restrict business relationships with categories of customer (so-called ‘de-risking’) is a complex issue that goes far beyond anti-money laundering (AML) and counter-terrorist financing (CFT). The FATF has gathered preliminary information on the potential drivers of ‘de-risking’, with input from the private sector which

INTERNATIONAL NEWS

highlights that there is a continued need to improve the evidence base in order to determine the causes, scale and impact of de-risking. The FATF approach to 'de-risking' is based on the FATF Recommendations which require financial institutions to identify, assess and understand their money laundering and terrorist financing risks, and implement AML/CFT measures that are commensurate with the risks identified.

The full statement may be found here:

www.fatf-gafi.org/documents/news/derisking-goes-beyond-amlcft.html.

Belgium's measures to combat money laundering and terrorist financing

The FATF has completed its assessment of Belgium's anti-money laundering and counter-terrorist financing (AML/CFT) system. The assessment of Belgium is a comprehensive review of the effectiveness of its measures to combat money laundering and terrorist financing.

The mutual evaluation report of Belgium sets out how well Belgium has implemented the technical requirements of the FATF Recommendations and how effective its AML/CFT system is. The report presents the key findings of the assessment team and the priority actions for Belgium to improve its AML/CFT system.

Australia has a mature regime for combating money laundering and terrorist financing, but certain key areas remain unaddressed, says FATF

Australia has strong legal, law enforcement and operational measures for combating money laundering and terrorism financing, but important improvements are needed in a number of key areas, according to a new report by the Financial Action Task Force and the Asia/Pacific Group on Money Laundering.

Best Practices on Combating the Abuse of Non-Profit Organisations (Recommendation 8)

Charities and non-profit organisations (NPOs) perform a vital role in our society, providing relief and support to groups of the population in need, and at times of urgent crisis. Unfortunately, charitable fundraising has also been used to provide cover for the financing of terrorism.

FATF Recommendation 8 requires that the laws and regulations that govern non-profit organisations be reviewed so that these organisations cannot be abused for the financing of terrorism. The FATF has established best practices, aimed at preventing misuse of NPOs for the financing of terrorism while, at the same time, respecting legitimate actions of NPOs.

The Report may be found here:

www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf.

Guidance for a Risk-Based Approach to Virtual Currencies

Virtual currencies have emerged and attracted investment in payment infrastructure built on their software protocols. These payment mechanisms seek to provide a new method for transmitting value over the internet. At the same time, virtual currency payment products and services (VCPSS) present money laundering and terrorist financing (ML/TF) risks. FATF made a preliminary assessment of these ML/TF risks in the June 2014 virtual currencies report (key definitions and Potential AML/CFT Risks).

As part of a staged approach, the FATF has developed this Guidance focusing on the points of intersection that provide gateways to the regulated financial system, in particular convertible virtual currency exchangers. FATF will continue to monitor developments in VCPSS and emerging risks and mitigating factors to update this Guidance, to include, where appropriate, emerging best practices to address regulatory issues arising in respect of ML/TF risks associated with VCPSS.

This Guidance seeks to:

- Show how specific FATF Recommendations should apply to convertible virtual currency exchangers in the context of VCPSS, identify AML/CFT measures that could be required, and provide examples; and
- Identify obstacles to applying mitigating measures rooted in VCPSS's technology and/or business models and in legacy legal frameworks.

The Report may be found here:

www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-Virtual-Currencies.pdf.

Other International News

US Treasury Department Publishes National Money Laundering Risk Assessment and National Terrorist Financing Risk Assessment

The US Department of the Treasury has issued the National Money Laundering Risk Assessment (NMLRA) and the National Terrorist Financing Risk Assessment (NTFRA). The purpose of these assessments is to help the public and private sectors understand the money laundering and terrorist financing methods used in the United States, the risks that these activities pose to the US financial system and national security, and the status of current efforts to combat these methods. In doing so, these assessments enable the US Government and financial institutions to more effectively detect and combat illicit finance.

Further information may be found here: www.treasury.gov/press-center/press-releases/Pages/j10072.aspx.

INTERNATIONAL NEWS

European parliament votes 4th EU Money Laundering Directive into law, 20 May 2015

The ultimate owners of companies will have to be listed in central registers in EU countries, open both to the authorities and to people with a 'legitimate interest', such as investigative journalists, under new rules already agreed with the Council and endorsed by Parliament on Wednesday. The new anti-money laundering directive aims to step up the fight against tax crimes and terrorist financing. New rules to make it easier to trace transfers of funds were also approved.

The fourth anti-money laundering directive (AMLD) will for the first time oblige EU member states to keep central registers of information on the ultimate 'beneficial' owners of corporate and other legal entities, as well as trusts. These central registers were not envisaged in the European Commission's initial proposal, but were included by MEPs in negotiations.

The text also sets out specific reporting obligations for banks, auditors, lawyers, real estate agents and casinos, among others, on suspicious transactions made by their clients.

'Legitimate interest' access to ownership registers

The central registers will be accessible to the authorities and their financial intelligence units (without any restriction), to 'obliged entities' (such as banks doing their 'customer due diligence' duties), and also to the public (although public access may be subject to online registration of the person requesting it and to a fee to cover administrative costs).

To access a register, a person or organisation (eg investigative journalists or NGOs) will in any event have to demonstrate a 'legitimate interest' in suspected money laundering, terrorist financing and in 'predicate' offences that may help to finance them, such as corruption, tax crimes and fraud.

These persons could access information such as the beneficial owner's name, month and year of birth, nationality, country of residence and details of ownership. Any exemption to the access provided by member states will be possible only 'on a case-by-case basis, in exceptional circumstances'.

Central register information on trusts will be accessible only to the authorities and 'obliged entities'.

Special measures for 'politically-exposed' persons

The text clarifies the rules on 'politically-exposed persons', ie people at a higher than usual risk of corruption due to the political positions they hold, such as heads of state, members of government, supreme court judges, and members of parliament, as well as their family members.

Where there are high-risk business relationships with such persons, additional measures should be put in place, eg to establish the source of wealth and source of funds involved, says the directive.

Tracing transfers of funds

MEPs also approved a ‘transfers of funds’ regulation, which aims to improve the traceability of payers and payees and their assets.

Next steps

Member states will have two years to transpose the anti-money laundering directive into their national laws. The transfers of funds regulation will be directly applicable in all member states 20 days after its publication in the EU Official Journal.





Correspondence about the content of this Bulletin may be sent to **Victoria Burrow**, LexisNexis Butterworths, Halsbury House, 35 Chancery Lane, London WC2A 1EL (tell +44(0)20 7400 2732; email [victoria.burrow@lexisnexis.co.uk]. Subscription and filing enquiries should be directed to LexisNexis Butterworths Customer Services Department, PO BOX 1073, BELFAST BT10 9AS (tell +44(0)84 5370 1234 fax +44(0)20 8662-2012; email customer.services@lexisnexis.co.uk).

Visit **LEXISNEXIS** direct at www.lexisnexis.co.uk

© Reed Elsevier (UK) Ltd 2015

Published by LexisNexis



ISBN 978-1-4057-8552-5

