



# FINANCIAL CRIME NEWS

**Summer 2010**

Welcome to the Summer 2010 issue of FMLI's Financial Crime News. The information in this newsletter is current as at 31 July 2010.

## **Implementation of the Bribery Act 2010**

The Serious Fraud Office (SFO) has now released its approach to dealing with overseas corruption. This is an important document as the SFO is to be the lead agency in England, Wales and Northern Ireland for investigating and prosecuting cases of overseas corruption. It will be responsible for enforcement of the Bribery Act 2010 when it comes into force. If there is beauty in brevity, as Shakespeare would say, this is a stunning document. It covers how it intends to react with corporations, the investigation process and some high level guidance. From a practical perspective, those looking to implement the Bribery Act as soon as possible, that is all UK corporations, need to focus on introducing or updating the following procedures without delay:

- A clear statement of an anti-corruption culture fully and visibly supported at the highest levels in the corporate
- A Code of Ethics
- Principles that are applicable regardless of local laws or culture
- Individual accountability
- A policy on gifts and hospitality and facilitation payments
- A policy on outside advisors/third parties including vetting and due diligence and appropriate risk assessments
- A policy concerning political contributions and lobbying activities
- Training to ensure dissemination of the anti-corruption culture to all staff at all levels within the corporate
- Regular checks and auditing in a proportionate manner
- A helpline within the corporate which enables employees to report concerns
- A commitment to making it explicit that the anti-bribery code applies to business partners
- Appropriate and consistent disciplinary processes
- Whether there have been previous cases of corruption within the corporate and, if so, the effect of any remedial action

The SFO appreciates that guidance and standards will be set by other organisations, though none have indicated any such action at present, at least not in the UK. It is clear that SFO favours a system of self reporting by corporates, and negotiated settlement, rather than involving costly criminal prosecution, though it does expect to conduct more criminal investigation and prosecution in the future.

The Bribery Act is now due to come into force in April 2011 rather than October 2010, as the latter timetable was entirely unrealistic. There is expected to be a short



period of consultation in September 2010, with final guidance released early in 2011. Despite the relaxation of the timetable, the 13 point shopping list mentioned above will still take some time for companies to complete. We have therefore developed a package to assist in timely and effective implementation, which can also cover anti money laundering requirements as part of an overarching financial crime deterrence approach. Remember that having an adequate compliance system in place is the only defence, and that compliance with US FCPA provisions will not be adequate since the Bribery Act is broader in scope. Please also feel free to contact us for the updated detailed briefing note on the Bribery Act.

### Focus on the United Arab Emirates

Fundamental Data			Threat data		
	UAE	UK comparator		UAE	UK comparator
<b>Capital:</b>	Abu Dhabi	London	<b>Money Laundering</b>	Major	Major
<b>GMT +:</b>	+4	N/A	<b>Drugs</b>	N/A	N/A
<b>Intl Dial Code:</b>	+971	+44	<b>Terrorism history</b>	N/A	Active
<b>www suffix:</b>	.ae	.uk	<b>Terrorism risk</b>	Elevated	Elevated
<b>Currency:</b>	UAE dirham (AED)	Sterling (GBP)	<b>Organised crime</b>	Moderate	Moderate
<b>Approx ex rate:</b>	725 AED = GBP 100	N/A	<b>Regional risk</b>	Medium	Moderate
<b>Population</b>	2.6m	60.7 m	<b>Corruption index</b>	5.7	7.7 (ten is "clean")
<b>GNP</b>	USD 24,213	USD 37,632	<b>FATF blacklist</b>	N/A	N/A
<b>Area</b>	83,600 km	241,590 km	<b>OFAC list</b>	N/A	N/A
			<b>OECD tax status</b>		Substantial
			<b>Political risk</b>	Moderate	Low

International memberships			FIU Contact
	UAE	UK comparator	
<b>FATF</b>	Regional equivalent – MENAFATF	Full member	Anti Money Laundering Suspicious Cases Unit (AMLSCU) Central Bank of the U.A.E PO Box 845 Abu Dhabi UAE  Tel: +971 2 665 2220 Email: <a href="mailto:amlscu@cbae.gov.ae">amlscu@cbae.gov.ae</a> Web: <a href="http://www.centralbank.ae">www.centralbank.ae</a>
<b>UN Conventions</b>	Member, drugs, organised crime, corruption	Member	
<b>Basel</b>	No	Y	
<b>IOSCO</b>	Y	Y	
<b>IAIS</b>	Y	Y	
<b>OGBS</b>	N	N	
<b>OGIS</b>	N	N	
<b>IMF</b>	Y	Y	
<b>Interpol</b>	Y	Y	
<b>Egmont FIU</b>	Y	Y	
<b>JMLSG</b>	N	N/A	

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The UAE was formed in 1971 and consists of seven emirates. It is a federal structure of states, each with its elected government. The economic development of the UAE has been unprecedented over the past 30 years, and has largely been dependent upon selective use of oil revenues. Continued economic success has been due to governmental economic diversification. The combination of these new economic sectors, together with revenues from foreign investment, has resulted in the UAE being relatively sheltered from fluctuating oil prices and trade cycles. The majority of the revenues derive from trade and financial services. Revenues from petroleum and gas contribute only just over 5% to the overall economy.

