

Unmasking Corporate Secrecy in Transnational Financial Crime

Razim Buksh
Director
Financial Intelligence Unit

Luncheon Symposium: 11 December 2014
Tower Level 11 – Reserve Bank of Fiji



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Fiji

Global Money
Laundering
through the
financial system:
US\$2.1 Trillion
(2009 - OECD/
UNODC)

Vanuatu

Fiji

Suva

Pacific Ocean

New Zealand

\$200-300million circulating over past 3 years

Dirty money

By NASIK SWAMI and ROPATE VALEMEI

AN estimated \$200 to \$300million in dirty money has been circulating in the country for the past three years, the Fiji Revenue and Customs Authority revealed.

This, the authority says is dirty money generated through money laundering, tax evasion and the underground economy.

And authority CEO Jitoko Tikolevu says the amount is expected to increase.

"Tax evasion recorded \$30million and it also brings to mind the underground economy. The amount is recorded from three years ago and maybe the amount is much bigger now," Mr Tikolevu said.

It was also revealed that this year, the Financial Intelligence Unit is investigating two companies and two individuals in relation to "unexplained wealth" totalling about \$1million.

FIU director Razim Buksh said the money had been derived from criminal activities that were difficult to prove. The government is expected to, through the Proceeds of Crime (Amendment) Decree 2012, ease the burden of solving this complex crime. The new unexplained wealth provision in the decree enables the court to confiscate assets owned or controlled by a person that cannot be reasonably explained in relation to their lawful income.

"Most part of this decree talks about unexplained wealth," he said.

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FREE - A SPECIAL RUGBY LIFTOUT: SATURDAY

DON'T MISS YOUR FIJI RUGBY CENTENNIAL 24-PAGE LIFTOUT TOMORROW ▶▶ Details on page 53

Fiji Times Friday 24 May 2013



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Financial Crimes in Fiji

- ✓ The National Bank of Fiji scandal;
- ✓ Biggest ever financial crime investigation in Fiji;
- ✓ A field day on NBF's lending portfolio;
- ✓ Use of \$2 companies;
- ✓ Bad loans of \$220 million;



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Lessons Learnt from the NBF Fraud

- ✓ Improvements in our legal, institutional, and regulatory systems;
- ✓ Establishment of FIU;
- ✓ Establishment of FICAC;
- ✓ Capacity building programs;

Reflection of commitment of the Fijian Government to address the risks associated with money laundering and organised financial crimes.

