The Cornerstone Report

Safeguarding America Through Financial Investigations

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Cornerstone is U.S. Immigration and Customs Enforcement's (ICE) comprehensive investigative initiative for fighting financial crime.

The Cornerstone Report is a quarterly bulletin highlighting key issues related to ICE Homeland Security Investigations (HSI) financial, narcotics and special operations investigations.

U.S. Immigration and Customs Enforcement

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Third Party Money Launderers

Third Party Money Launderers (3PML) are individuals or businesses who often times sit outside the financial sector, but offer services or products that present a big risk of abuse for money laundering. These individuals or businesses act as gatekeepers to the financial system and serve as a connection between the licit and illicit worlds, providing strategic support to criminals and-terrorists. Their level of complicity between the licit and illicit behavior varies.

Attorney's Misuse of Trust Accounts

Attorneys are in a position of trust given the nature of their business and the oath they take to demean themselves "fairly and honorably as an attorney and practitioner at law." However, recent court cases have exposed an increasing number of legal professionals engaged in facilitating money laundering. In January 2016, a nonprofit activist group conducted an undercover investigation that revealed several New York real estate lawyers providing advice on how to move suspect money into the United States. One of the lawyers was a former president of the American Bar Association. See further details at: https://www.globalwitness.org/shadyinc/.

In a recent federal case in Ohio, an attorney was convicted for conspiring to launder what he believed to be proceeds of narcotics trafficking. The court document describes the lawyer's instructions on how to set up a company and how the funds would be

laundered. The lawyer also details use of his Interest On Lawyer Trust Account (IOLTA) to further the scheme.

An IOLTA is an account opened by an attorney with the intention of holding client funds for future services. It is opened with a bank with a presumed higher level of confidentiality accorded to an attorney-client relationship and any related

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transactions. IOLTA accounts are not subject to mandatory reporting requirements which allows, among other things, cash deposits and withdrawals over $10,000 to go undetected. These accounts contain funds for a lawyer's various clients, and act as a standard bank account with one unique feature: The interest earned on the account is ceded to the state bar association or another entity for public interests or pro bono purposes. These accounts present money laundering risks since a bank has no direct relationship with or knowledge of the ultimate beneficial owners of these accounts. Furthermore, the accounts do not trigger federal bank reporting requirements on clients' behalf, and they are typically used to pool small amounts of funds related to the legal matters of multiple clients.

In a December 2016 report published by the Financial Action Task Force (FATF), it labeled the law-firm accounts a vulnerability. In the report assessing U.S. efforts to fight financial crime, the group criticized the limited oversight of lawyers, who are not required to flag suspicious financial activity.

In response to increasing misuse of these accounts, HSI's Illicit Finance and Proceeds of Crime Unit met with representatives of the Financial Criminal Enforcement Network (FinCEN) to discuss past and current concerns relating to IOLTA. FinCEN described past allegations and instances of abuse of these accounts as continuing to pose a risk to financial institutions. FinCEN agreed to collaborate on establishing investigative referrals and support involving the misuse of IOLTA. In March 2017, FinCEN established business rules to identify IOLTA accounts for referral to HSI.

Below is an example from a recent HSI investigation involving the misuse of IOLTA.

HSI El Paso Convicts Attorney Using Trust Account to Launder Drug Proceeds

January, 2014 – El Paso, TX attorney Marco Antonio Delgado was sentenced to the maximum 20 years in federal prison for conspiracy to launder up to $600 million in illegal drug proceeds after a lengthy HSI investigation.

Based on evidence presented during trial, the jury found that Delgado conspired with other individuals to launder $600 million in illegal drug proceeds for members of the Milenio Drug Trafficking Organization (DTO). Two episodes of money laundering demonstrated to the jury included an HSI and Carroll County (GA) Sheriff's Department seizure of $1,000,000 in U.S. Currency traveling from Atlanta, GA, to Mexico via El Paso; and, an HSI seizure of $50,000 in drug proceeds, in Chicago, IL, which was transported to El Paso and deposited in Delgado's IOLTA bank account.

