Vulnerabilities of Specialists and Professional Intermediaries Exploited in Concealing Beneficial Ownership

Submitted by: Association of Certified Anti-Money Laundering Specialists
Session 4:

Vulnerabilities of specialists and professional intermediaries exploited in concealing beneficial ownership

20 October 2020

Speaker:
Ms. Hue Dang, CAMS-Audit
VP & Global Head of Business Development & New Ventures | Senior APAC Leader ACAMS
Purpose of Today’s Training

This session will provide insights into:

• Required vigorous compliance efforts and vulnerabilities of specialists and professional intermediaries

• Including lawyers, accountants, and trust & company service providers (TCSPs) as unknowing actors in ML activities

• How DNFBPs can be used as a conduit to be exploited by criminals who engage in money laundering and broader organised and syndicated crime.
Specific guidance was given to supervisors and the industry on:

- Risk-based approach;
- Risk assessment;
- Risk mitigation (CDD, Monitoring and STRs);
- Controls & governance;
- Training; and
- Enforcement.

Do not distribute elsewhere.
Vulnerabilities of lawyers, accountants, and trust & company service providers (TCSPs)
### Types of Vulnerabilities

<table>
<thead>
<tr>
<th>Formation</th>
<th>Offshore Accounts</th>
<th>Tax Evasion</th>
<th>Over/Under Invoicing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation</td>
<td>Trust Structures</td>
<td>Tax Fraud</td>
<td>Real Estate</td>
</tr>
<tr>
<td>Nominees</td>
<td>Falsifying Documents</td>
<td>Fraud</td>
<td>Terrorist Financing</td>
</tr>
</tbody>
</table>

- Tax Fraud
- Terrorist Financing
- Over/Under Invoicing
- Tax Evasion
- Offshore Accounts
- Corporation
- Trust Structures
- Nominees
- Falsifying Documents
- Fraud
- Real Estate
- Terrorist Financing
The “Panama & Paradise Papers” demonstrated how complex ownership structures can be used by individuals to hide their ownership of seemingly legitimate entities.

Political corruption exposed

The former Prime Minister of Pakistan, Nawaz Sharif was ousted from office in 2017 because he failed to disclose these properties on his official asset declaration.

According to the ICIJ report, Mariam is one of the owner of British Virgin Islands-based firm, Nescol Limited, incorporated in 1994.
UBO & Shell Companies

Nawaz Sharif  
former Prime Minister of Pakistan

Hussain Nawaz Sharif  
Son

Miriam Safdar  
Daughter

Bearer shares

Minerva Nominee Ltd

Minerva Services Ltd

Minerva Trust & Corporate Services Ltd

Source: https://offshoreleaks.icij.org/nodes/10203385

Do not distribute elsewhere.
It was found that Nawaz Sharif, former Prime Minister of Pakistan, owned the properties through his children.

http://www.transparency.org.uk/uwo-consider-today/#.Wy3LV6czY2w
What is your role?

Types of Activities

- Forming a corporations, partnership, or other legal persons or launching an initial public offering;
- Performing tax compliance or regulatory services;
- Buying or selling real estate transaction;
- Managing financial accounts;
- Acting as a director or secretary for a legal person (such as a company);
- Performing forensic accounting;
- Providing a registered office or business address or similar service;
- Acting in a trustee capacity or similar legal arrangement; or
- Acting as a nominee shareholder

Best Practices & Mandatory Requirements

- AML/CTF policies & controls;
- Risk assessment;
- KYC/CDD; (including PEPs);
- Ongoing monitoring;
- Recording keeping;
- Designating an MLRO;
- Suspicious transaction reporting;
- Sanctions monitoring;
- Staff checking;
- Internal training
Risks associated with formation process

Formation include company registration, arranging the business certificate(s) and permits, and maintaining company documentation.

Assisting in criminal activity
- Moving money between front companies
- Hiding accounts
- Hiding stolen money
- Helping terrorist move money discretely
- Helping sanctions evaders move goods

Offshore Accounts
- Creating offshore vehicles
- Forming a shell company
- Facilitating in / out transactions
- Disguising beneficial owners
- Facilitating tax evasion or fraud

Legal Persons
Case Study: Tormex Limited

Tormex Limited is set up by a New Zealand Trust and Company Provider (TCSP), GT Group, based in Vanuatu. The company was an importer/exporter.

