



## **FINANCIAL CRIME NEWS**

**Autumn 2009**

Welcome to the Autumn 2009 issue of FMLI's Financial Crime News. If there is anything you would like to see covered in future issues please ask! The information in this newsletter is current as at 30 November 2009.

### **Tax Evasion and Money Laundering**

Tax evasion has been high on the political agenda reflecting scandals around the world, the current financial crisis and the G20 London summit. There has been a lot of debate in many jurisdictions as to whether tax evasion is a predicate offence for money laundering. In our view there has never been any justifiable rationale for treating it as anything other than a predicate offence. However, in many jurisdictions, tax evasion has been seen as more of a national sport, whether that consists of the Belgian dentist making trips to Luxembourg, or wealthy Brazilians depositing their untaxed wealth in the British Virgin Islands.

Tax evasion is often equated with 'offshore' jurisdictions, indeed the only figures mentioned in the June 2009 Overview of the OECD's Work on Countering International Tax Evasion are of the size of the Offshore Financial Industry, citing a range of \$1.7 to 11.5 trillion. This obfuscates the issue as it is not true to say that all monies held in offshore centres are the proceeds of tax evasion. No mention is made of domestic tax evasion (despite vast sums being easily recoverable, such as the £20bn lost to fraud in the NHS every year). All the figures given by OECD use different methodologies and date between 1997 and 2008, and are thus not comparable. Admittedly, assessing the size of tax evasion is difficult, particularly as there has been next to no research into dark number methodologies since the 1950s, but it is curious why the OECD should commence a major global exercise without comprehensive and robust research. OECD trumpets 80 Tax Information Exchange Agreements being signed since 2000, but to cover all 84 current member countries would take 3486 bilateral agreements, at the current rate taking 387 years to cover. OECD clearly needs a multilateral approach as IOSCO has taken with its multilateral MOU. International tax standards have been agreed however:

- Exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic laws of the treaty partner
- No restrictions on exchange caused by bank secrecy or domestic tax interest requirements
- Availability of reliable information and powers to obtain it
- Respect for taxpayers' rights
- Strict confidentiality of information exchanged

The full global status of jurisdictions' compliance with OECD guidelines is contained in the client services part of the FMLI website [www.fml.co.uk](http://www.fml.co.uk). Request a free trial.



## Focus on Identity Fraud

In this issue we focus on identity fraud, thought to cost the UK £1.7 billion a year. The problems around individual identity fraud are relatively well known, and individuals are increasingly taking steps to improve their own protection. There is less focus on corporate identity fraud, but this is very much a growing area with 50-100 cases every month, or around 6% of businesses under attack. Corporate identity fraud can be subdivided into two subsets, “company hijacking” and “company impersonation”. Company hijacking relies on the ease of registration of new directors, secretaries and registered addresses at corporate registries. “New” directors can open bank accounts, have goods delivered to changed addresses, ruin a credit rating and run up massive debt. Company impersonation is another key risk. To assist in protection in the UK, Companies House (which receives around 500,000 paper documents a month, but validates none of them) has developed a web filing system (known as “PROOF”) which is more secure than postal filings, and uses security and authentication codes. Fraudsters techniques in this area include posing as registry officials requesting password confirmation, use “phishing”, malware or spyware to acquire sensitive data, inserting key loggers on IT systems, gathering details through social network sites such as Facebook, Twitter, Linked In, etc., stealing wallets, purses or mail, hijacking web domains, or infiltrating companies.

Given rising threat levels, fraudsters having a boom time with companies letting down their guard by not investing in updated systems, training, due diligence, etc., it is all the more important to keep systems updated, staff trained and clients and counterparties properly checked. Although this is often seen as a cost, in value terms it is always profit positive, though the bottom 36% of companies with no policies yet in place, or where a third of employees still dispose of confidential data without destroying it first (as required by the Data Protection Act), have yet to get the message. HSBC has been fined £3.2m for lax data procedures, and more look set to follow, though the greatest loss is through damage to reputation. The UK has taken a number of new measures to assist, following decades of cuts in fraud focused law enforcement. There is now a National Fraud Reporting Centre, and regional Fraud Fora have been established in an attempt to improve reporting and analysis.

## Focus on Libya



Fundamental Data			Threat data		
	Libya	UK comparator		Libya	UK comparator
<b>Capital:</b>	Tripoli	London	<b>Money Laundering</b>	Minor	Major
<b>GMT +:</b>	+2	N/A	<b>Drugs</b>	N/A	N/A
<b>Intl Dial Code:</b>	+218	+44	<b>Terrorism history</b>	N/A	Active
<b>www suffix:</b>	.ly	.uk	<b>Terrorism risk</b>	Low	Elevated
<b>Currency:</b>	Libyan dinar (LYD)	Sterling (GBP)	<b>Organised crime</b>	Moderate	Moderate
<b>Approx ex rate:</b>	LYD 250 = GBP 100	N/A	<b>Regional risk</b>	High	Moderate
<b>Population</b>	6.1m	60.7 m	<b>Corruption index</b>	2.5	8.4
<b>GNP</b>	USD 5,540	USD 37,632	<b>FATF blacklist</b>	No	N/A
<b>Area</b>	1,759,540 km <sup>2</sup>	241,590 km <sup>2</sup>	<b>OFAC list</b>	No	N/A
			<b>OECD tax status</b>	N/A	Substantial
			<b>Political risk</b>	Medium	Low