Recent Money Laundering Convictions

Money Laundering Prosecutions and Convictions

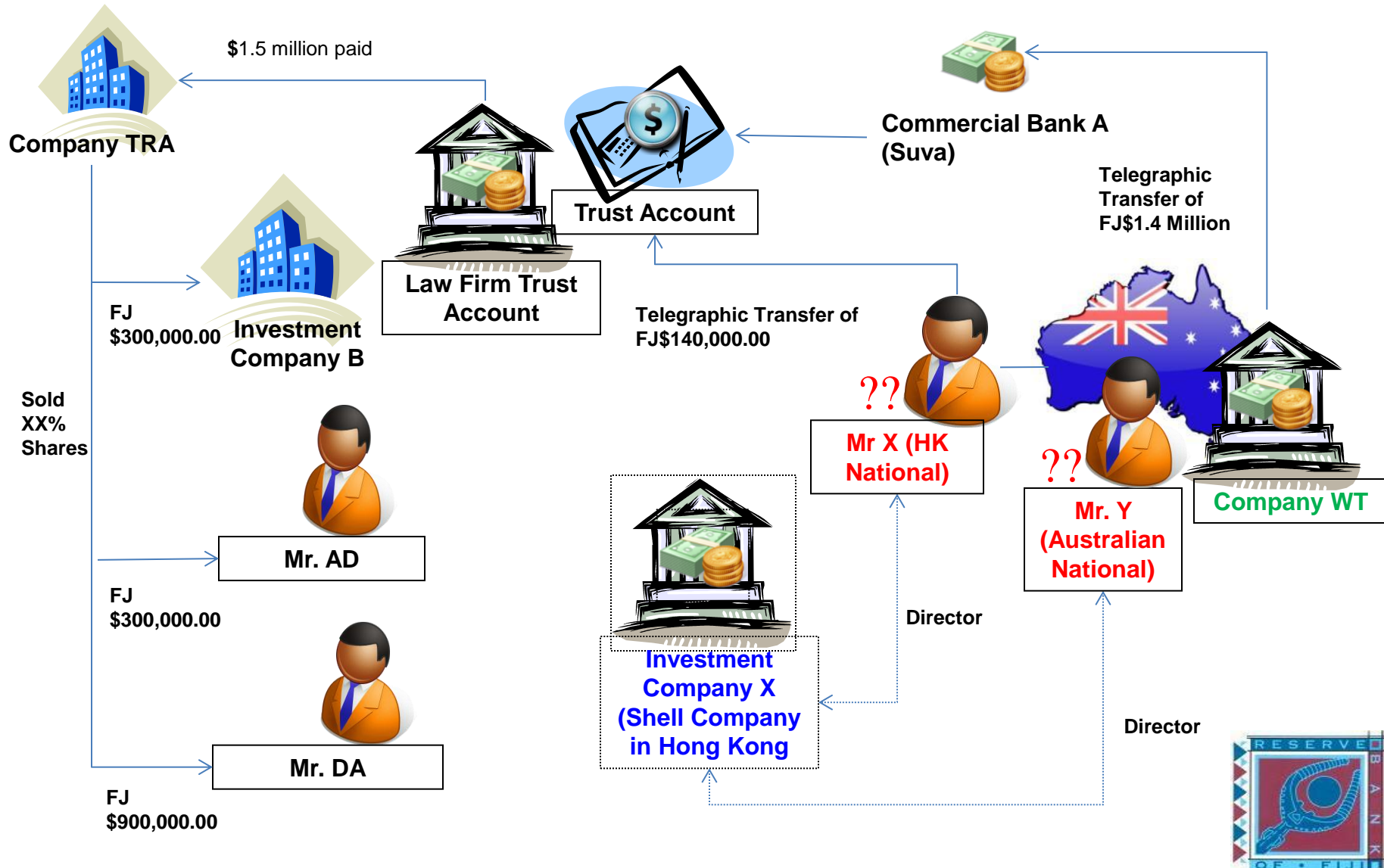
Date of Conviction/ Judgement	Case Reference No.	Amount Involved	Sentence
14 April 2011	State vs Anand Kumar Prasad, Reenal Praneel Chandra, Reenal Rajneil Chandra, Deo Narayan Singh, Shirley Sangeeta Chand and Atishma Kirti Singh Criminal Case No: 024 of 2010	\$840,00.00	Convicted and sentenced by the High Court as follows: <ul style="list-style-type: none"> Anand Kumar Prasad 6 years Deo Narayan Singh 4 years Atishma Kirti Singh 2 years
14 December 2011	State vs Monika Monita Arora Criminal Case No: HAC125 of 2007	\$472,466.47 (ML); & \$10,000 : Corrupt Practices	Convicted and sentenced by the High Court to 7 years imprisonment
16 March 2012	State vs Deepak Rajneel Kapoor and Krishneel Khanaiya Bhola Nath Criminal Appeal No. HAC 042/2009	\$111,894.54	Mr Deepak Rajneel Kapoor pleaded guilty and was sentenced by the High Court to 16 months imprisonment
11 April 2012	State vs Johnny Albert Stephen Criminal Case No: HAC 088 of 2010	\$38,861.46	Convicted and sentenced by the High Court to 7 years imprisonment
1 November 2012	State vs Doreen Singh; Criminal Case No. HAC 086 of 2009	\$157,423.94	Convicted and sentenced by the High Court to 6 years imprisonment.
November 2012	State vs Nirmala Devi	\$1,095.00	Convicted and sentenced by the Magistrates Court to 1 year imprisonment suspended for 2 years.
27 September 2012	State vs Kapil Kushant Samy Criminal Case No. 325/2012	\$11,398.67	Convicted and sentenced by the Magistrates Court to 3 year suspended imprisonment
11 November 2013	State vs Robin Shyam	\$349,871.00	Convicted and sentenced by the High Court to 12 years imprisonment
21/11/2013	State vs Faiyaz Khan (Sinha Case accomplice)	\$170,000.00	Jailed by the High Court in Lautoka after being found guilty of charges including ML, uttering forged documents and obtaining money on forged documents. Sentenced to non-parole jail term of 4 years.
31/07/2014	Sate vs Manoj Khera (Mahakali Jewellers)	44,611.00	Sentenced on 3/10/2014 for 4 years imprisonment

