



## Anti-Money Laundering Newsletter

### Quarterly News Update – March 2019

#### **Regulatory updates:**

- The Cayman Islands Monetary Authority (CIMA) signs Memorandum of Understanding (MOU) with Chinese Regulator to improve the exchange of supervisory information
- Bahamas revised Commercial Entities (Substance Requirements) Act
- European Union (EU) Sixth Anti-Money Laundering Directive (6AMLD): Countdown to the enforcement begins
- Barbados introduced the Proceeds and Instrumentalities of Crime Bill, 2019

#### **Enforcement/administrative actions:**

- U.S. based cosmetics company settles potential civil liability for apparent violations of the North Korea sanctions regulations
- Albanian-Belgian drug traffickers busted in Belgium and Switzerland
- Rabobank fined over poor AML, Know Your Customer (KYC), beneficial ownership controls
- Bermuda added to the EU tax haven blacklist

#### **International updates:**

- Treasury statement on European Commission list of jurisdictions with strategic Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) deficiencies
- Combating migrant smuggling through cross-border cooperation
- Financial Action Task Force (FATF) public statement – mitigating risks from virtual assets
- Fourth Round Mutual Evaluation Report (MER) for Cayman Islands

#### **Upcoming conferences/webinars:**

- Seminar - Cryptocurrencies and mitigating emerging financial crime threats- Curacao
- Webinar - Professional money launderers and compliance professionals
- Webinar - Practical strategies to combat Trade-Based Money Laundering (TBML)
- Webinar - Stirring the pot: Adjusting AML programmes to manage marijuana-related risks
- Webinar - Utilising alert scenarios, AML models and public-private partnerships to combat human trafficking and migrant smuggling

## **Regulatory updates:**

### **CIMA signs MOU with Chinese regulator**

*9 January 2019*

CIMA announced its signing of an MOU with the China Securities Regulatory Commission (CSRC). The MOU is designed to improve the exchange of supervisory information and cross-border enforcement cooperation with regards to Cayman Islands' registered companies, which carry out public securities offerings in China and/or whose securities are trading on China's stock exchange.

As part of the Authority's strategic plan, this agreement is an important step in strengthening relations with other international regulatory bodies. The agreement also provides a formal framework that allows the CSRC and CIMA to coordinate on regulatory matters to ensure safe and fair practices within the securities industry.

[Full article](#)

### **Bahamas revised Commercial Entities (Substance Requirements) Act**

*22 February 2019*

This Act and its revision come as a direct result of the EU's firm stance in controlling adverse and harmful tax practices with its Economic Substance Act, as well as their attempt to secure cooperation from any jurisdiction with low or absent rates of commercial revenue.

Part Two of the Act outlines the obligations to which the jurisdiction must implement to maintain compliance specifically with the substantial economic presence requirements in The Bahamas. The Act lists which engagements are relevant to this requirement. Namely, any entity that is engaged in banking, insurance, fund management, financing and leasing business, headquarters business, distribution and service centres business, shipping business, etc.

[Full article](#)

### **EU 6AMLD: Countdown to enforcement begins**

*25 February 2019*

Following its publication in the official journal of the EU at the end of last year, the 6AMLD is on its way. Member states now have until December 2020 to transpose the directive into domestic law. This is in an effort to aid in the standardisation of criteria across the economic bloc for when predicate offences can give rise to money laundering charges and related criminal sanctions.

Under the directive, compliant EU nations will adopt a list of 22 predicate crimes to which money laundering charges can be appended, including "counterfeiting and piracy of products," smuggling and cybercrime. For the first time, member-states must outlaw so-called "self-laundering," a term describing when individuals use the proceeds of their own criminal acts for entrepreneurial purposes.

6AMLD's extraterritorial reach could have a significant impact. Under the mandate, member-states can extend their jurisdiction to include money laundering offences committed by their nationals or for the benefit of domestic organisations domiciled in their territories, no matter where in the world the offences were committed.

The UK, assuming there is a Withdrawal Agreement with the EU, will possibly have to implement the directive.

[Full article](#)

## **Barbados introduced Proceeds and Instrumentalities of Crime Bill, 2019**

*13 March 2019*

The Barbados government has introduced legislation that is largely set to reform the law relating to persons who benefit from criminal conduct and the recovery of proceeds and instrumentalities of crime. The Proceeds and Instrumentalities of Crime Bill 2019 allow officials to commandeer property of some reprimanded criminals. The Bill allows for a portion of these confiscated funds to be accumulated in a regional account to finance the Caribbean's fight against crime and the remaining funds would go to law enforcement in Barbados. The bill includes proceeds from terrorism, drug offences, corruption, money laundering, racketeering, etc. Barbados originally enacted a Proceeds and Instrumentalities of Crime Bill in 1990, which was then amended in 1998 and 2002.