International memberships			FIU Contact
	Libya	UK comparator	
FATF	N/A MENAFATF	Full member	Financial Information Unit Central Bank of Libya Sharia Al Malik Seoud PO Box 1103 Tripoli Libya  Tel: +218 21 333 3591 Fax: +218 21 444 1488 Email: info@cbl.gov.ly Web: <a href="http://www.cbl.gov.ly">www.cbl.gov.ly</a>
UN Conventions	Member, drugs, OC, corruption	Member	
Basel	N	Y	
IOSCO	N	Y	
IAIS	N	Y	
OGBS	N	N	
OGIS	N	N	
IMF	Y	Y	
Interpol	Y	Y	
Egmont FIU	N	Y	
JMLSG ≡	No	N/A	

For the full guide to all 240 jurisdictions worldwide, see FMLI's Global Risk Minimiser in client services on [www.fml.co.uk](http://www.fml.co.uk).

Libya is the 17<sup>th</sup> largest country in the world. It emerged as an independent monarchy in 1951. The Great Socialist People's Libyan Arab Jamahiriya (Libya) was brought about following the revolution of 1969 of the Arab nationalist Colonel Muammar al-Gaddafi. In effect it is run as a military dictatorship, political parties having been banned in 1971, and political dissidents having been violently suppressed. Gaddafi embodies the character and aspirations of the rural Sirtica tribes from Fazzan, fierce independence, deep Islamic convictions, belief in a communal lifestyle, and hatred for the urban rich. The revolution wiped out the middle class and private enterprise, banished Europeans and Jews, saw the end of UK and US military presence, nationalisation of Western oil company assets, and undermined the religious Muslim establishment. However, resentment of the regime grew once it became clear that power lay principally with the Sirtica tribes, and in particular Gaddafi's own clan, the Qadhadhfa. Since then, the population has become mainly city dwelling, Jews have been allowed to return as investors, and sub-Saharan immigrants used for cheap labour. Gaddafi's autocratic leadership style has alienated many, even within his inner circle, and he now relies on his own clan, and in particular his five sons.

Libya has abundant oil and gas resources, the largest proven oil reserves in Africa. Key export links are to Italy (43%), Germany (14%), Spain (14%), Turkey (7%), France (4%). GDP was extremely high in the mid 20<sup>th</sup> Century, but fell 42% in the 1980s due to sanctions. Now sanctions are removed, GDP has started to increase. The Libyan economy remains predominantly cash based. The banking system was nationalised in 1970 and remains highly centralised.

There are three main areas of crime to which Libya is vulnerable. These are terrorism, drugs and human trafficking, and corruption.

- Libya was designated a state sponsor of terrorism after the 1984 murder of WPC Yvonne Fletcher in London and the 1988 bombing of Pan-Am flight 103. These and other events were part of Qaddafi's extremist foreign policy. After sanctions were lifted in 2006, Libya is now vulnerable to Islamic extremist terrorism. Libya was the first state to issue a warrant against bin Laden. Certain businesses identifiable with US-EU institutions may be at risk
- Corruption intensified after the post 2006 surge in foreign direct investment. Public sector corruption takes two main forms: false bills and invoicing by



officials, and payment of influential figures by training courses and duties abroad. In 2007 Transparency Libya concluded that bribery had become widespread in all transactions of citizens with state institutions, most notably tax and custom exemptions, business or construction contracts, and licences to the unqualified for cash. Over 75% of people felt the government was not serious about corruption, but over 54% feel it possible to check corruption

- Libya is a key transit route for drugs mainly from Egypt, Morocco and Turkey. By 2004 there were an estimated 2 million foreign workers in Libya, almost twice the number registered. Many are trying to earn enough to pay illegal immigrant organisers to get to Europe. Each year the Libyan mafia help smuggle tens of thousands of Africans to Italy at USD 2,000 per person. In 2007 Italy and Libya signed an agreement co-operating in joint sea patrols to curb human trafficking. Libya is also a transit country for human traffickers moving females for enforced prostitution. In 2004 the US placed Libya on the Tier 2 Watch list for human trafficking.

There is an increasing awareness of Libyan authorities of financial institutions to be exploited for various forms of money laundering. A full report on Libya is available from FMLI, but in summary it has severe problems in a number of key areas. For these reasons, Libya is graded as a jurisdiction of medium risk, though rising.

## FMLI

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

FMLI Bloodhound ó Standard Due Diligence and Enhanced Due Diligence products  
 FMLI Global Risk Minimiser ó a web based subscription service covering sanctions, jurisdiction risk, financial crime awareness, etc.

FMLI Financial Crime Threat Seminar Series

MLIO Secrets Course ó 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 on the above 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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