Case Study 1: Use of Shell Company to Channel Proceeds of Crime from Hong Kong to Australia to Fiji



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CASE STUDY # 3

- On 29 October 2005 both accused were arrested.
- They were well equipped with PCs, scanner, printers, broadband wireless internet access, and other electronic equipment.
- Use of a “front” entity.
- Bogus residential & business address.
- F\$90,930.78 (51 known victims).



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International Scrutiny

- ✓ Assessment in 2006 by the World Bank;
- ✓ Fiji has exemplary AML laws;
- ✓ Fiji was only partially compliant with majority of the requirements;
- ✓ Assessment by APG in 2015;
- ✓ National Risk Assessment;
- ✓ Progress Report to APG (July 2014):
 - ☐ now largely compliant with almost all the international AML requirements.

New AML Requirements

- ✓ Inclusion of domestic politically exposed persons under the FTR Act;
- ✓ Wider range of investigative techniques;
- ✓ Tax crimes;
- ✓ Unexplained wealth provisions.

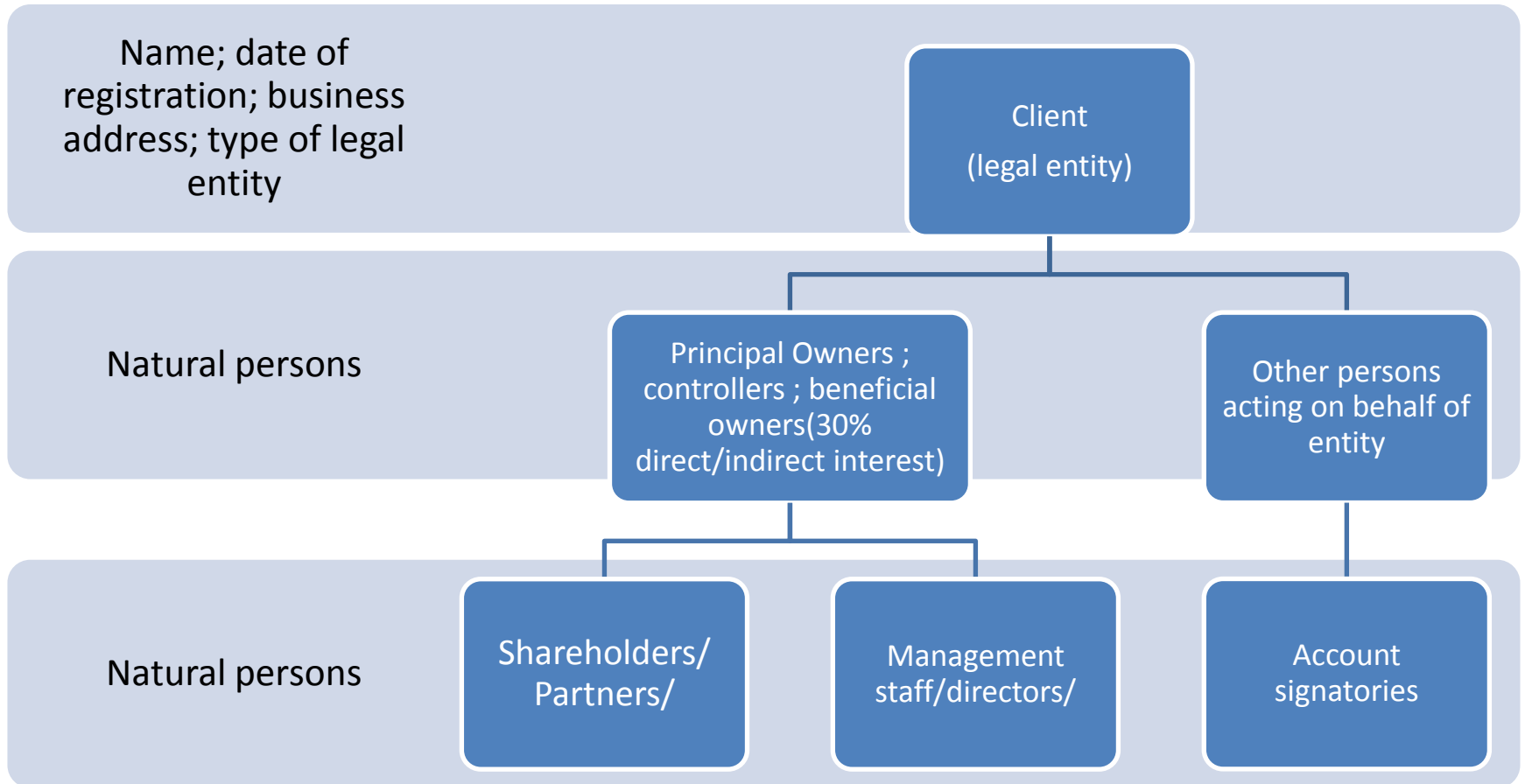


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Identification of Legal Persons



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Identification of Legal Persons

- Section 4(2) – FTR Act:

if the customer is a legal entity, a financial institution **must** adequately verify its legal existence and the structure of the legal entity, including information relating to:

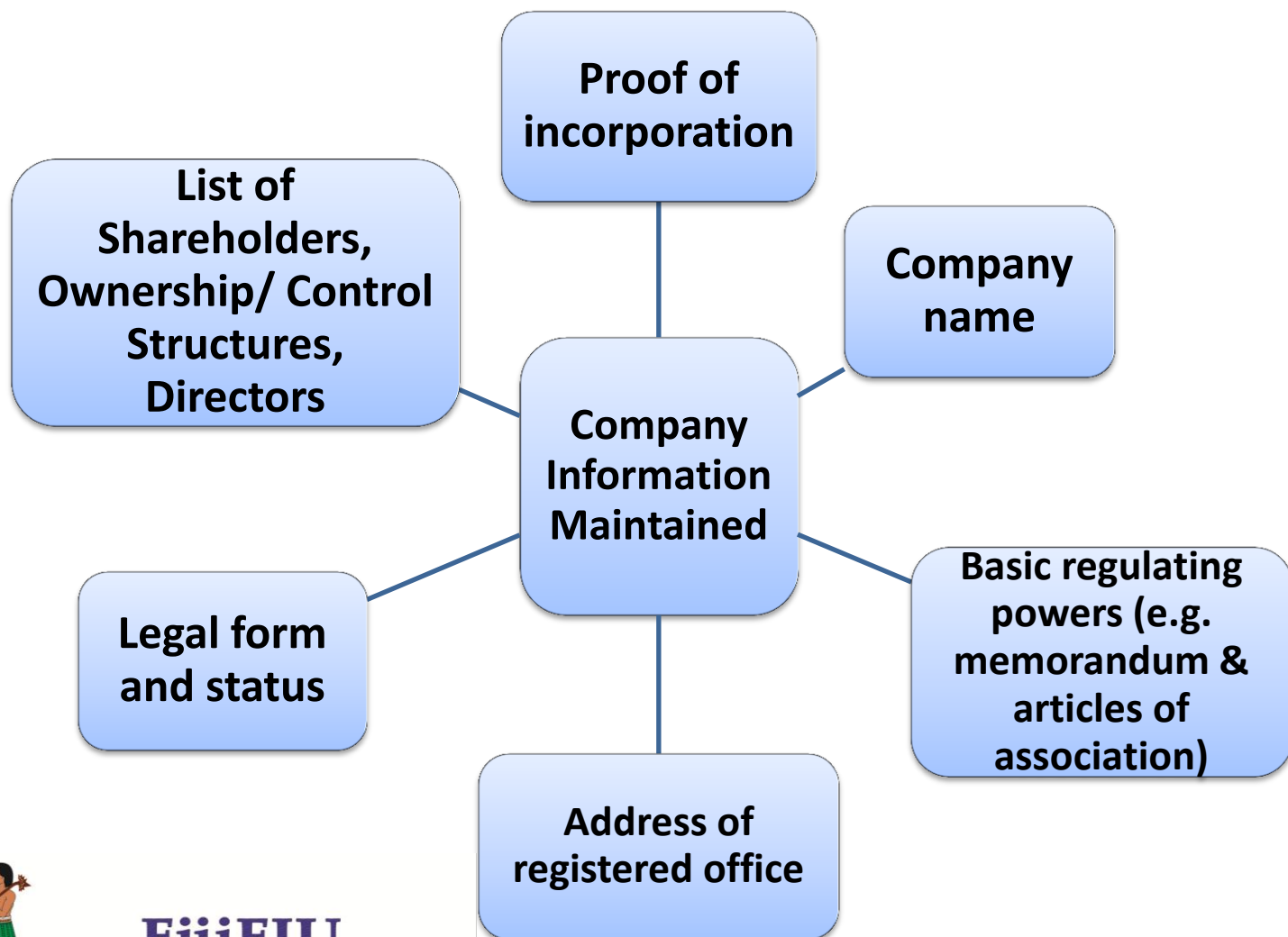
- (a) the customer's name, address and legal form and its control structure;
- (b) the principal owners, directors and beneficiaries;
- (c) provisions regulating the power to bind the entity; and
- (d) whether the person purporting to act on behalf of the customer is so authorised, and to identify the person.



