

## **Current Trends in Anti-Money Laundering & Counter-Financial Terrorism - Full Transcript**

Our panelists were:

- Hon. [Roy Cullen](#), P.C., C.A., Senior Public Policy Consultant, Canada
- Dr. Nicholas Ryder, Professor in Financial Crime, UWE Bristol, UK
- Stefan D. Cassella, Asset Forfeiture Law LLC, USA

The moderator was [Marios Siathas](#), General Manager, European Institute of Management & Finance (EIMF).

MATEO JARRIN: Okay. Welcome to another Taxlinked webinar. Today we are discussing Current Trends in Anti-Money Laundering. We have a very exciting and experienced panel with us today to discuss all things related to AML and counter-financial terrorism. Let me get some admin issues out of the way before we get started.

This webinar is being recorded. We are going to have an audio recording of the event available to everyone probably a week from today. We're also going to have a full transcript of the event for all of those of you who missed the event or who actually prefer reading about what is being said. That will take us a bit longer to prepare, but we will email all of you who are attending and who signed up for this webinar. We'll send you the transcript.

So without further ado, let me introduce our moderator, Marios Siathas. Oh, sorry, before I actually continue. If you have any questions, those of you listening in, if you have any questions and would like to submit them to our panelists, make sure to use the control panel, the GoToWebinar control panel. You could ask questions. I will receive the questions and I will forward them to Marios and he will incorporate them into the discussion.

So, going back to introducing our moderator, Marios Siathas has worked in executive education, learning and development and consulting for more than 20 years. He has gained plenty of experience working with organizations and individuals and building specialized and unique and learning development solutions for them.

He has managed several development projects for large and small companies in Cyprus, Egypt, Austria, Bahrain, Greece, Canada, China, Dubai, England, Germany and South Africa. He holds a B.Sc in marketing and management from Western Kentucky University, an MBA from University of Guelph and a Master in Adult Education and Training from Colorado State University.

He is a member of the board of the Institute of Directors, UK Cyprus branch and a member of the Charter Institute of Securities and Investment. He is a member of the training and HR committee of the Cyprus International Funds Association, the Cyprus Human Resource Managers Association, the Cyprus International Business Association, the Association of Certified Anti-Money Laundering Specialists in Cyprus, and a host of other professional bodies.

So without further ado, hope you all have a very enjoyable and insightful webinar. Marios, the floor is all yours.

MARIOS SIATHAS: Thank you very much, Mateo. Thanks for the introductions. Welcome, everyone. Welcome to our panelists and let's start with the introductions, just say "Hi" to all the panelists. Stefan, if you want to just say a couple of things about yourself, before we get started? I will go through all the panelists, so I'm not picking on you. Just I saw your face first, you're first here.

STEFAN CASSELLA: Good morning, I'm Stef Cassella. I'm just outside of Washington, D.C. I was a federal prosecutor in the United States Department of Justice for my career and now I'm working as a consultant to law enforcement agencies, financial institutions and private law firms on issues relating to money laundering and asset forfeiture asset recovery.

MARIOS SIATHAS: Great. We have Roy, Roy you want to say a couple of things?

ROY CULLEN: Yes, hello. Good morning. My name is Roy Cullen. I'm a CPA by profession but I'm a retired member of parliament. I served in the House of Commons in Canada for 12 years and retired in 2008 and while in the House of Commons, I got quite active in bringing in anti-money laundering legislation, which set up FINTRAC in Canada and I've been pretty much involved with the Global Organization of Parliamentarians Against Corruption (GOPAC) in the fight against corruption and money laundering.

MARIOS SIATHAS: Great. And we also have Nicholas.

NICHOLAS RYDER: Good afternoon from Cardiff. My name is Nicholas Ryder, I'm a Professor in Financial Crime from the University of the West of England, Bristol, and my expertise is generally financial crime, but over the last number of years, it is in relation to counter terrorist financing.

MARIOS SIATHAS: Great. So, wide range of experiences in our panel. So let's take a good use of the experiences and let me answer, most of the questions have been given to us from the members of Taxlinked, so first and most basic question to all panelists, starting from Roy this time: How would you define money laundering and financial terrorism?

ROY CULLEN: Well, money laundering is a method used to disguise the origin of funds, usually from, almost always from, illicit purposes, criminal activity, corruption, tax evasion, other acts, so it's a way of disguising it, the original origin of the money, because the origin of the money was either criminal or illegal.

MARIOS SIATHAS: Okay. Stefan, do you want to add anything to that?

STEFAN CASSELLA: Well, yes, I mean money laundering to me is a very elastic term. I agree with Roy that it does normally connote the attempt to conceal or disguise the origin of illicitly derived funds, but it can mean other things as well. It could mean simply trying to

hide money so that its connection to a particular event or a particular person is disguised and then the money can't be found.

It could also mean, in a term that I call reverse money laundering, that rather than trying to disguise the origin of the money, the effort is being made to disguise its purpose. Money from any source is being used to promote some future criminal activity or to finance terrorism, and it's laundered so as to disguise that purpose.

MARIOS SIATHAS: Nicholas? Something to add to that as well?