Registered Office
C/-gt Group Limited, Level 5, 369 Queen Street, Auckland, New Zealand

Address for service
C/-gt Group Limited, Level 5, 369 Queen Street, Auckland, New Zealand

Director
Stella Port-Louis

Tormex Ltd
Company #1907489

Exchange of Communication

On the company’s birth date, she signed a power-of-attorney which effectively gave control to a second-level proxy

Stella Port-Louis, 32, was a company director living in the Seychelles islands.

Banking Relationship

Tormex Limited set up a bank account (a multi-currency account) with Baltic International Bank.

Tormex opened a multi-currency account – a usual practice in the banking paradise of the Baltic state. The balance was held in seven currencies (USD, EUR, GBP, CHF, SEK, JPY, CAD), but the most significant transactions were in US dollars.

Tormex Limited also had transactions with other offshore proxy companies engaged in a similar business. Many transactions went to individuals.
Why do we need AML controls?
Overview of Key Points

- At a high-level, all of the companies appeared legitimate. They had proper documentation and contracts. The nominees were real people.

- However, criminal syndicates were making payments to drug dealers and associates. The transactions moved money around with no business purpose from one offshore company to another. The entire pattern did not make commercial sense.

- Russian organized criminals were laundering money. The account ledger will see money coming in and going out without a commercial rationale.

- Port-Louis’s directorship lasted only hours. She was a proxy director for an estimated 577 New Zealand offshore companies.

- On the company’s birth date, she signed a power-of-attorney which effectively gave control to a second-level proxy: Albert Maslakov. Maslakov, 44, a driver, lives very modestly outside Moscow.

Source: https://www.reportingproject.net/proxy/en/the-phantom-accounts
## Customer Review

### Simplified Due Diligence

**For individuals**
- Name, DOB, phone & address;
- Verifying the customer’s identity using national identity card; and
- Keep records of the transaction.

**For legal entities**
- Full name, DOB, phone & address;
- Nationality;
- Identification card;
- Occupation and
- Keep records.

*Because the transaction is lower risk, lower exchange of value, or client is an existing client*

### Standard Due Diligence

**Medium Risk**

**For individuals**
- Full name, DOB, phone & address;
- Nationality;
- Identification card;
- Occupation and
- Keep records

**For legal entities**
- Full name, date of incorporation or registration
- Get a business address;
- Contact number or email;
- Place of registration or incorporation; and
- Nature of business.

### Enhanced Due Diligence

**High Risk**

**PEPs & Non-Residents**
- SDD plus screening
- Source of wealth;
- Understand the nature of the sale;
- Understand the purpose of the purchase; and
- Keep a record.

**Foreign Companies**
- SDD plus screening;
- Legal form and follow-up;
- Understand the owners;
- Understand the purpose of the purchase
- Source of payment; and
- Keep a record.

---

*Source: <https://www.hkicpa.org.hk/-/media/HKICPA-Website/HKICPA/section5_membership/Professional-Representation/aml/HKICPA_AML_Enforceable_Gls_Feb2018_20180228.pdf>*

*Do not distribute elsewhere.*
Corporate Vehicles & Beneficial Ownership

**Illustration**

**Example 1**
- ABC Limited
  - 100%
  - Mrs. B

**Example 2**
- ABC Limited
  - 10%
  - Mr. A
  - 90%
  - Mrs. B

**Example 3**
- ABC Limited
  - 90%
  - Seychelles & Co
    - 80%
    - Mr. A
    - 20%
    - Mrs. B
    - 82%
    - Mr. A
    - 18%
    - Mrs. B

Nominees or independent director(s)

Beneficial owner who has >25%?
Tormex Ltd Illustration

Tormex Ltd

GT Group

Albert Maslakov

Stella Port-Louis
Independent director

VICAM
(Auckland) Ltd

Beneficial Owner

Organized criminals

100%

Replaced
Summary

- The Tormex Ltd accounts showed thousands of suspicious transactions between phantom companies – often in offshore tax jurisdictions or jurisdictions such as the USA, UK, Europe and elsewhere.

- The growing expectation is that accountants and auditors with an intimate understanding of the customer transactions will detect suspicious activity.

- Accountants, lawyers, and gatekeepers must take care to understand their customer (and the ultimate beneficial owner).
Key Takeaways

- There are a variety of accounting activity that may prompt AML/CTF requirements. Training is key to understanding your responsibilities.
- The ultimate beneficial ownership can be disguised through shell companies.
- Nominees may be used to obscure the valid natural person.
- Accountants may be used to facilitate the movement of money or products.
- In the following case study, shell companies are an excellent way to launder dirty money.