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Company Registry



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Secret owners of 'shell' companies to be made public

“A list of the owners of "shell" companies where firms keep money offshore to avoid tax will be published to discourage tax evasion”, David Cameron has announced.



The Prime Minister said the *"cloak of secrecy"* surrounding company ownership had led to "questionable practice and downright illegality".

Source: <http://www.bbc.com/news/uk-24752633>

31 October 2013



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Beneficial Owners

Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. [FATF]

3 Key Elements of Beneficial Ownership

Legal Persons & Arrangements



Natural Person



Ownership



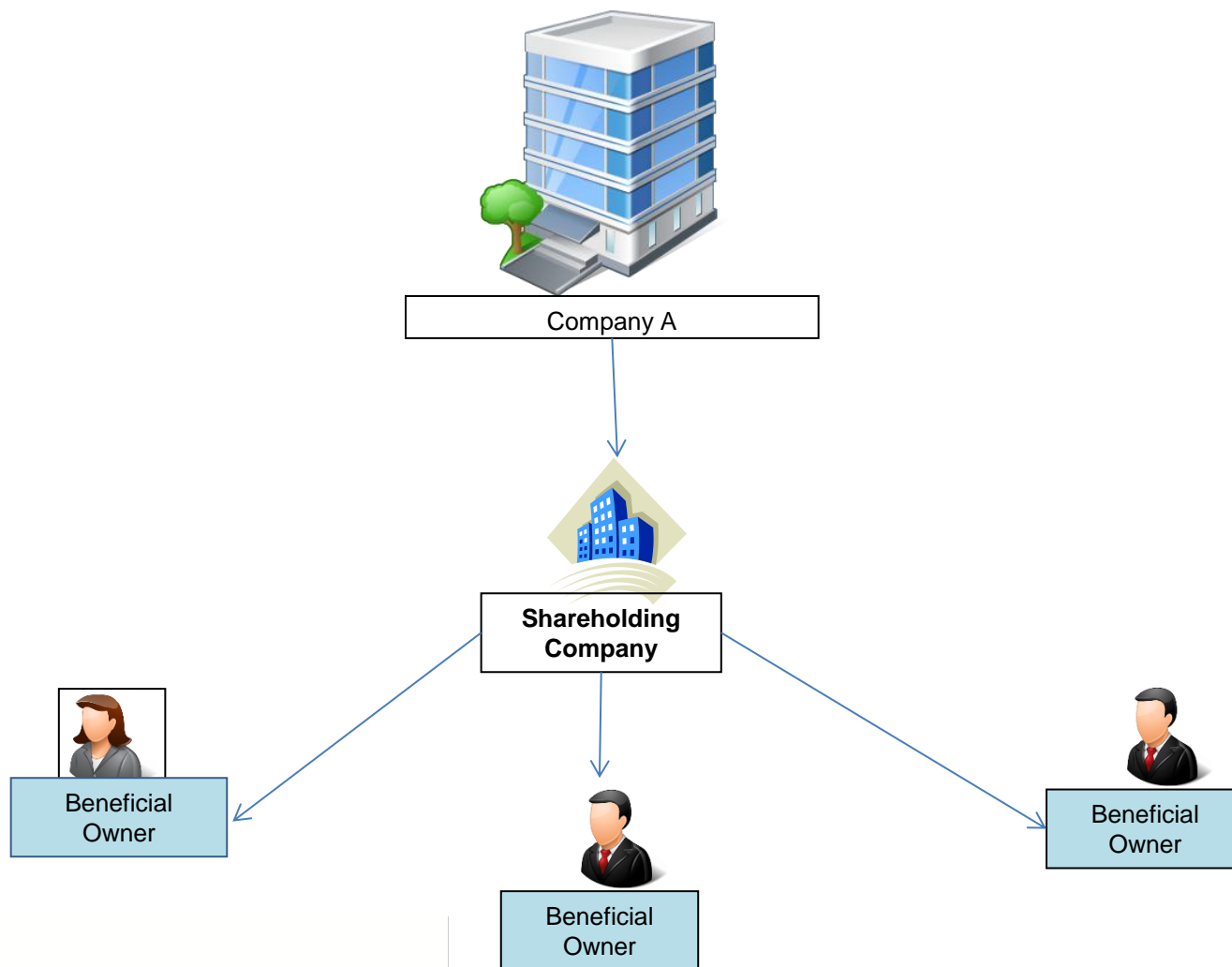
Effective Control



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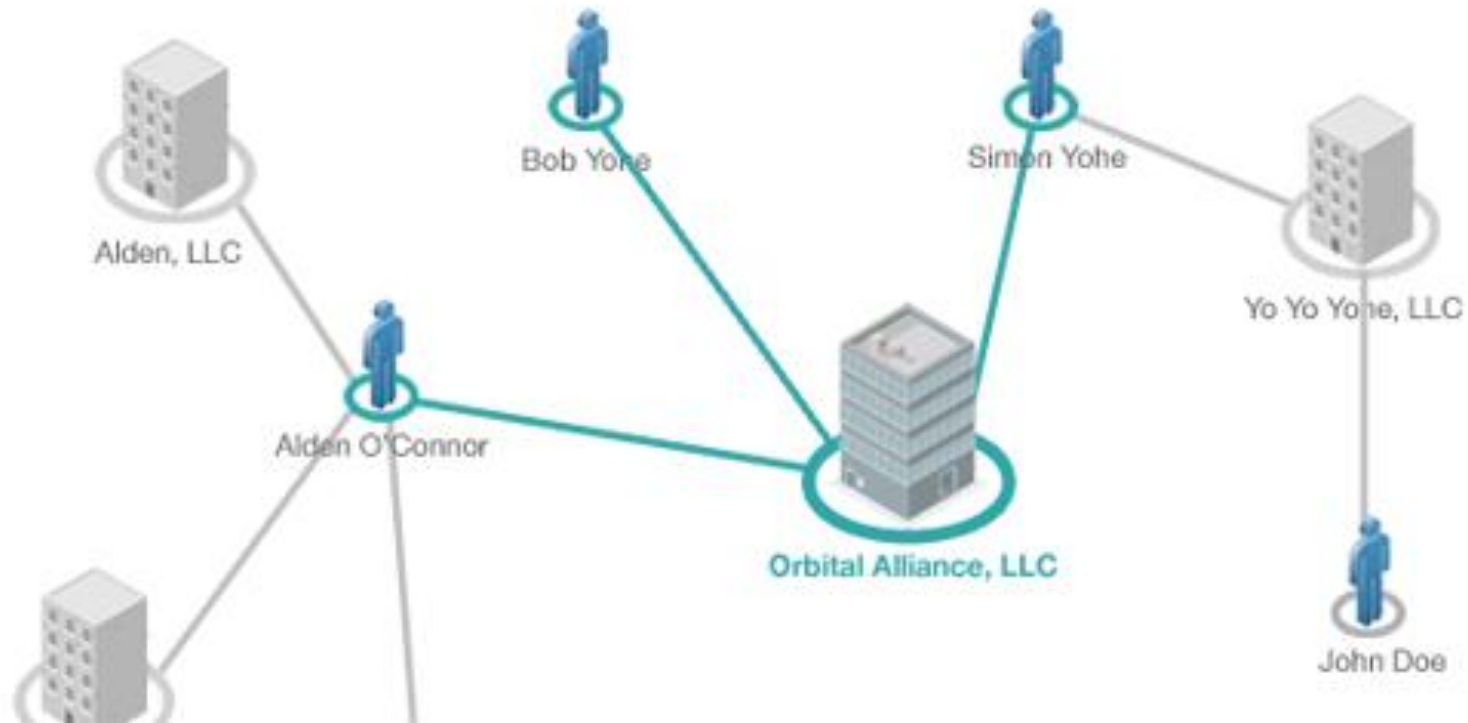
Simple Corporate Ownership Structure