NICHOLAS RYDER: Yeah, I pretty much agree with what Roy and Stefan have indicated. I think Stefan has made the very valid point that obviously reverse money laundering in relation to terrorist financing. As you've seen within Europe in the last 12 to 18 months now have become an increasingly significant global threat.

And obviously the prime minister Theresa May raised this at the G20 summit yesterday, where they're trying to regitalize, I suppose, the financial war on terrorism, which President George Bush instigated in September 2001. But nothing really tied to what's already been said in terms of definitions.

MARIOS SIATHAS: Okay. Nicholas, let me ask you another question then. What's the estimate on money being laundered, let's say in the last few years, per year around the world?

NICHOLAS RYDER: I think it's how long is a piece of string? I think it's a question that is impossible to answer and there's a great body of literature written by numerous economists like, for example, Professor Brigitte Unger from the University of Utrecht who has attempted to quantify the global levels of money being laundered.

But within the UK, the most recent statistics were published in October last year by the National Crime Agency and according to their estimates, it's somewhere between 35 billion pounds per year and 90 billion pounds per year. So as you can see, the estimates are very broad and very wide-ranging. I've had the facts and figures, some would argue up to between 1.5 and 2.5% global GDP would be some of the normal figures according to the International Monetary Fund and the Financial Action Task Force.

I think there's no way to accurately determine how much money will be laundered globally.

MARIOS SIATHAS: Okay, that's a lot of money, though. Stefan, what are some of the major trends in AML and CFT these days? What are the trends in general in the AML scene and what do you foresee in the area during the next couple of years as well?

STEFAN CASSELLA: Well, money laundering methods are becoming more creative and more complex and people still launder money by moving bulk currency from one place to another. But we're seeing lots of money being laundered in far more sophisticated ways. There's a lot of money laundering through shell corporations that are incorporated in

countries that don't require the naming of beneficial owners. We've seen a lot of discussion of that in the press with the Panama Papers.

There are also several recent examples of laundering by Russian organized crime that are very sophisticated. The mirror trading example, which involved parallel securities transactions in both Russia and the UK. The Russian laundromat, which involved false debts created in foreign courts and then enforced by foreign judges, who were corrupt.

And a lot of that money is ending up in western countries. It's being invested in real estate in London and in New York, driving up real estate prices, for example.

MARIOS SIATHAS: Mm-hmm. Mm-hmm. Yes, that's true. Roy, something on that, on the trends in general and the methodologies that they're using nowadays, and any trends in the future?

ROY CULLEN: Yes, well, I agree with Stefan. It's becoming more sophisticated, more complicated, with the layering through shell companies, nominee directors, layer upon layer, so actually sifting through all that with the due diligence that the financial institutions are meant to employ, gets more complicated even if you have a financial institution that is serious about doing it.

Of course, they have potentially a conflict of interest. Who wants to deny someone coming in, waving a \$50 million check that they want to deposit? So that's a challenge. One of the particular issues that I've been working on and some of my colleagues, is a little question of beneficial ownership, which, there have been some developments in the UK and other countries in terms of public registries, which in my mind, is a good thing. Transparency is always a good thing, in my judgment, but we need to go, I think, beyond that.

Because even though if you have a public declaration of beneficial ownership, that gives people opportunities to challenge that. Whether they be law enforcement or governments or the medias, civil society, whatever, but it still sort of poses the question how good is that beneficial ownership information?

So the organization I work with, the Global Organization of Parliamentarians Against Corruption, we've adopted, and we've plagiarized, to some extent, from Raymond Baker, who I'm sure Stefan knows about, he's based in Washington, Global Financial Integrity, and he wrote a book on dirty money, but basically saying that we need to have more accountability to the beneficial ownership declarations.

So if you make a declaration of beneficial ownership, there must be sanctions if it ultimately shows that that beneficial ownership declaration was false or misleading, and in fact, sanctions such as freezing of funds, confiscation and measures like that. So that's an issue we've been working on and presenting our arguments to various governments around the world.

MARIOS SIATHAS: Okay. Nicholas? Do you want to add something on this? Maybe something on the beneficial ownership as well? Generally, it's a sticky point?

NICHOLAS RYDER: Yeah, nothing on what Stefan and Roy have already elegantly outlined as the main concerns about beneficial ownership. I think that money laundering is a very difficult problem to prevent and attack and I think Stefan alluded to the money launderer will always be one step if not several steps ahead of new money laundering regulations or the enforcement activities of agencies in Europe and in other parts of the world.

MARIOS SIATHAS: Okay. Just before I go to the next question I have here, I want to ask something about information technology in general. How is that helping money laundering? When you think cyber security attacks we see and that sort of crime, because I see money laundering changing in that way. Anyone want to answer that?

NICHOLAS RYDER: I'll be happy to offer some thoughts. I think it's another example of the evolution of money laundering and as we've seen with the recent cyber attacks on the National Health Service in the UK in the previous two weeks and obviously the software. I just think it's natural progression.

I know one of the questions later on looks at how terrorists are now using the social media platforms and the Internet as a war of propaganda as President Donald Trump said a few days ago. So I think it's just another example of how the money launderer is using new forms of technology to transfer funds possibly in less regulated areas.