The port of Dubai is the largest manmade port in the world, and 9th globally. Dubai is the largest retail gold market in the world. High value tourism has expanded rapidly



over the past five years. It is estimated that Iranian capital investment in Dubai amounts to USD 350 billion. There are 37 Free Trade Zones operating in the UAE, and Dubai had been planning a further 12 before the recent financial crisis. There are over 150 financial institutions operating in the Dubai International Financial Centre.

## **Crime**

Main crime issues are human trafficking, money laundering and terrorist financing.

### **Human trafficking**

The UAE is a destination country for men and women trafficked for the purpose of servitude and enforced sexual exploitation. Large numbers of females from India, Sri Lanka, Bangladesh, Indonesia, Ethiopia and the Philippines migrate to work as domestic servants. However many encounter conditions of involuntary servitude. Males from India, Sri Lanka, Bangladesh and Pakistan come to work in construction, but are often subjected to involuntary servitude. In terms of human trafficking, the UAE is a destination country for trafficked women from Uzbekistan, Kyrgyzstan, Ukraine, Russia, Kazakhstan, Armenia, Azerbaijan, Ethiopia, Somalia, Uganda, India, Pakistan, China, Philippines, Iraq, Iran and Morocco, all reportedly trafficked to the UAE for commercial sexual exploitation. Children from India are forcibly trafficked into the UAE for use as jockeys in camel racing. The US placed the UAE on the Tier 2 Watch list for human trafficking due to lack of effective measures and results.

Dubai police organised a workshop on trafficking, and established and operated a web site and 24 hour hotline for trafficking victims. The UAE government passed a broad anti trafficking law prohibiting all forms of trafficking, but no progress was reported in punishing trafficking crimes. Further legislation was planned.

### **Money laundering and terrorist financing**

One of the main money laundering routes and modus is that of hawala money transfer from the Gulf to Pakistan. Linked to this is the purchase and movement of gold for moving criminal funds.

UAE authorities, in cooperation with police in two EU states and Pakistan, arrested 8 for laundering over AED 20 billion through Dubai of dirty money originating in Colombia from drug trafficking then transferred around the world including the UK, Italy, France, Belgium, the Netherlands, Hong Kong and the US. A further 6 were arrested for using the UAE to launder up to AED 54 billion from drug trafficking. Dubai police referred 48 suspects to the UAE Public Prosecutions Authority on charges of money laundering. Vegetable oils, electronics, and other goods are illicitly transported between Afghanistan, Pakistan and Iran as part of the barter of tradable goods and commodities for heroin. Many of these goods are smuggled into Afghanistan from neighbouring countries, or enter without payment of customs duties. Much of this trade involves Dubai.



The US has consistently pointed out that al-Qaeda transferred funds through hawala and cited the UAE as a transit point where most of the money spent by terrorists for 9/11 was reportedly transferred.

### **Anti money laundering and terrorist financing**

The UAE imposes restrictions on transfers and a maximum penalty of 7 years' jail and an AED 10m (GBP 1.38m) fine. Regulations cover client identity, financial position, source of funds, reasons for transactions and details of assets and bankers, as well as reporting requirements in relation to unusually large cash deposits, significant increases in cash deposits, smurfing, cash intensive business enterprises and individuals. Terrorist financing is also criminalised. STRs are sent to AMLSCU with copies to the Dubai Financial Services Authority (which issues further regulations). Certain blackberry functions will be banned from October 2010.

The UAE has problems in a number of key areas. For these reasons, the UAE is graded as a jurisdiction of medium risk.

### **Training**

Suspensions that financial crime deterrence training is suffering in the current economic climate appear to be justified. In an ACFE survey, nearly half were either cutting training budgets or axing them altogether. This approach is clearly going to make implementation of anti-bribery procedures even more of a challenge.

### **FMLI**

FMLI products assist financial crime deterrence, asset recovery, counter industrial espionage, and business expansion:

- FMLI Risk Manager
- FMLI Bloodhound – Standard Due Diligence and Enhanced Due Diligence products
- FMLI Global Risk Minimiser – a web service covering sanctions, jurisdiction risk, etc. – to avoid fines such as this month's fine of RBS of GBP 5.6m at considerably less cost!
- FMLI Financial Crime Threat Seminar Series
- MLIO Secrets Course – a course by email
- MLIO Residential Course
- Specialist AML Training
- Essential Money Laundering Deterrence 2010 (the guide to UK ML deterrence)

This publication provides general information about legal, regulatory and commercial developments affecting financial crime deterrence. Further information can be provided on request. Since the information provided is of a general nature it cannot be used as a substitute for legal advice focused on a specific scenario. If you would like analysis of any particular issue, please do not hesitate to contact us.

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