



FijiFIU

Fiji Financial Intelligence Unit



Money Laundering

Introduction

Mention the term 'money laundering' and what may spring to mind is a picture of dirty notes tumbling around in a washing machine then hanging out to dry on a clothes line.

That is what perfectly describes the process of 'money laundering' but this term refers to the "cleaning" of funds derived through illegal means such as robbery, forgery, fraud, corruption, cultivation of marijuana and the list goes on. Money laundering disguises the source of funds and makes it appear legitimate.



The anti-money laundering framework in Fiji is led by the Financial Intelligence Unit (FIU) that is located at the Reserve Bank of Fiji building.

The 3 main components of a money laundering scheme are;

- criminal activity;
- proceeds of the criminal activity; and the
- "cleaning" of the criminal proceeds.



FIU presentation slide on "A Typical Money Laundering Process".

According to the United Nations Office on Drugs and Crime, the estimated amount of money laundered globally in one year is 2 - 5% of global GDP, or \$800 billion - \$2 trillion in current US dollars.

In Fiji, it is estimated that around \$100 million is laundered annually through financial transactions.

3 Stages of Money Laundering

- 1. Placement** - involves placing the illegally earned money into the financial system. A common example is depositing the cash into a bank account.
- 2. Layering** - first attempt of the money launderer to conceal the source and ownership of the funds by creating sophisticated layers of financial transactions. Examples include multiple wire transfers, creating shell companies, using related parties and different individuals to engage in financial products and services.
- 3. Integration** - At this stage, the money can be accessed by the criminal as it has been fully integrated into the financial system. The criminal can enjoy the illicit gains from what seems to be legitimate sources by purchasing real-estate, jewellery, motor vehicles and other assets.

The Global Fight

The rise of globalization has seen criminals taking advantage of open borders and easy access to a country's financial system. In the 1980s, global concerns were raised by the United Nations General Assembly that drug abuse and trafficking was an increasing problem across countries. In response to these concerns, the UN Convention against illicit traffic in narcotic drugs and other psychotropic substances, also known as the Vienna Convention, was adopted. Further to this convention in 2002, the Palermo Convention was also developed and adopted, focusing primarily on measures to prevent money laundering and combat terrorist financing.

The Financial Action Task Force (FATF) was subsequently established in 1989 as the international Anti Money Laundering/ Combating the Financing of Terrorism Standard (AML/CFT) setting body. There are also eight FATF-

styled regional bodies and Fiji is a member of the Asia Pacific Group on Money Laundering (APG) since 1998.

Money Laundering in Fiji

As is commonly known, Fiji is the hub of the South Pacific where thousands of financial transactions are conducted daily through Fiji's financial system and across its borders. A number of money laundering cases have been successfully prosecuted in Fiji.

In 2012, five individuals were convicted for money laundering in separate cases and were given imprisonment term from 16 months to 7 years by the High Court of Fiji.

Terms associated with ML

Shell company - an entity that has no active business and usually exists only in name. In essence, shell companies exist mainly on paper, have no physical presence, employ no one and produce or sell nothing.

Money mule - a person who transfers money acquired illegally (e.g. stolen) in person, through a courier service or electronically, on behalf of others. Some money mules are tricked into transferring the illegal money when they respond to online job advertisements and provide their personal bank account details.

Common money laundering typologies or methods used in Fiji's money laundering cases were:

- i. Use of shell companies/corporations

Transactions conducted through the business bank account of a shell company may not be scrutinized as it would appear to be payments for the company's operations. Corporate vehicles, namely, *Asia Pacific Finance, Honeymoon Beach Resort and Shahil and Shohil Groceries and Repairs* were

setup specifically for the purpose of money laundering as was evidenced from Fiji's Money laundering conviction cases.

Asia Pacific Finance

Fiji's 1st money laundering case involved an Australian national, Mr. Timothy O'Keefe was escalated to the Fiji Court of Appeal in 2007 which upheld the money laundering conviction decisions of the Magistrate Court and the High Court.

Mr. O'Keefe registered a finance company known as *Asia Pacific Finance* and placed advertisements in the Australian newspapers that the company was offering personal loans with low interest rates. Mr. O'Keefe opened a bank account in Fiji for the company and instructed prospective clients to remit funds into the account as "insurance" of the loan account. The loan was not provided to the prospective clients. This was a typical "advanced fee fraud" and O'Keefe was convicted and sentenced to three and half years for money laundering offence.

Honeymoon Beach Resort

Honeymoon Beach Resort was setup by Mr. Salendra Sen Sinha who was convicted and sentenced to 2 years in 2010 for money laundering offence. This shell company facilitated cheques issued on a fraudulent VAT refund scheme. The forged Fiji Revenue and Customs Authority cheques were deposited into the business bank account of the "resort".