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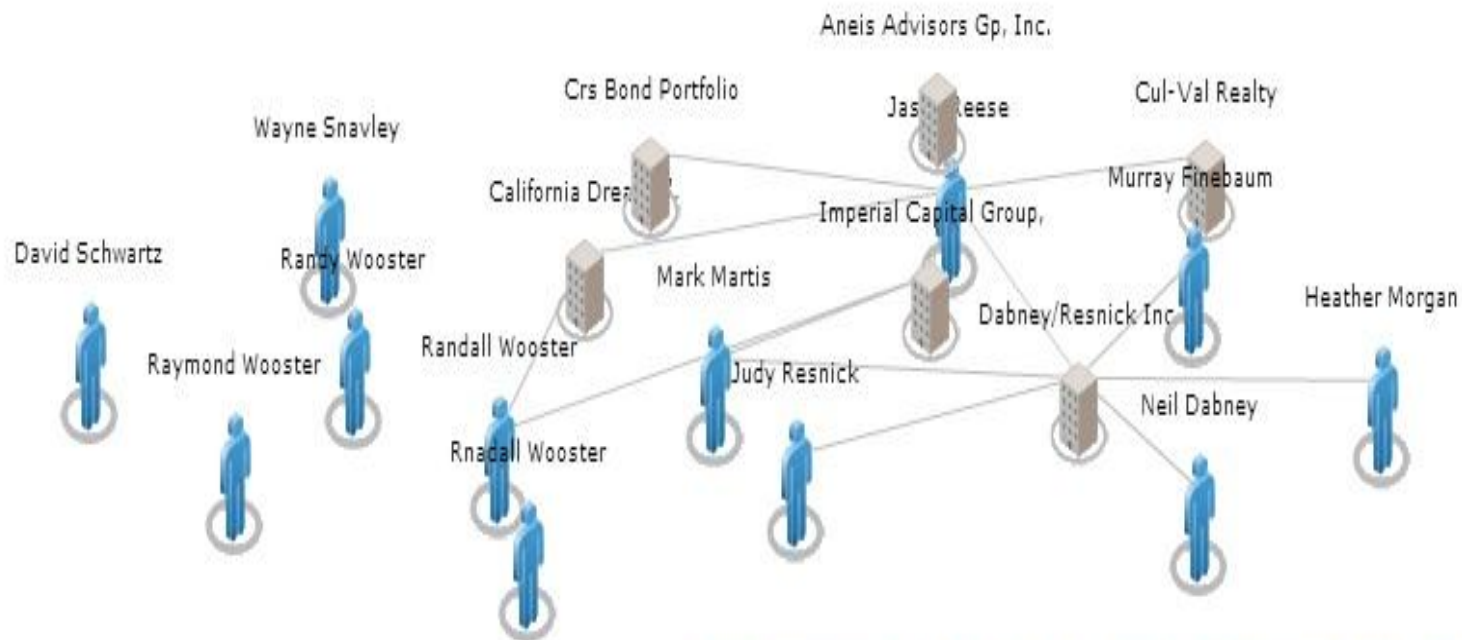