[Full article](#)

### **Enforcement actions/administrative actions:**

#### **U.S. based cosmetics company settles potential civil liability for apparent violations of the North Korea sanctions regulations**

*31 January 2019*

e.l.f. Cosmetics, Inc., a California cosmetics company, appears to have agreed to pay a USD 996k settlement to cover potential civil liability as a result of its 156 apparent violations of the North Korea Sanctions Regulations. The enforcement notice states that the company imported 156 shipments of faux eyelash kits from two suppliers situated in the People's Republic of China; however, the violation appears as the kits contained materials sourced from the Democratic People's Republic of Korea. It was also noted that the company imported the kits for nearly five years since 2012, wherein the total shipment value equaled USD 4.4m. Over this time period, it is apparent that e.l.f. Cosmetics, Inc.'s compliance programme was nearly non-existent. Violations stem from the failure to act occurring as part of its supply chain risk management and the failure to discern the fact that the supplier's resources contained materials from North Korea.

Per OFAC's notice, e.l.f. Cosmetics, Inc. failed to exercise adequate supply chain due diligence while sourcing products from a jurisdiction that presents a high risk of association to North Korea. In order to remediate, e.l.f. Cosmetics, Inc. applied supply chain audits to allow verification of the country of origin of goods and services used in their products. They also implemented updated procedures which call for suppliers to sign certificates of compliance agreeing that they will comply with all U.S. export controls and trade sanctions.

[Full article](#)

#### **Albanian-Belgian drug traffickers busted in Belgium and Switzerland**

*15 February 2019*

Europol has supported an investigation coordinated by the Federal Judicial Police of Leuven (Belgium) into an Albanian-Belgian drug trafficking gang. The coordinated action took place when police services intervened to bring down the organised criminal network at various locations in Belgium and Switzerland. In total, 22 suspects were arrested and six were sent to prison by the authorities in Leuven. Police searched 24 houses in Belgium and various actions were carried out in Switzerland at the same time.

These complex criminal investigations were initiated in autumn of 2017 after police received information that a Belgian-Albanian organisation was importing and exporting narcotics on a large scale. Europol supported the investigation from the beginning by facilitating the exchange of intelligence throughout, as well as providing analytical, financial and technical support.

[Full article](#)

## **Rabobank fined over poor AML, KYC, beneficial ownership controls**

*15 February 2019*

Rabobank, a Dutch lender, was fined just over USD \$1.1m over its AML controls, including KYC, customer due diligence (CDD) and beneficial ownership issues. The Dutch National Bank (DNB), the Dutch regulator, issued the penalty following its review of the bank files. Essentially, the bank did not have its customer files in order, and was therefore conducting inadequate checks on criminal money flows.

The fine was issued September 2018 and applies to violations up to and inclusive of 2016. According to DNB, crucial information was absent in customer files. As a result of the missing information types, the bank then ran the risk of unintentionally facilitating money laundering or other criminal activities.

[Full article](#)

## **Bermuda added to the EU tax haven blacklist**

*12 March 2019*

EU finance ministers agreed to adopt an expanded EU's tax haven blacklist, which has now been drafted to include Bermuda. Overall, ten jurisdictions including Aruba, Barbados, Belize, Bermuda, Fiji, Marshall Islands, Oman, the United Arab Emirates, Vanuatu and Dominica have been added to the list. These ten additions join the existing five that were already listed: Samoa, Trinidad and Tobago, and the three US territories of American Samoa, Guam, and the US Virgin Islands. It was however reported there are still some differences in opinion regarding the expansion and may delay the adoption of the expanded list until May, [though still pending at this time]. Full adoption of the list is dependent on the agreement of all 28-member countries.

During the initial adjustments discussions, Britain had raised protests in defense of Bermuda, but have since dropped those objections following the European Commission arguing that the island had failed to meet deadlines in making changes to its economic substance regulation. The listed countries, however, can be removed from the blacklist following a commitment to reforms.

The direct impacts of the register are not yet apparent. Though blacklisted jurisdictions will experience harsher controls on transactions with the EU, however, no sanctions have been agreed by EU states.