Shahil & Shohil Groceries and Repairs

In 2011, Mr. Anand Kumar Prasad, Ms Shirley Sangeeta, Mr. Deo Narayan Singh and Mrs. Atishma Kirti Singh were convicted and sentenced from 2 to 6

for laundering proceeds from a cheque forgery scheme committed at Turtle Island Resort. Mr. Prasad had setup a company known as *Shahil and Shohil Groceries and Repairs* and opened a business bank account at ANZ Bank, where his sister was working. The forged cheques were deposited into the business bank account of Shahil and Shohil Groceries and Repairs.

ii. Use of family members or third parties

A classic example of this money laundering typology was seen in the fraud and money laundering case at the Turtle Island Resort. The bank accounts of the mother, siblings and spouse were used to facilitate the deposit and "cleaning" of the forged cheques.

The money laundering cases that were finalized in 2012 involved this typology. A former legal clerk at the Fiji Public Trustee Corporation Limited, Mr. Deepak Rajneel Kapoor, used bank accounts held under the names of other individuals. These other individuals were unaware that their bank accounts were being used.

Mr. Johnny Albert Stephen, a Vanuatu national residing in Fiji, was used as the "money mule" and facilitated cybercrime transactions involving unauthorized internet banking transfers from local bank accounts.

The third case involved an ANZ bank officer, Ms. Doreen Singh, who processed fraudulently issued *Fiji Electricity Authority* cheques into her personal bank account and the accounts of associated parties. Although she did not commit the cheque fraud, she was used by her associates to encash the cheques. As an employee of a commercial bank, Ms Singh ought to have reasonably known

that the money was linked to “some form of unlawful activity”. She was convicted and sentenced to six years imprisonment in 2012 for money laundering offence.

Fiji’s AML Framework

Fiji was one of the first countries in the South Pacific region to criminalize money laundering in 1997.

Money laundering is a serious offence in Fiji which is clearly defined in the Proceeds of Crime (POC) Act. The offence of money laundering is not predicated on proof that the accused person committed a criminal offence. The criminal offence of money laundering under the Fijian POC Act should not be taken lightly as a conviction can mean an imprisonment term of up to 20 years. Companies can also be charged and convicted for money laundering and given a maximum fine of \$600,000.

Money laundering involves careful planning and sophisticated and complex methods. The Court in Fiji has given a higher sentencing tariff given the seriousness of the offence.

Key provisions under Fiji’s POC Act

Civil forfeiture - also known as non-conviction based forfeiture, allows the Court in Fiji to grant an order to confiscate a tainted property without the need to prove the guilt of a person. It is a simple process under the POC Act against the property and not the person.

Unexplained wealth declaration - A person is ordered by the Court in Fiji to explain wealth that exceeds or does not match his or her declared or lawful income.

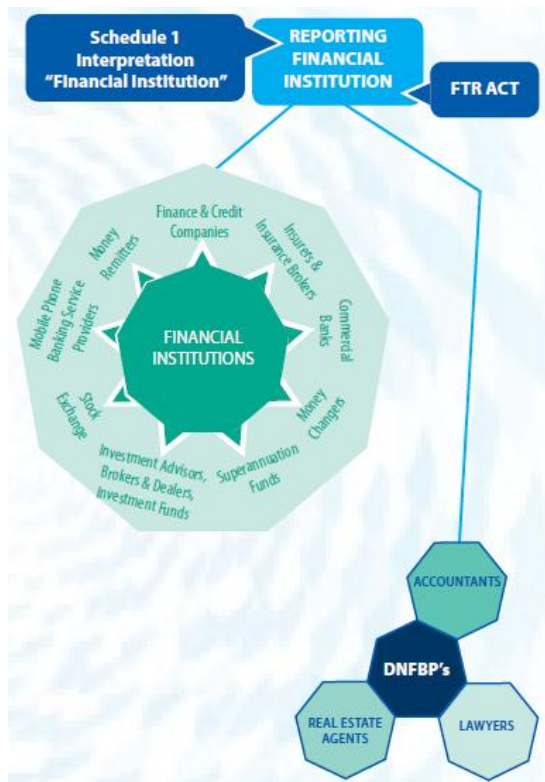


Six motor vehicles forfeited to the State under civil forfeiture provision

The anti-money laundering framework in Fiji is led by the Financial Intelligence Unit (FIU), a unit funded by the Reserve Bank of Fiji (RBF).

The Fiji FIU was established in 2006 under the Financial Transactions Reporting (FTR) Act 2004. The FIU ensures the implementation of the FTR Act with its core function involving the receipt of reports, analysis of data submitted in these reports and dissemination of intelligence to law enforcement agencies.

Key obligations of “financial institutions” under the FTR Act include knowing who their customers are and reporting certain financial transactions to the FIU.



Financial Institutions under FTR Act

The FTR Regulations came into force in May 2007 providing financial institutions with detailed guidance on the implementation of the FTR Act. Non-compliance with the requirements of this Act can result in penalties of employees for a covered institution or the institution itself as a body corporate.