Complex Corporate Ownership Structure

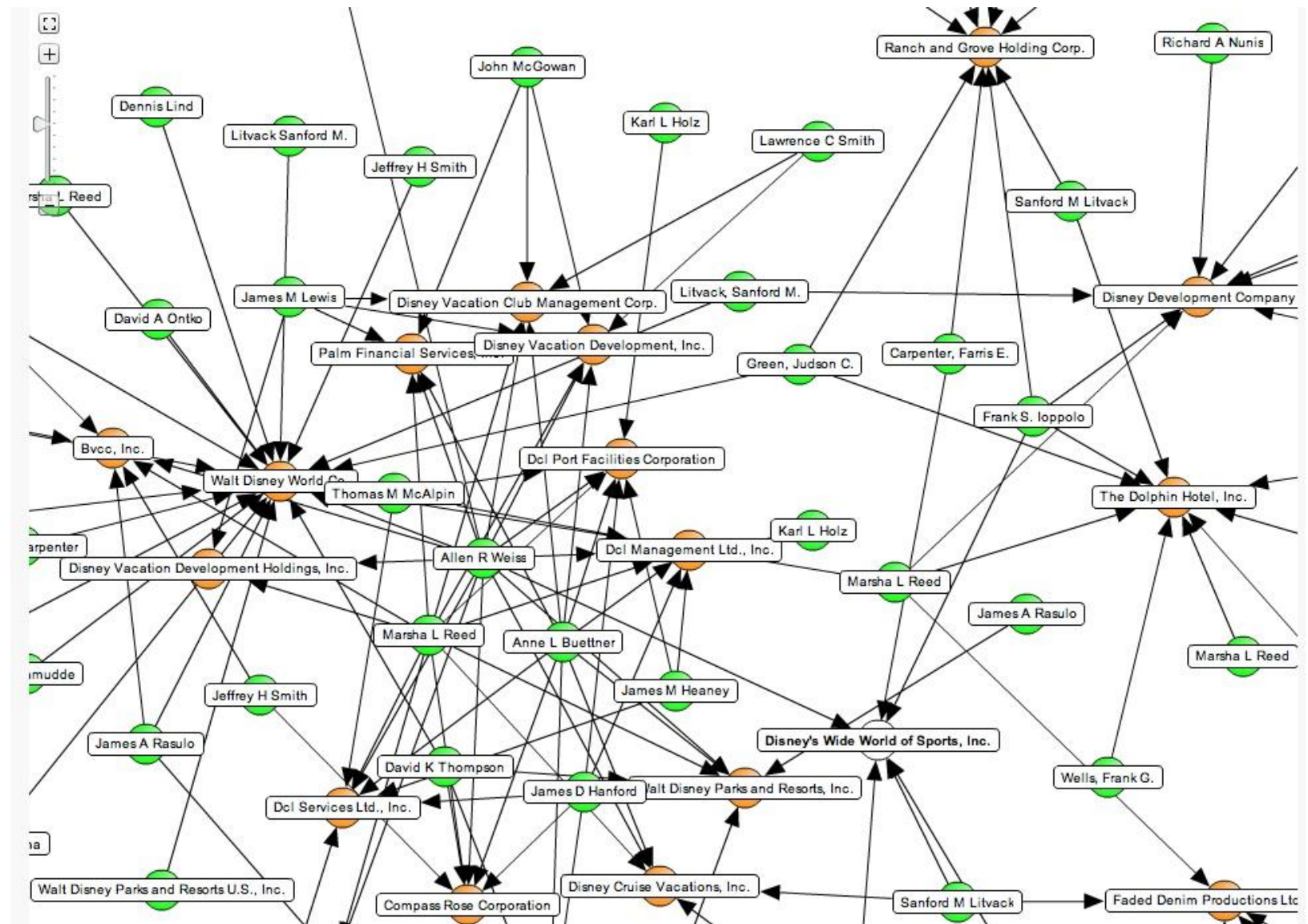


Complex Corporate Ownership Structure

[Connection Visualizer - Click an icon below to explore!](#)



Layout: [View Large Format](#) | [Circular](#) | [Tree](#) | [ISOM](#) | [EfficientSugiyama](#) | [CompoundFDP](#)



Conclusion

- ✓ Most modern laws on AML & POC;
- ✓ ML convictions;
- ✓ Recovery of criminal proceeds;
- ✓ The Fijian Government is already addressing the risks;
- ✓ More needs to be done;
- ✓ Prepare for APG assessment;
- ✓ Role of the Fiji FIU.



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Thank You & Vinaka Vakalevu

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