

2013 AML Conference

Wrap Up

20 November 2013, Holiday Inn, Suva
Nazhat Shameem

Nazhat Shameem-Detecting money Laundering- Role of FI & Professions

- **Presentation focussed on detection of money laundering with state agents, trust companies, accountants, lawyers, casinos who are part of the financial institutions as in Schedule 1- FTR Act**
- **Discussed strategies and guidelines to adopt as financial institutions that have a responsibility to report suspicious transactions, to avoid pitfalls and being the subject to prosecution such as failing to report and assisting in ML.**

- **Strategies such as:**

- 1. Understanding the nature of money laundering and its definitions**
- 2. Understanding the law that affects your business as a financial institution- definitions, understanding the roles and obligations**
- 3. Understanding the risks involved in not having good monitoring mechanisms**

4. Guidelines for Professionals to protect themselves:

a) Banks/ Financial Institutions

- Realise that you need to develop human resource of banks and reviewing internal governance manuals- have you adequately trained your staff in this?**
- Looking at your internal governance manual revision which is in line with the law- do they include fraud offence, definition of unexplained wealth, what are your internal sanctions to employees that breach**
- Are you imposing/applying adequate sanctions & uniformly for those who break internal rules, and at what level will you report it to the police**
- Whistle blowing procedures on suspicious transactions to be accountable to the board, applying breaches, processes of supervision of high risk activities for banking**

b) Estate Agencies/Real Estate Agents

- **Developing a checklist on screening people buying property like reselling property urgently; dealing with large transactions; customers based overseas, large amount of transactions**

c) Lawyers

- **Realise and be aware the high risks in property work, trustees- power of attorneys, lending issues**
- **A practical guideline is to look at the Practise notes in England and Wales in relation to conveyancing**

Ms Tukana, Mrs Nailvalurua, Mr Raman- Case Presentations

Each case study has different charges despite having similar suspicious indicators. Some still under investigations and some pending in court.

All cases were brought to FIU's attention by reports received from financial institutions.

Case Study 1- International internet fraud case with financial sector being involved & third parties with unauthorised movements of money between bank accounts. Bank reported STR to FIU. \$17,420.00 was involved.

Case Study 2: possible trafficking in person case. Money remitted to students, unemployed young people with no relationship with the sender/receiver. Investigations still pending.

Case Study 3: Alleged Drug Trafficking. Involved is that they are of different ethnic origins with no relationship with the beneficiaries. Using of family members to collect cash over the counter. Money remittance provider- also at risk for money laundering

Case Study 4: Commercial banks involved. Underlying crime was Theft. The use of family members and accomplice to deposit robbery proceeds into the banking system.

- Customer using family member to facilitate transactions on their behalf, Occupation of customer is not matching the transactions conducted and Opening of new account with large deposit and attempted to deposit foreign cash on same day.

Case Study 5: Alleged Financing of Terrorism- entire money being remitted to Pakistan a high risk terrorist country with no withdrawal activities from Nov 2010 to October 2011.

- Remitting entire salary to beneficiary in offshore jurisdiction, Use of wire transfers or conducting multiple international transfers to same beneficiary and Person listed on Terrorist watch-list

Case Study 6- *State v Doreen Singh*

- Customer using family member to facilitate transactions on their behalf.
- Occupation of customer is not matching the transactions conducted.
- Opening of new account with large deposit and attempted to deposit foreign cash on same day

Case Study 7- *State v Kapil Sami*

- Frequent account transfers and cash deposits into personal account, apart from salary.
- 24,000 fraudulently transferred into Mr. X's account (included 411 transfers and cash deposits).

3. Points from Panel- Implementation Challenges

1. *Financial institutions-are they doing enough to detect and report ML?*
 - Banks and other FI endeavour to do more work in this and compliance can be an issue.
 - More training for front line officers, etc; but more can be done in regards to new changes in the law
 - FIU needs to assist

2. Should lawyers/accountants be responsible for detecting money laundering

a) Role of the Auditor- generally accounts done by the client themselves in regards to daily transactions- money laundry is harder to detect and can be discovered after the fraud.

- **FTR Act is so broad-** you do not know where to start in terms of the transactions- a difficult area, depends very much on the person doing the audit.

- **You need to know your client well.**
- **Challenge for auditors is that the primary object of the audit is not to specifically go and detect fraud- it is to summarise. In the event when they are aware then they do report it.**
- **The institute of accountants need to issue guidelines that can assist its members with issues concerning AML**

b) Role of Lawyer- law firms need to be responsible in playing their part in detecting because of the role of facilitating transactions and their responsibility in the trust accounts.