So for the example the current issue within the UK is whether or not an illegal framework actually covers virtual currencies and cryptocurrencies. I know within the US there's been some recent developments and also within Australia as well, but it's as if the British government is a little bit hesitant to incorporate these forms of payments into its money laundering legal framework.

So for example, two years ago, the government published several consultation papers asking for views on whether or not these should be form the basis of the then 2007 Money Laundering Regulations. And that has still not been incorporated yet. So I think that the UK is still trying to find its feet a little bit and help tackle the e-money and virtual money and virtual currency in terms of money laundering as well.

STEFAN CASSELLA: If I could add something to that, you have to be cognizant of what the typical payment methods are in the environment in which you're trying to regulate, in the United States and most of the west, most people are banked and the transactions occur through banks or other financial institutions that are like banks and therefore we focus our AML efforts on the financial industry.

But in other parts of the world, in parts of Africa, payments are often made by having stored value on telephones and the processing is through the phone company, and if you want to be aware of the money laundering activity going on in that part of the world, you

have to be focusing an entirely different way on an entirely different industry and different technology and different methods of payment.

ROY CULLEN: If I could just add something briefly, yes, in Africa, we've interacted with a number of politicians there and they say a lot of the laundering there is in cash. People go out to the countryside with cash in their briefcases and buy votes and so it sort of stays below the radar of the financial institutions.

I think, though, just a comment on technology, I think there might be a prospect that technology can actually help in the fight against money laundering in certain respects.

First of all, you look at the Panama Papers and the way that that information sort of digitally spread around the world, if you look at social media, if there are public declarations of beneficial ownership, suddenly you can get a lot of chatter on social media saying the beneficial owner declared here is X-Y-Z, but this doesn't make any sense, because we know that, so it gets that discussion going and then can build on that and perhaps shed some light on some phony declarations.

MARIOS SIATHAS: Okay. Next question. Basic question, we all know the KYC, know your customer, what is it and how should this policy best be implemented and let us start with Nicholas on this one.

NICHOLAS RYDER: I think one of the key things about knowing your customer and how it should be implemented is that this is clearly enshrined within the European Union's anti-money laundering directives. Understand also to be enshrined as part of the 2002 Proceeds of Crime Act in the UK, the recently implemented 2017 money laundering regulations.

I think the key thing, from my point of view, is that is, is at least know your customer, and these rules are called the golden rules of money laundering, so they form the initial obligations that, for example, banks, law firms and other reported entities have to have. Part of the concern from the UK banks has been the sheer amount of KYC from money laundering, terrorist financing.

We've now seen the scope extended to the Bribery Act of 2010 on the Section 7 defense. We've now seen tax evasion and tax avoidance also being incorporated and the possibility of fraud following a consultation paper published in January this year by the UK government.

So cost has been a huge issue and research suggests that compliance costs in the UK have dramatically increased over the last five to six years where costs could be, based upon estimates last year, up to 5 billion pounds per year. So I think that they form an essential part in the battle against money laundering, but there are some submissions currently within the UK and probably other jurisdictions as well.

MARIOS SIATHAS: Okay. Stefan?

STEFAN CASSELLA: Traditionally know your customer refers to the obligation on the part of the financial institution to know who its client is, who the person is who is maintaining an account. And by some small extension, to know who the originator is of a wire transfer that's coming in, or who the beneficiary is of a wire transfer that's being processed.

And much has been done in that field. There's still some room for improvement. If I had it my way, the know your customer rules would require knowing not only the originators, the name of the corporation, but knowing the beneficial ownership.

There's a movement to try to extend, though, your customer's role beyond financial institutions to, as Nicholas was mentioning, law firms and other gatekeepers. That needs to be done. But the point I wanted to make, or to emphasize, is that know your customer also applies in trade-based money laundering.

There's many examples in the United States of vendors who sell their product, their goods or services, to foreign purchasers and are paid, not by their customer, but by a third party. A typical example would be a vendor selling jewelry in Los Angeles, who sends the jewelry to, say, some country in South America, and suddenly receives a deposit into his bank account in cash in Chicago.

One has to not only know one's customer, but know one's customer's payer. There should be some rules regarding receipt of money from persons with whom you had no business association.

MARIOS SIATHAS: Mm-hmm. Roy? Something from ...

ROY CULLEN: Yeah, I think that know your customer is something that's now pretty much enshrined. The question is: How well is it being done and what are the sanctions if it isn't done and the due diligence isn't done completely?

I think that many financial institutions, as Nicholas has pointed out now, they're realizing that they're exposed if they don't do the due diligence properly and they could be on the hook for some penalties. In fact, there have been some financial institutions that have already experienced that, so their compliance is getting tighter.

But I think at the fringe, you have some financial institutions that maybe go through the motions. It seems to me that know your customer includes knowing who the beneficial owner is, to the extent that you can do that effectively.

But my view is that inherently there's a conflict of interest and that has to be managed right at the top of an organization to make sure that someone isn't just going through the motions of doing the due diligence and then gives a report to their boss saying, well, I've checked it out as best I can and seems to be all okay, and someone signs off, and \$100 million check is deposited.

