

2nd National Anti-Money Laundering Conference

7 October, 2010
Holiday Inn, Suva, Fiji.

Topic: **Import/Export Fraud & Transfer Pricing**

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Position: **Chief Executive Officer**

Conference Theme:

"Investigating Money Laundering"

Organized by: Fiji Financial Intelligence Unit





NATIONAL ANTI-MONEY LAUNDERING CONFERENCE 2010

-Investigating Money Laundering-



PRESENTATION BY CEO - FIRCA
7th October, 2010

Common predicate offences for Money Laundering

(i) IMPORT FRAUD:

(ii) EXPORT FRAUD; AND

(iii) TRANSFER PRICING

BACKGROUND QUESTIONS

- What really matters is in which direction does the fraud intend to move?
- Move the money into Fiji or out of Fiji?
- Move the laundered money out of Fiji or move the laundered money by diversion to another country, using legitimate process of trade documents?
- Values will be either understated or overstated

PRESENTATION OUTLINE

1. **What is import/export fraud and transfer pricing?**
2. **Types and value of proceeds** (what were the proceeds generated from the predicate offence e.g cash; motor vehicle, house/property, plant and equipment etc; total value of proceeds; how it was used or stored by the offenders/criminals)
- 3 **Actions taken to restrain, confiscate and forfeit the proceeds of the crime.**
4. **Challenges faced by investigators in pursuing the proceeds of the crime?**

Import /Export fraud and transfer pricing

(i) Import Fraud in Money Laundering?

- Import fraud in money laundering is actual submission of import documents to the Customs where the documented description and values do not match with the physical cargo.

This includes:

- False description of goods.
- False understated or overstated values.

Cont: Import /Export fraud and transfer pricing

- False description of goods refers to choice of words on invoice that will attract different Tariff Classification No (8-digits) which will attract lower rates of duties.
- Documents do not match the cargo when physically examined.
- Quantity is often also understated.
- This includes documents through the banks.
- Difference between what would have been true amount for remittance to supplier offshore is paid from another account and sometimes from another country.
- Deposit to secure sales and cash deposits paid are not reflected on the transaction for documents conveyance through the banks.

Cont: Import /Export fraud and transfer pricing

(ii) What is Export Fraud in Money Laundering?

- Export fraud in money laundering requires overstatement of invoiced values when the intention is to divert money from another country into Fiji.
- Export fraud in money laundering requires understatement of invoiced values when the intention is to divert away valid payment.

Cont: Import /Export fraud and transfer pricing

- S.25 of the Exchange Control Act requires the exporter's commercial bank within 6 months to remit into Fiji exports already made.
- Understated value allow opportunity to divert the (correct) differences to other accounts and to another country.

Cont: Import /Export fraud and transfer pricing

Examples of Trade Fraud:

1. Shipper from offshore supplies cargo as source from Various suppliers. Under mutual agreement, only a few of the low import rates of duty invoices are given to Customs and high duty items' invoices are held back.
2. Invoices for mixed shipment of goods are being manipulated in such a way so that the invoice totals match with bank payments but the actual values are not correctly invoiced.

Cont: Import /Export fraud and transfer pricing

Examples of Trade Fraud:

3. Fiji exporter agrees with offshore Pacific Islands importers to load high duty items in those offshore shipment containers and have those shipments incorrectly invoiced as some food items which are duty free goods at destination.
4. Export entry and export invoices given to Customs are similarly falsified and correct invoice costs are paid into offshore account of the Fiji supplier.

Cont: Import /Export fraud and transfer pricing

Examples of Trade Frauds:

5. Fiji importer purchases demonstration current model motor vehicles from offshore and instructs the shipper to give the vehicles new exterior cosmetics and appearance of new vehicles and pays lower rates of duty. Duty on new imported vehicles is lower and used vehicles have higher rates of fixed duty per vehicle

Cont: Import /Export fraud and transfer pricing

(iii) What is Transfer Pricing?

- Transfer pricing is determination of price and other conditions for transfer of goods, services and assets between affiliated companies, situated in different tax jurisdictions.

- **Concept of Transfer Pricing**

Manipulation of taxable profits so as to reduce assessable income, the artificial shifting of the net incomes/expenses/costs amongst related parties

Cont: Import /Export fraud and transfer pricing

- Where goods, intangibles or assets are transferred across the Customs borders within a multinational enterprise, transfer pricing becomes an important issue for the taxpayers as well as for the Tax and Customs authorities, which have the responsibility of overseeing those cross-border flows.
- Customs as the main border agency analyses each product and each import transaction to determine at time of transaction the specific values to each product imported.
- This enables Customs to collect the correct amount of duty based on the transaction value and its 8-digit Tariff Classification.