The IOLTA account was utilized as a funnel account, taking in funds from various criminally derived sources. Once in the IOLTA account, Delgado directed the funds to various entities benefiting the DTO as well as himself. IOLTA accounts are often used in this manner for the advancement of criminal enterprises because they receive less scrutiny by the banks with which they are held.

Additionally, in September 2016, Delgado was convicted of additional unrelated charges of theft, wire fraud and money laundering for his role in a fraud scheme where he diverted several million dollars from a business transaction into his own personal accounts held with offshore banks.

Breaking the Shell Game

With the recent release of the Panama Papers and subsequent inquiry by federal agencies, shell companies have received greater attention in their utilization by criminal organizations to exploit financial institutions. A shell company is a legal vehicle (LLC, LP, etc.) that typically has no physical presence (other than a mailing address), and generates little to no independent economic value. Although they are not illegal and can have many legitimate business purposes, they are commonly used to facilitate illicit activity, including money laundering and tax evasion.

Shell companies are not a new phenomenon in their utilization in the laundering of illicit proceeds, but often investigators and Anti-Money Laundering (AML) specialists may overlook them, especially if shell companies are utilized within a corporate structure or part of several legitimate businesses.

FinCEN published an advisory relating to indicators of possible shell account activity. These indicators, detailed below, can assist investigators and AML professionals:

- An inability to obtain – whether through the Internet, commercial database searches, or direct inquiries to the foreign correspondent bank whose customer is the originator or the beneficiary of the transfer – information necessary to identify originators or beneficiaries of wire transfers.
- A foreign correspondent bank exceeds the anticipated volume projected in its client profile for wire transfers in a given time period, or an individual company exhibits a high amount of sporadic activity that is inconsistent with normal business patterns.
- Payments have no stated purpose, do not reference goods or services, or identify only a contract or invoice number.
- Goods or services of the company do not match the company's profile based on information previously provided to the financial institution.
- Transacting businesses share the same address, provide only a registered agent's address, or raise other address-related inconsistencies.
- An unusually large number and variety of beneficiaries receive wire transfers from one company.
- Frequent involvement of beneficiaries located in high-risk, offshore financial centers.
- Multiple high-value payments or transfers between shell companies with no apparent legitimate business purpose.

CRACKING THE SHELL

Shell companies present an added risk because of the lack of transparency and their nature to obfuscate the true parties behind the transaction. Even without knowing the ultimate owners of the companies, tenacious investigators and AML specialists are able to identify potential suspicions or other risk-relevant information about a person, entity, or address closely related to the shell company. This information combined with the transaction activity itself often will provide the connection to potential illicit activity.

Beneficial Ownership

Beneficial ownership requirements vary throughout the U.S. Shell companies have been used as fronts to open accounts and purchase real estate without revealing the identity of the natural persons who own or control the accounts. Perceived credibility of companies and legal arrangements incorporated in the U.S. impacts the risk of them being abused for money laundering.

According to *The New York Times*, nearly half of the most expensive residential properties in the United States are now purchased anonymously through shell companies (Feb 7, 2015).

Pharmaceutical fraud and money laundering facilitated through front companies

HSI St. Paul identified a money laundering organization using front companies and funnel accounts to further a scheme involving illegal pharmaceutical sales. In addition to the illegal importation of illicit pharmaceuticals, the target recruits and employs several individual "merchants" in the U.S. who open shell companies (limited liability companies and corporations) within the states in which they reside. Those individuals utilize these shell companies to acquire legitimate merchant terminal accounts that allow them to process credit card sales transactions manually from a computer.

Thus far, the investigation has revealed that the U.S. "merchants" receive a commission of approximately 10% of the total monetary amount processed through credit card transactions. This commission is kept by U.S. "merchants" as payment for their services and to pay incurred business and terminal fees. Suspects based in India directed the remaining 90% in illicit proceeds to be wire transferred to various bank accounts in the U.S., India, and elsewhere around the world.

HSI – A Diverse, Global Force

HSI is a critical investigative arm of the Department of Homeland Security and is a vital U.S. asset in combating criminal organizations illegally exploiting America's travel, trade, financial and immigration systems.

DHS/ ICE

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