I think we need to really push that envelope hard and make sure that the financial institutions are audited and checked, both to the extent to which they apply to due diligence and how they do it effectively.

NICHOLAS RYDER: Yeah. I agree with what Roy said completely and I think you've raised a really important point. It comes down to enforcement. And I think what we're seeing within the UK is, this is the problematic area in terms of enforcement of our money laundering regulations, but also the primary offenses of money laundering under the Proceeds of Crime Act.

So what we have in the UK currently is [phone ringing 00:21:52.1] imposes large financial penalties on corporations, even where there was no evidence of money laundering, on the highest fine is \$163 million pounds on [phone ringing 00:22:04.1] so what we're finding is that the imposition of these penalties is very inconsistent.

So you have courts recently this year where we've seen a record numbers, in the light of what we've seen, the lowest number of prosecutions of KYC in the UK, so I think until the enforcement strategy changes within the UK, I still think they're going to see more and more firms possibly trying to avoid this type of formal regulation.

MARIOS SIATHAS: My next question I will probably combine this with a followup because you said something's up now about enforcement. Basically, how can we have official AML rules to ensure the world is clean without stifling business transactions. So how do you ensure it without making it, let's say, too ivory tower, too complicated. Stefan? Do you want to take this one?

STEFAN CASSELLA: I can say that from my experience in government, worked on money laundering issues for 30 years and back in the late 1980s, early 1990s, the financial institution was extremely resistant to the notion that they were in any way participants in what they considered to be a law enforcement effort. They would say you're the police, we're the banks; you catch the bad guys, we process their money.

And their argument was that they did not want to be drafted into the law enforcement sphere by being required to impose rules that were going to chase customers away, or send customers to other jurisdictions that didn't have such stringent rules. The banking industry pretty much has come to terms with this and I don't think that it has limited banking business. Banking seems to still be robust.

There is a concern, however, that a lot of financial institutions follow the rules by engaging in box ticking. They want to know what is the minimum they're required to do to avoid sanctions and they'll do just that. In other words, they're interested in not so much in detecting the crime and advising law enforcement of its existence, but in making sure that they do not suffer their own liability.

I would go to many trade conferences and the representatives of financial institutions would ask me: what is it you and government want us to do? Tell us what the warning signs



of money laundering are, and I would say, "If I gave you three things then you would do only those three things, and that's not what we're looking for, you need to be vigilant and look for anything out of the ordinary in terms of what would be normal business practice."

So I think that that's one of the major difficulty is in encouraging, as we've done for decades now, to continue to encourage the financial institution to be partners with law enforcement and governments and regulators and not adversaries.

MARIOS SIATHAS: Okay. Roy?

ROY CULLEN: Yeah, I think that, it's almost a fine balance. It's similar to the balance between civil rights and the ability to enforce laws and have the public being in a safe environment. It's a difficult thing. The issue, I think, is that you don't want to make things so intrusive. On the other hand, money laundering is such a serious matter. When you look at its linkage to drugs, to criminality, to terrorism, to corruption, etc., it needs to be dealt with.

So an example that comes to my mind in Canada we know, this was a study that was done in relation to the RCMP a few years ago, but most of the money laundering in Canada goes through real estate. And a lot of it, in Canada, is drug money. Of course, we also get some offshore money going through our banks, as well. A lot of the drug money in Canada goes through real estate.

So when we brought in our anti-money laundering legislation and rules, we basically decided to have a pretty big tent and not run exemptions to anyone, really. And there was a huge amount of pressure from the real estate industry, because they said, here we have a pending sale of a million-dollar property and they walk in with a briefcase full of cash, and then you have to say to the person, well you realize, I'm obliged to report this to the FIU, Canada's FIU, FINTRAC. Isn't that inconvenient? And oh, gosh.

But in any case, what we did, as a government, we tried to make the rules as simple as possible, but we refused to back off, because it's inconvenient, but I'm sorry. This is typically drug money and there's a lot of it, and it's going through real estate. So we have to deal with that. But it's always a fine balance. You've got to pick the kind of interventions that make sense and that aren't totally intrusive, but you've got to deal with the problem at hand.

MARIOS SIATHAS: Yep. Nicholas. Let me ask you another question relating to this anyway, but the next question: How will the recent legislative measures introduced in the UK, such as the provision of Criminal Finances Act 2017 and the Money Laundering Regulations of 2017 help prevent terrorist financing?

NICHOLAS RYDER: That's a good question. I could come talk about that for a few hours, though I'll try and summarize a nice concise answer for you.

MARIOS SIATHAS: You have two minutes. There you go!

NICHOLAS RYDER: The 2017 Criminal Finances Act is the UK's longest financial crime legislation overhaul in 15 years. It's the culmination of several policy developments including the creation of the Parliament Papers Taskforce by David Cameron, two or three years ago, various action plans and the publication of the UK's National Risk Assessment for Money Laundering and Terrorist Financing.

But what the act tries to do is that it tries to improve how the UK can confiscate or forfeit the proceeds of crime. It tries to improve the use of suspicious activity reports by financial institutions that are submitted to our FIU. It looks at tax evasion. Also introduces some small number of measures for terrorist financing.