[Full article](#)

## **International updates:**

### **Treasury statement on European Commission list of jurisdictions with strategic AML/CFT deficiencies**

*13 February 2019*

The EU blacklist is ultimately a list of purportedly high-risk jurisdictions that pose "significant threats" to the EU's financial system due to the deficiencies within their AML/CFT programme. In regards to the overall concept, the U.S. Department of the Treasury has noted its concerns regarding the elements of the list and its flawed process used in its development.

The Department of the Treasury has also expressed its criticism towards the process utilised in the European Commission's for its list and has compared and determined the methodology is exceedingly dissimilar with that of FATF. This view is based on four factors regarding the Commission's process. The first was that the process did not include an effective in-depth review needed to conduct such an assessment accompanying such a consequential issue. It was also noted that the basis for determining which of these jurisdictions would be affected was "cursory" in comparison to existing methodologies. The third factor was concerning the fact that the Commission notified the implicated jurisdictions only days prior to the issuance, and the fourth was not allowing an opportunity for affected jurisdictions to challenge their inclusion or otherwise address issues identified. Overall, the Department of the

Treasury concluded that the European Commission generated a list that deviates from the FATF list without reasonable support.

[Full article](#)

### **Combating migrant smuggling through cross-border cooperation**

*19 February 2019*

Migrant smuggling continues to be one of the most widespread and profitable illicit activities for organised criminal networks worldwide. The migrant smuggling business is an enormous, lucrative and intricate criminal market, wherein document fraud is one of the main activities within the groups. In order to tackle the challenges ahead, cooperation frameworks have been established with partner countries along key migration routes.

Europol's European Migrant Smuggling Centre (EMSC) in cooperation with the International Centre for Migration Policy Development (ICMPD) brought together representatives from law enforcement authorities of the EU Member States and non-EU countries. The purpose of the meeting was to enable a wide dialogue among law enforcement entities in the area of migrant smuggling and its links with document fraud.

The meeting was described as a unique opportunity to share experiences on best practices and discuss present and future challenges. It was also stated to be a beneficial method in which jurisdictions are able to collectively define effective strategies to better face challenges associated with migrant smuggling. Tackling transnational crime requires coordinated responses.

[Full article](#)

### **FATF public statement – mitigating risks from virtual assets**

*22 February 2019*

The FATF is setting out increasingly comprehensive implementation requirements for effective regulation and supervision/monitoring of virtual asset services providers as it recognises the need to adequately mitigate the ML/TF risks associated with virtual asset activities.

FATF has therefore been working on an Interpretive Note to Recommendation 15. FATF had amended Recommendation 15 in October 2018 to clarify how the FATF standards apply to activities or operations involving virtual assets.

The text of the new interpretive note has been finalised and will be formally adopted as part of the FATF Standards in June 2019. Paragraph 7(b) of the Interpretive Note has not yet been finalised because it will benefit from private sector consultations to be conducted in May, it may be considered further to reflect technical implementation considerations, for final adoption in June 2019.

[Full article](#)

### **Fourth Round Mutual Evaluation Report for Cayman Islands**

*19 March 2019*

The MER provides an overview of the AML/CFT measures in place in the Cayman Islands. The report analyses the level of compliance with the FATF 40 Recommendations, the level of effectiveness of the Cayman Islands' AML/CFT system and provides recommendations on how the system could be strengthened.

The key findings pointed out the fact that the Cayman Islands needed to have conducted a more comprehensive assessment of its inherent ML/TF vulnerabilities due to the substantial size of the financial sector. Although, corruption, fraud, evasion of taxes and narcotics trafficking were identified

as foreign ML threats, there was too much emphasis on the domestic risk and not enough on the international risks. Additionally, the jurisdiction did not conduct a sufficient assessment and analysis of its risk environment within the context of its role as a significant financial centre both regionally and globally. Given the complexity and variety of financial products available in the jurisdiction, there are considerable areas of potential ML/TF risks.

Per the [Royal Gazette](#), the Cayman Islands Government has appointed a “dedicated task force” in response to the report. The task force currently comprises of the Cayman Premier, the Deputy Governor, the Attorney-General, and numerous relevant ministers to devise and implement a “comprehensive action plan” intended to resolve the insufficiencies highlighted in the report.

[Full article](#)

## **Upcoming conferences/webinars:**

### **Seminar - Cryptocurrencies and mitigating emerging financial crime threats – Curacao**

*17 May 2019*

This one-day interactive seminar provides in-depth presentations and discussions covering key areas in AML compliance and financial crime prevention with a focus on issues relevant to compliance professionals in the Caribbean region.