- **Trust accounts requires due care and attention.**
- **Need to be careful with faceless transactions especially international transactions and is a challenge for the future as well.**
- **Law firms can become targets to fraudsters. Need good sound management systems to assist lawyers.**

- **3. *Lessons learnt from case studies?***
- **learnt about high risk country, various high risk key indicators discussed by FIU**
- **Banks have learnt like ANZ not to repeat what has happened,**
- **systems developed to learn to detect customer behaviour, internal procedures need to be strengthened more, and training staff**

4. Is there a good level of awareness of laws of money laundering or suspicious transactions?

a) From Banking sector- front line not enough awareness in terms of annual training program. Secondly is compliance- law has changes, but a lot hasn't trickled down to front line officers. Compliance is paramount and their responsibility to manage their customer expectation with processes even includes safety deposit boxes.

- 
- b) Accountants -training is required and you need to know your client well.**
 - c) For law practitioners- not a lot are aware , but maybe those that generally handle commercial transactions. Need to know when you engage yourself in that service.**

- *5. Is there a role for financial institutions when dealing with modern ML trends like cyber crime?*
- **FIU needs to take a role and networking amongst FI so more awareness/outreach programs amongst FI.**
- **ANZ educates their customer by providing documentations on fraud on accounts, internet banking fraud, etc.**
- **Example in NZ Western union- having the involvement with law enforcement agencies like the Police in their campaign, also having an anti-fraud message on the form, business taking a proactive approach networking with other agencies.**
- **FIU always updates the new FI institution on all the information and will continue to provide information updates on all legal requirements.**

4. Ms Ragni Singh- Taking Compliance to the next level- the way forward

Reserve Bank's role in the AML responsibilities as a regulator:

- One of its missions is to develop an internal reputable financial system-AML comes under this
- Supervise the financial systems it licences, regulate through the issue of policies; enforcing compliance by partnering with FIU;

- Successes to date for RBF in regards to AML- Robust AML Frameworks; Revocation of Licences of 2 financial institutions; and STR reporting to FIU
- Challenges faced by RBF is innovation and RBF as a regulator is developing policies managing innovation in its risk-based approach framework.

Way Forward for RBF

- The way forward for RBF in taking AML compliance to another level is to supervise the risks; imposing sanctions for non compliance by financial institutions; regulate & supervise AML ; politically exposed persons

5. Mr Razim Buksh- the New Requirements under the International AML Standards:

- 1. NRA and risk-based national AML/CFT policies;**
- 2. FIs & DNFBPs adopt RBA to AML/CFT implementation;**
- 3. Tougher tax crime investigations;**
- 4. Addressing TFS and proliferation requirements;**
- 5. Inclusion of domestic PEPs and PEPs from international organizations and application to family members and close associates;**
- 6. Transparency and beneficial ownership of legal persons and legal arrangements;**
- 7. Demand for FIU analytical products;**
- 8. Parallel financial investigations & multi-disciplinary investigative groups;**
- 9. Enhanced investigative techniques;**
- 10. Stronger MLA and cooperation**

Conclusion

- ✓ The National AML Council to undertake a national risk assessment (2014);
- ✓ Develop a national action plan (to consider, prioritize and implement the new FATF Recommendations);
- ✓ FIU to issue policies, guidelines and provide more awareness to FIs and DNFBPs on their obligations;
- ✓ Private sector to also assist and participate in the NRA;
- ✓ Prepare for Fiji's assessment in 2015 by the APG;

Inspector Aiyaz Ali: Expectations of the law enforcement Authorities on the role of financial institutions in detecting money laundering:

- Presentation focussed on the role of law enforcement and their need to have more corporation from financial institutions in terms of detecting money laundering

Challenges faced by Police

- Search warrants where FI is a complainant often they take time. More corporation is needed.
- Internal investigations within FI takes longer and it becomes a priority over police investigations
- Vetting by FIs and RBF to be more stringent and thorough because of STRs
- Failure to report STRs by FI
- Witnesses not willing to sign a police statement
- Training of front line officers in FIs on the latest trend and changes in the law
- CCTV footages for viewing purposes from FIs as some footages are destroyed within 6 mnths- if this could be kept longer
- Lack of networking

CONCLUSION OF AML CONFERENCE

- Greater need of awareness and training
- Better networking with law enforcement agencies
- Issue of guidelines for professional bodies by professional institutions
- Need for integrity of Bank Staff and of Professionals



VINAKA