So, for example, it allows information sharing, but on a voluntary basis, between a reporting entity and the police and the FIU and also includes, then, new powers for seizure and forfeiture and also disclosure rules.

But the difficulty I have with the 2017 Act in particular is that David Cameron, former prime minister, announced several years ago that they were going to do a comprehensive and thorough review of the entire UK's counter-terrorist financing provisions. That has still not happened yet.

I've come to the conclusion, from my research, that terrorist financing is the subject in the UK that nobody really wants to talk about at the government level or to try to implement new measures. So I think by having these three small measures they will increase cooperation between law enforcement and reporting entities and so on.

But even with the 2017 regulations, they're a direct response to the 2012 recommendations and updated report by the Financial Action Task Force. So there's obviously going to be closing gaps that existed in the previous 2007 regulations. So hopefully things will be able to improve in adopting a more risk-based approach, which clearly is a part of the European union and Financial Action Task Forces, AML and CTF strategy anyway.

So I think it's a wait-and-see answer for me in terms of how these could maybe limit financial crime.

MARIOS SIATHAS: Okay. Because you said there is risk-based approach, which is one of the Fourth AML Directive issues as well, Stefan and Roy, Stefan, do you have anything to say on the risk-based approach?

STEFAN CASSELLA: Well, not on the risk-based approach, but I did want to comment on something that Nicholas was just talking about, and that was in terms of legislation. One of the most effective tools that governments have in the money laundering and terrorist financing area is asset forfeiture.

It's all well to have KYC programs and to detect crime and to enforce those, and it's all well to be able to prosecute money launderers criminally, but frequently we have found the money, but we have no ability to lay hands on the perpetrator, because he's a fugitive, he's unknown, he's in a foreign country. He's just beyond the jurisdiction of whichever court we're talking about.

But, through non-conviction based, or civil forfeiture, governments can seize those assets and make sure they're not used for an unlawful purpose and force the owner of the money to come forward and appear in court and defend his ownership of that money. I'm happy to say that, in many countries around the world, most of the Anglophone countries, now have non-conviction based forfeiture programs of some kind. The UK, Ireland, South Africa and Australia, to name a few, all do.

Other countries are beginning to adopt those. Throughout Europe there's a movement through the EU to discuss at least, the enactment of non-conviction based forfeiture, recognizing its essential role in interrupting the flow of this money.

Unfortunately, it's a bit of a push back here in the United States. We're fighting to preserve the robust set of civil forfeiture statutes that we already have. And not turn the United States into a money laundering free zone, which, there are some who would do.

But I just wanted to make the point that that's an aspect of legislation that we all have to be focusing on.

MARIOS SIATHAS: Okay. Roy, do you want to add something to this as well? Anything from Canada side there?

ROY CULLEN: No, just to say the non-conviction based asset forfeiture is something that we promote to our parliamentary colleagues around the world. We think it's a very important initiative and, yeah, glad to see that more of it is coming in to play.

MARIOS SIATHAS: Okay. Nicholas, a question on social media. Now, how are terrorists using social media platforms to fund their operations?

NICHOLAS RYDER: Yeah, I think this is a recent project that I'm working on as part of a larger research funded project. I think what we're beginning to see, and a lot of this is influenced by the Financial Action Task Force 2015 report on emerging threats, is that we're now beginning, obviously, Islamic State of Iraq and ISIL are very well documented in terms of using social media as a form as a propaganda.

But the more and more I looked into this, and there is some uncertainty as to whether or not these type of social media platforms actually are part or are currently governed by UK legislation at all. So what we're beginning to see is terrorist beginning to use Twitter, Facebook, other forms of Instagram, Telegraph and so on, to actually ask for donations.

So the US State Department in 2014 and 2015 has identified there are some ISIS financiers who use Twitter and Facebook to attract finances by social media. And so they are now part of the sanctions list.

But what we found was that when the social media company takes action and removes them from the public forum, they can simply set up another account in a matter of minutes. And in some of these instances, those named by the US Department of State and Treasury still have 150,000 followers on Facebook, for example.

So I think it's another example of the evolution of terrorist financing away from state-sponsored terrorism of the 70s and 80s and the donations we've seen in terms of 9/11, but we've now seen more lone wolf terrorist financiers and recently reports have concluded that anybody with a cell phone or a tablet can be an international terrorist financier. And I think that raises some concerns about how can the law actually prevent them.

And what we see with ISIS in particular is what I concluded in a research publication this year is that hierarchal approach, whereby if the corporate part, it's run like a company, which is similar to the how the IRA was financed in the 40s, 50s and obviously until the Good Friday Peace Accord.

MARIOS SIATHAS: Okay. You said, Nicholas, I will stay in the social media, another question. And anyone can answer this one, as well. Through social media, don't they get the people that not knowing finance, without knowing financing terrorist act?

NICHOLAS RYDER: Yeah, that is true and we've seen some recent cases in the UK where the organized criminal or terrorist will deliberately target people over 65, people over 70, who are quite new users to the Internet. So we are seeing money laundering schemes and also fraudsters deliberately targeting a source who you would call high risk Internet users.