In 2012, the director of a foreign exchange dealer, Galaxy International (Fiji) Limited which operated from Cumming Street in Suva was convicted under the FTR Act.

The FX dealer failed to report a number of suspicious transactions to the FIU. The total amount involved in this case was \$360,000 which the High Court judge found to be considerably large.

The FTR Act and Regulations also require financial institutions to develop and implement internal controls that

protect the institution from being used by criminals to launder illegal money.

Role of Accountants

Accountants are known as “professional money launderers” as they can assist in a range of ways to mask the origin and ownership of illegal money. Al Capone, who was convicted in 1931 for tax evasion is said to be the pioneer of modern money laundering. It was his accountant, Meyer Lansky, who is said to have siphoned off millions of dollars from illegal business into casinos and onto bank accounts in Hong Kong and South America. Meyer Lansky was never convicted and was said to be worth \$100 million.

So of course, there are the accountants that knowingly engage in money laundering operations and there are those that try to distance themselves from such activities. Either way, the accounting profession is vulnerable to money laundering due to:

- The specialized expertise available within this sector to create complex money laundering schemes;
- Accountants act as “gatekeepers” whereby they are able to create the corporate vehicles, trusts and other legal arrangements that facilitate money laundering;
- The accounting profession is highly regulated by professional ethics and discipline, therefore it is unlikely that one would find it suspicious when these professionals conduct financial transactions on behalf of their clients; and
- Like lawyers, professional secrecy exists in this sector in almost all countries so criminals

will not worry that their activities will be disclosed to authorities.



Mr. Razim Buksh, Director FIU (2nd from left) participating in the panel discussion at FIA Congress 2013

Over recent years, FATF studies have shown that lawyers, notaries and accountants are being increasingly used for money laundering operations. Criminals are moving away from the traditional financial institutions such as banks, therefore, if the accounting sector were to undertake their anti-money laundering obligations; their compliance would have a more distinct effect.

In Fiji, accountants are covered under the FTR Act when providing the following services:

- Buying or selling of real estate;
- Managing client money, securities or other assets;
- Managing bank, savings or securities accounts;
- Organizing contributions for the creation, operation or management of companies; and
- Creating, operating or managing legal persons or legal arrangements and buying and selling business entities.

So, whenever an accountant engages a client for the purpose of any of these services, the accountant is required to

conduct customer due diligence and report certain financial transactions as required under the FTR Act. Accounting firms are protected from any civil claims by their clients when fulfilling their obligations under this Act.

Accountants should be aware of red flag indicators for possible money laundering activities such as the following:

- Customer's transactions or proposed transactions does not correspond to the customer's economic background;
- If there is an involvement of a company, it does not appear to have any concrete information on the operations of the company;
- Customer requests the formation of complicated business structures which is considered unreasonable; and
- Requests from customers to make settlements on their behalf which may appear unusual or unreasonable.



Inter-agency partnership in combating crime in Fiji. Mr. Razim Buksh (Director FIU) and Mr. George Langman (Deputy Commissioner, FICAC);

Conclusion

With the evolving nature of crimes comes the increasing need for sophisticated ways of hiding illegally derived money. As a result, money laundering typologies become more complex and criminals target vulnerable communities and sectors.

Countries made commitments at the UN level to implement national measures that would protect their borders and financial systems from money laundering.

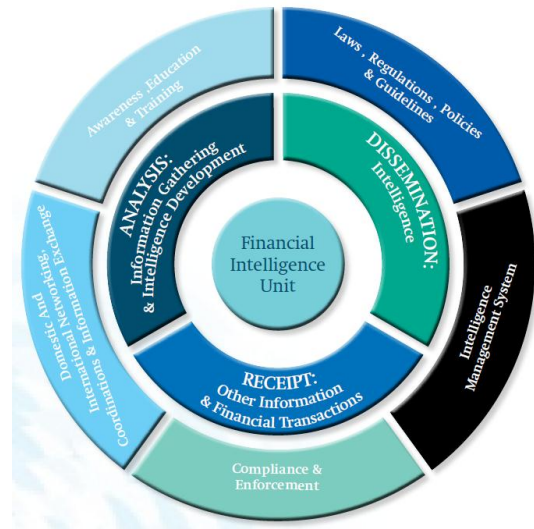
The battle against money laundering in Fiji cannot be fought alone by the Financial Intelligence Unit.

Law enforcement agencies such as the Fiji Police Force, the Fiji Revenue and Customs Authority and the Fiji Independent Against Corruption and other members of the National AML Council also strongly contribute towards this mission.

The Reserve Bank of Fiji and the FIU provide the necessary AML regulatory, policy and compliance framework in Fiji.

The success of Fiji's fight on money laundering is also as a result of the effective implementation of the FTR Act by the financial institutions.

The protection of Fiji's financial system, our borders and our people from abuse by criminals and money launderers is a vision that requires a concerted effort from everyone.



Key functions of Fiji's Financial Intelligence Unit