Cont: Import /Export fraud and transfer pricing

- Increased globalization.
- Increasing transactions between related parties of same multinational enterprises (parent company, subsidiary or other affiliates) are becoming increasingly rampant in world trade and economy.
- Multinational companies control 60-65% of global trade.
- Globalization means increased intensified cross-border trade and investments

Cont: Import /Export fraud and transfer pricing

- For Customs purposes, transfer prices has direct impact on the determination of Customs value for duty purposes.
- The lower the transfer price the lower duty.
- The higher the transfer price the higher duty.
- This also affects Inland Revenue when calculating value of stock inventory based on Customs cleared values.

Types and value of proceeds in money laundering cases

Currency Smuggling report as from 1st January 2007 to the period ending 30th September 2010

Current Smuggling Report – Nadi Airport

- **Mr Jitoko Tikolevu discussed 4 border currency cases.**
- **Case details have been excluded primarily due to confidentiality reasons.**

(Razim Buksh, Director Fiji FIU, Conference Organizer)

Fiji FIU Case Dissemination Reports (CDRs) to FIRCA

	2008	2009	2010 (Jan-Aug)
FIRCA – Taxation Division	131	143	101
FIRCA – Customs Division	4	2	Nil
Total No. of CDRs	135	145	101
Total Value of CDRs	<ul style="list-style-type: none"> Total transaction value reflected in FIU CDRs have been excluded primarily due to confidentiality reasons. <p style="text-align: right;">(Razim Buksh, Director Fiji FIU, Conference Organizer)</p>		
Gross Estimated Tax Revenue from CDRs	\$6.5 m - \$13.0 m	\$8.9m - \$17.8 m	\$3.25m - \$6.5m

Actions taken to restrain, confiscate and forfeit the proceeds of the crime.

- (a) Any investigation on proceeds of crime arising from tax money laundering offences is carried out by DPP's office or AG (no prosecution by FIRCA)
- (b) FIRCA only imposes administrative penalties as permitted under the Tax Administration Decree (TAD).

Cont: Actions taken to restrain, confiscate and forfeit the proceeds of the crime

ACTION BY FIRCA ON CDRs

- 2008 / 2009 / 2010 Fiji FIU CDRs Tax audits in progress (approx \$3.0m for 2008 CDR's)
- FIRCA currently re-strengthening Tax Audit strategies & available resources on Fiji FIU CDRs
- TIN Registration and Door to Door Survey

Cont: Actions taken to restrain, confiscate and forfeit the proceeds of the crime.

- Customs uses the transaction value of goods free from any influence of relationship between shipper and consignee.
- Test involves circumstances of sale whether any relationship influenced the price based on volume, nature of transaction (fob, c&f, cif) and the time of year when sale was negotiated .
- This is known as principles of GATT valuation.

Cont: Actions taken to restrain, confiscate and forfeit the proceeds of the crime.

- What is Customs Valuation under the World Customs Organization Principles as Adopted into the Fiji Customs Tariff Act Valuation Laws?
- Fiji Customs as member of the World Customs Organization (WCO) uses the WCO and the WTO principles of transaction value between parties independent of each other. In short this is called General Agreement on Tariff and Trade (GATT).

Challenges faced by investigators in pursuing the proceeds of the crime?

- (a) Any investigation on proceeds of crime arising from tax money laundering offences is carried out by DPP's office or AG (no prosecution by FIRCA)
- (b) Alternative for FIRCA is to impose administrative penalties as permitted under the Tax Administration Decree (TAD).
- (c) Establishment of Transfer Pricing Unit
- (d) Legislation
- (e) Exchange of Information and Intelligence to be strengthened.

Challenges faced by investigators on Fiji FIU CDRs

- (a) Highly trained & skilled personnel to effectively risk profile and investigate CDRs
- (b) Fiji FIU CDRs first source of Intelligence information for effective Risk Profiling and aggressive Tax audits
- (c) Confidentiality of FIU information (Caveat) still require information from Financial institutions for Tax Audit /Investigation Assessments
- (d) FIRCA current strategy of TIN registration is a step towards effective Risk Profiling , Tax Audit/Investigation and the combat of Money Laundering activities



THANK YOU