MARIOS SIATHAS: Mm-hmm. Yep. Somebody else on this social media use? To add? Okay, let's proceed to the next question. Stefan, in the US, what sorts of mechanisms are in place by both the IRS and the Securities Exchange Commission to counter money laundering? And what does the Foreign Corrupt Practices Act entail?

STEFAN CASSELLA: Well, the SEC, the Securities and Exchange Commission can sanction firms and issue disgorgement orders, but it must rely on law enforcement agencies to bring criminal prosecutions and to file civil forfeiture complaints. Securities violations, however, are predicates for our money laundering statutes, and that means all of the law enforcement agencies, including the IRS, can open criminal investigations based on the laundering of the proceeds of securities crimes.

So criminal prosecutions for money laundering in securities cases, are therefore, not uncommon. And the convicted defendant, in such a case, would have to forfeit all the property involved in the money laundering violation, the proceeds of the securities fraud or anything else that was used to commit the laundering offense.

As I mentioned earlier, if no criminal prosecution is possible, that is the perpetrator is dead or he's a fugitive or some other reason, a criminal prosecution is not in the offing, we can recover the property involved in a money laundering offense through civil forfeiture and that is extremely common.

In the Bernie Madoff case, that everyone would know about, I'm sure, one of the perpetrators was deceased and a lot of the money, over a billion dollars, was recovered through non-conviction based forfeiture.

The Foreign Corrupt Practices Act, the FCPA, is part of the Securities and Exchange Act and its best known provision, probably, is the one that makes it an offense for a US person to make a payment to a foreign official for the purpose of obtaining business.

But more directly related to AML issues, the FCPA also requires companies to make and keep records that accurately reflect the transactions of the corporation that they're supervising and to maintain internal accounting controls, and these records, of course, are very, very important in terms of tracking historically transactions that were part of money laundering and terrorist financing.

Many companies, in fact, are taking additional steps to reduce their exposure by employing services of due diligence companies, that are tasked with identifying government officials who might be embedded in businesses not identified as government officials, but they are accepting payments in this indirect way. So the FCPA, therefore, is part of the broader picture.

But I think the most important point is that people do launder illicit proceeds through securities, so the securities can be both the instrument by which the money laundering takes place, and the securities fraud can be the criminal act that generates the criminal proceeds in the first place, such as insider trading and so forth.

MARIOS SIATHAS: Okay. Let me go to Roy and ask, Roy, how can parliamentarians contribute in the fight against money laundering? Some would say that parliamentarians are part of the problem. So? What's your opinion here?

ROY CULLEN: Yeah, that's a good question. In fact, a few years ago, I was on a panel in Ankara in Turkey dealing with political financing, how to make it more accountable and transparent. And at the end, someone in the group, in the audience, if you like, posed that question and it's a good question. It caught me by surprise, but it's a good question.

Of course, we need to stand back a bit and look at, if you look at government, the different elements of government, you have the executive branch, the legislative branch typically, and then the judiciary. Whether you have a Westminster model government or a Presidential system, typically that's the way it's cut.

Of course we have parliamentarians that are corrupt. In the group that I'm involved with, GOPAC, the Global Organization of Parliamentarians Against Corruption, these are people

that are committed to the fight against corruption and money laundering and they see the devastation it causes to their citizens, leaving millions of people in abject poverty, while the leaders are stuffing money into Swiss and Canadian bank accounts.

What we believe there is a particular role for parliamentarians to hold the executive branch to account. My view is that a lot of the corruption and money laundering occurs at the executive level. These are ministers and members of the cabinet who have a lot of the levers of power. These are the people that, in some countries, will deny or approve a mining project or an oil and gas project.

So, it's the executive branch that parliament legislature is meant to hold to account and push for greater transparency and accountability. So that's where we believe that parliamentarians have a big role to play. And one of the things we do, is we try to convince parliamentarians of how they can use that power, particularly over the purse strings.

In most countries, legislators, if you look at the US Congress, if you look at many, many models, the US, the legislative branch, has a lot of power over the purse strings. So, they can use that to hold the executive to account. And we've had a lot of success with parliamentarians around the world and bringing in legislation or through a question period, or through various mechanisms, engaging the media, where parliamentarians have a lot of leverage to bring to light where the executive branches of government are not really following through, let's say, on commitments they've made under the convention against corruption or commitments they've made to the FATF, so we think there's a big role. Yes, of course, there are legislators that are corrupt. We don't invite them into our group and we have some ways of vetting that, but yeah, so we think there's a big role and we've seen how parliamentarians can be very active and progressive in this area.

MARIOS SIATHAS: Okay. Nicholas, coming to you now, what are the changes brought about in the EU's Fourth AML Directive?

NICHOLAS RYDER: The biggest change which was implemented by the Fourth Directive, which the UK implemented in June this year has been to incorporate the updated and amended Financial Action Task Force recommendations from 2012, but broadly speaking, the directive seeks to enhance, for example, and to re-emphasize the risk-based approach, how it puts more onus and obligations on the reported entity.

It re-emphasizes again, as we discussed earlier, customer due diligence or know your customer or know your client issues, beneficial ownership, and also in terms of record keeping, as well. So really the Fourth AML directive, within the UK scenario, seeks to cover some of the gaps and anomalies that exist with the 2007 Money Laundering Regulations.