Learning objectives:

- Trends, expectations and requirements challenging compliance professionals in Curacao
- How cryptocurrencies are changing AML
- Best practices for obtaining and keeping correspondent banking relationships
- How AML professionals can combat human trafficking

[More details](#)

### **Webinar - Professional money launderers and compliance professionals\***

*17 May 2019*

The FATF report finds that many countries tend to ignore such money laundering activity through third parties, allowing Professional Money Launderers (“PMLs”) to provide their services undetected in many jurisdictions. This webinar will discuss the implications on compliance officers, including practical recommendations for the detection and prevention of PMLs.

Learning objectives:

- Raise awareness of the key characteristics of a PML
- Gain insight into the various money laundering tools and techniques that are used by PMLs such as trade-based money laundering and alternative banking platforms
- Practical recommendations for the detection, investigation, prosecution and prevention of PMLs

[More details](#)

### **Webinar - Practical strategies to combat TBML**

*22 May 2019*

Globally, trillions of dollars in goods are traded each year, and the sheer volume of transactions coupled with complexities such as lax documentation makes TBML an ideal method for criminals moving illicit funds. This webinar and panel will examine new trends in TBML while providing practical methods fighting it through rigorous AML oversight.

Learning objectives:

- Training staff on unique TBML typologies such as buyer/seller collusion, phantom shipping and invoice manipulation to enhance detection of suspicious trade transactions

- Adapting risk assessment models to incorporate potential TBML red flags related to factors such as nature of business, atypical transactions and aberrant shipping routes
- Utilising technology-based tools such as text data mining to gain efficiencies in areas such as document reviews and transaction monitoring and mitigate manual review error risks

#### More details

### Webinar - Stirring the pot: Adjusting AML programmes to manage marijuana-related risks

12 June 2019

In today's evolving regulatory landscape, the rules on banking marijuana are complex at best. With conflicting state laws and federal policies, along with the rise of legalised marijuana in various countries, this is one of the most perplexing subjects facing compliance professionals today. This webinar and its panel of professionals offer practical guidance on one of compliance's most challenging and rapidly evolving issues.

Learning objectives:

- Analysing regulatory requirements on marijuana-related businesses, including FinCEN's guidance on due diligence for MRB accounts and ensuring compliance
- Updating your institution's onboarding, KYC and auditing systems in order to effectively spot and investigate red flags indicating potential non-compliance
- Creating an adaptable risk model that will allow your institution to safely bank MRB accounts should regulatory changes occur

#### More details

### Webinar - Utilising alert scenarios, AML models and public-private partnerships to combat human trafficking and migrant smuggling\*

14 June 2019

According to the International Labour Organisation, more than 11 million people in the APAC region are victims of forced labour, accounting for well over half of the global estimated number of 21 million victims. It is incumbent that compliance professionals in the APAC region remain vigilant in spotting and blocking illicit earnings laundered through the financial system in order to combat migrant smuggling, sex trafficking and forced labour. During this webinar, the panelists will examine typologies and common criminal behaviors related to these financial crimes, and develop strategies to establish public-private partnerships to gain insights into human trafficking/smuggling trends most relevant to specific institutions and markets.

Learning objectives:

- Examining institutional risks related to human trafficking and migrant smuggling to improve detection scenarios and tailor effective monitoring models
- Training staff on trafficking and smuggling typologies such as frequent wire transfers from higher risk jurisdictions to strengthen red flag detection and resolution
- Facilitating information sharing through public-private partnerships to leverage investigative resources and keep current on trends

#### More details

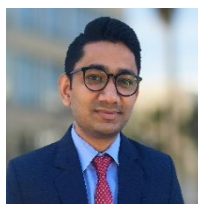
*Note: Seminars/Webinars marked with asterisk (\*) can be attended without any registration fee.*

# Contacts

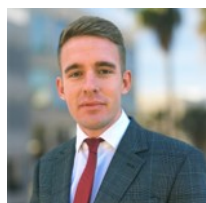
## Financial crime compliance team



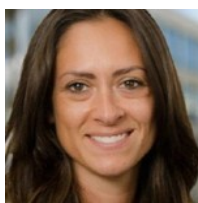
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For any feedback/suggestions or if you need help with managing your AML risks, please reach out to us.



This is a quarterly newsletter capturing key regulatory AML updates and enforcement actions. This edition covers updates for the months January - March 2019. Any updates beyond this time will be captured in the next edition.

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