

Money Laundering and Terrorist Financing

Citizens of Trinidad and Tobago expressed shock over the recent allegations that one of their own countrymen is being implicated in a terror plot. Neighbours of the terror suspect demonstrated utter disbelief during television interviews as they described the individual as being very quiet and reserved. While the matter is now in the hands of the courts, there is another allegation arising out of the matter that has been a bit subdued but has implications for the general business community and financial institutions in particular.

It is also alleged that the suspects were seeking financing for the intended plot in this country.

As you may recall, it was only two months ago that our article cited the connection between money laundering and the financing of criminal activities. Whether the allegations are proven to be true or not, institutions must continue to be diligent in ensuring that they are not being used to facilitate terrorist financing or money laundering activities.

Although the primary motivation of terrorism is not financial gain as is the case with most other crimes, terrorists still need to use the financial system in order to move and direct their funds.

The criminal offenses of money laundering and terrorist financing share multiple characteristics with regard to sources, techniques, adaptability and risks implied. They both also attempt to move funds to a place where they are less likely to attract attention. However, terrorist financing is different from money laundering in that while money laundering is designed to conceal that the origin of the funds is from criminal activities, terrorist financing is the provision or collection of funds with the knowledge or intention that they are to be used to carry out terror activities.

The actual detection of terrorist financing may be more difficult than detecting money laundering transactions being that terrorist financing may include funds from criminal activity or funds derived through legitimate means. Also, the amounts needed to finance terror are often of significantly smaller value when compared with money laundered from kidnappings, drug trafficking, etc. Nonetheless, financial institutions are still in a position to identify and report unusual or suspicious transactions as these may later prove to be related to terrorist financing. It is therefore not necessary for financial institutions to determine the legality of either the source or destination of the funds but only to identify whether the transactions involved are unusual or suspicious.

Financial institutions and other relevant business activities are required under The Proceeds of Crime Act 2000, to report suspicious activity that could constitute or be related to illicit activities. The Act has made it an offence for a person, who during the course of his\her trade, profession, business or employment, acquires information that leads him\her to discern or suspect another person of engaging in money laundering and

does not disclose the information or matter to a police officer. This aspect of the legislation poses a special risk to persons associated with smaller privately owned businesses.

Whereas a large corporation with a compliance department is able to conceal the identity of its officer or officers specifically responsible for the upkeep of the anti money laundering policy, employees of smaller organizations are less than likely to enjoy such protection. This risk is especially high should the employee discover that the business is being used as a front by the owners.

One can argue that an employee can resign and subsequently report the suspicious activity, but with the witness protection programme in this country being very suspect in itself, this section of the law is more likely to make criminals out of the innocent.

It is important however, that an adequate attempt is made by members of the business community to combat money laundering and terrorist financing by putting proper safeguards in place to reduce the risk of being used in such activities. This will involve having effective "Know Your Customer" (KYC) measures by exercising adequate customer due diligence and implementing vigilant control measures which can deter and detect suspicious accounts and transactions.

With regard to the KYC measures, financial institutions are required to document and implement comprehensive customer identification policies and procedures that are to be consistently applied by employees. These measures should include the keeping of customer identification records that are periodically updated to ensure that the information remains current. Financial institutions should pay extra due diligence if the customer is a politically exposed person (PEP).

Adequate and independently tested internal policies, procedures and controls should be implemented so as to complement KYC measures and the deterring, detecting and reporting of suspicious accounts and transactions. This should include an ongoing employee training program to help employees combat money laundering and terrorist financing and stay updated on developments in the area. A risk based approach to monitoring accounts and transactions can be adopted for high-risk activities or businesses.

These measures not only shield businesses from being used in money laundering and terrorism financing but are also designed to protect legitimate investors who are likely to be adversely affected by the criminal activities. It was recently revealed that terrorist groups were able to circumvent weak stock market surveillance in India and manipulate share prices. This, apart from being able to fund their activities, has the potential to seriously undermine investor confidence.

As mentioned in the previous article on money laundering, the holders of illegal funds often take huge discounts in washing these funds which can lead to wide volatility in stock prices and reduce investor confidence in the shares and/or stock market. As investor

confidence declines, this can lead to an overreaction in financial markets as well as a greater amount of spending rather than savings and investments which in turn forces an increase in borrowing costs. There is also the possibility of deflated asset prices and flight of assets triggered by low investor confidence. This has the potential to destabilize the economy of the country in which money launderers operate and terror cells are funded.