But what we tend to find from a UK point of view, is that the, given that the primary law under the Proceeds of Crime Act normally exceeds the obligations of the directive, any implementation of the EU directive is what we normally call gold plated. That doesn't make the UK laws better than other jurisdictions, that's open to debate and conjecture.

But, of course, we've now seen a Fifth proposed directive, and one of the issues I'm looking at currently is the use of virtual currencies and some of my colleagues are. And that is still not governed yet by the Fourth, so if a fifth directive is implemented, and the UK, pending the Brexit negotiations over the next two years, it will be intriguing to see if or not the UK does implement the regulation of virtual currencies part of that format.

What makes things a little bit more complicated in the UK is that we have an additional layer of regulation, which is the financial conduct authority and the so-called city regulator, they also have their own money laundering rules, as part of what we call their systems and control handbook. So in addition to the EU directive, reporting entities in the UK both authorized by the FCA also have to comply with these obligations as well, and that's where the big fines can be imposed by the city regulators, like we mentioned to you earlier in the webinar.

MARIOS SIATHAS: Okay. Stefan, since it was mentioned again that digital currency, I'll direct this question to you, then following, the others can answer as well. What have the authorities done or are doing to prevent the use of bitcoin to finance illicit activities or the purchase of illegal goods? And also, what sort of problems have emerged from the need to regulate a currency that in spirit was designed not to be regulated?

STEFAN CASSELLA: Right. Well, it does present a substantial challenge. There have been criminal prosecutions in the United States. The most famous being of Mr. Ulbricht and the Silk Road involving the use of bitcoins on an Internet based scheme where the bitcoins were used to finance various kinds of illicit activity from drug trafficking to human trafficking to the distribution of child pornography.

So there have been prosecutions that involved the use of digital currencies. What's fundamental, though, is the legislation has to be updated to include such digital currencies within the definition of funds or money or more monetary instruments, as those terms are used in various statutes and regulations. Otherwise, our existing laws are not going to apply when these new currencies are implemented or used.

That applies not only to bitcoins but to things like electronic gold, store value on other media, whether it be a physical card or in a telephone and so forth. We have a lot of regulations that relate to the movement of currency in or across the border from the United States to another country.

The purpose of those regulations is not to stop the flow of the currency, but to monitor its occurrence so that you can take any amount of money out of the country or bring it into the country that you want, but if it's more than \$10,000, you must report this to create a paper trail. Well, how does that apply to digital currency on a store value card or to a Bitcoin?

On the one hand, the regulations need to be update to make sure they apply to such currencies. On the other hand, how do you detect it? How do you detect someone moving money in or out of the country on a store value card or on his cell phone? Do we need new

technology at the border? Do we need other means or is it simply impossible to prevent the flow of the money?

After all bitcoins don't cross the border physically. People transfer them electronically using their tablets or their laptops. So those are the challenges it presents. We do have to update the laws, but we also have to recognize that the technology makes the traditional way of enforcing the laws somewhat anachronistic.

MARIOS SIATHAS: Roy, do you want to say something on this as well?

ROY CULLEN: No, I won't comment further. I just wanted to maybe, if I could, pick up on an earlier point Stefan made about the corruption of foreign officials.

We, in Canada, the government that I was involved with, we brought in something, a similar act. The Corruption of Foreign Public Officials Act. Frankly, though, we didn't put enough resources there and the government that followed us, in fairness, they put more resources into the RCMP, actually, and our intelligence agencies to actually prosecute these cases.

A lot of it comes through whistleblower information, which is followed up and in some cases, substantiated. And we've had a number of prosecutions, and as a result, I think many corporations in Canada are looking at their ethics policies and procedures, their compliance procedures, and beefing up their side because they know that they're exposed if they don't do that. Because there's been a lot more activity on this front in Canada as well.

With respect to bitcoin, I'm afraid I haven't really studied that in any depth and good luck to those that are.

MARIOS SIATHAS: Nicholas? Do you want to say anything on bitcoin technology? Add something?

NICHOLAS RYDER: I think Stefan has clearly outlined some of the concerns. If I could just come back to a point that Roy made briefly about the corruption of foreign officials and so on.

We've seen with the UK Bribery Act 2010, the Serious Fraud Office beginning to flex its enforcement muscles, but not through where you have criminal prosecutions, but through what we call deferred prosecution agreements. So we have Rolls Royce recently and the half a billion-dollar fund that they've paid.

So what we're seeing I think in the UK is more and more active enforcement from the government that hopefully tackle corruption and bribery as well.

MARIOS SIATHAS: Mm-hmm. Let me come to a question related to tax here, since we're on Taxlinked as well. We have a couple of questions on the chat here, so first question: Explain the use of money laundering for tax evasion and avoidance purposes, please. So how do you explain the use of money laundering for evasion, for avoidance. Let me go to Stefan.



STEFAN CASSELLA: Money laundering can be used to disguise the fact that you had any income at all. In tax evasion context, what we're talking about is not laundering the proceeds of tax evasion, but concealing or disguising your income so that you pay no taxes.

And we've seen that quite a bit in the Russian examples, where money that is earned in Russia is disguised as being funds from another source, so that the corporation or the individual or the oligarch is not paying taxes and the money is being transferred out of the country and sort of a flight capital context so that no taxes are paid.

That's the focus, I think. We see that all around the world, really. It also dovetails with public corruption and kleptocracy. Foreign leaders who are corrupt and then not only not paying taxes on their money, of course they're stealing money from their local population.

So the notion is, money laundering techniques, which are used to conceal or disguise one's association with money are not being used only to conceal or disguise their association with criminally derived money, but they're association with legitimate money, so that it's not taxed.

MARIOS SIATHAS: Okay. Roy, anything to add on this?

ROY CULLEN: Yeah, just that the work that I do with parliamentarians on fighting corruption and money laundering, we see the two as inextricably linked. I mean, if someone is paid a bribe, they're not going to declare it on their income.

In fact, one of the big issues we had in Canada, when we brought in our anti-money laundering legislation, was the concern of citizens, through their members of parliament, through their senators, of the potential sharing of information with tax authorities in Canada and elsewhere and concerns around the privacy of information. So we had to, it was like walking on eggshells, but we convinced parliament and Canadians that we would be very sensitive around that.

Yeah, the two are, inextricably linked. If you're taking bribes, you're not declaring it as income. How those authorities work with each other, I'm not sure, but hopefully there's at least some degree of collaboration.

MARIOS SIATHAS: Okay. Nicholas?

NICHOLAS RYDER: I've got nothing to really add apart from just emphasizing that this an issue that the UK government are now beginning to take quite seriously and there are various proposals within the Criminal Finances Act to criminalize money launderer links into tax evasion and tax avoidance.

The key issue I have here is enforcement, are the provisions going to be enforced by revenue and customs or other regulatory bodies, because the UK tends to have a rather inconsistent enforcement strategy towards breaches of financial crime or economic crime,

so that would be the key issue for me about some of these issues that Stefan and Roy have alluded to.

MARIOS SIATHAS: I think this enforcement is going to be an issue on all of these new regulations, in making sure that several authorities talk to each other as well. Another question I have here on the chat: How government can track their taxpayer investment and assets in other country where taxpayer is using a second passport as their identity.

Basically, that relates to the passport selling for residency that we've seen in the recent few years. So how can we control the taxpayer's investments and assets in other countries if the taxpayer is using a second passport as a form of an identity?

This, I guess this has to do with know your client as well issue and AML issues as well, in general.

ROY CULLEN: I can't speak to the question of the passports, although I know that would be an important question, but the government I was involved with, we brought in a procedure with people filing income tax returns. There is a question now on every personal income tax return that a Canadian files in Canada, is, "Do you have assets outside of the country?" And so you have to say, "Yes" or "No."

And of course, it doesn't, people can lie, naturally, but what it does mean is that it forces people to make a declaration one way or the other. Because in Canada, we tax, it's based on residency. If you're considered a resident of Canada, you're taxed on your world income. So you have an obligation to declare your world income. And of course you get tax credits, et cetera.

We just felt that put the burden, a bit of the onus, on the taxpayer to declare if they have foreign assets. They couldn't come back later and say, "Well, gosh, I didn't realize I had to declare that or pay tax on that income." But with respect to the passport side, I'm not familiar with that aspect of it.

STEFAN CASSELLA: But on that point, one thing that we in the United States have been asking our Congress to do for some time now, is to close a glaring loophole in our International Money Laundering statute. The statute right now makes it an offense to send any money, whether derived from a crime or legitimately derived, out of the country for the purpose of promoting or committing another crime abroad, or another crime in the United States. And omitted from the list of crimes that you could be accused of promoting is tax evasion.

It seems to me that if it's a crime to send money out of the United States for the purpose of bribing a public official, for the purpose of financing terrorism, or for the purpose of buying drugs to sell, it should also be a crime to send money out of the United States for the purpose of committing tax evasion. And that right now is not an offense under our statutes, so we've been trying to get that fixed.

MARIOS SIATHAS: Okay. Nicholas?

NICHOLAS RYDER: It's not an issue I'm particularly familiar with really, so I really wouldn't want to add anything to what's already been mentioned.

MARIOS SIATHAS: Okay. Very good. Do you want to tell us something, because we are closing in about five minutes maximum, from what I see on time here. Do you have some closing remarks? Nicholas? Do you want to say a few things on the, I guess, challenges that you see in terms of, because you have legislation, you have rules, you have parliaments, governments, but then you have people who actually have to carry the task of proper compliance in AML. What challenges do you see these people facing?

NICHOLAS RYDER: I think that the challenges that the people in the compliance sector within the UK are going to be facing are more and more forms of regulation.

So the reaction will be, well, costs will increase, compliance costs will grow, sanctions will increase, so what we're seeing by the financial conduct authority is what it calls its credible deterrence strategy, which means that if they feel a firm has breached some form of AML compliance, they will fine the bank or firm and also the money laundering reporting officer as well.

So that can have a catastrophic effect on that person's well-being and their livelihood. So I think we're going to see, with the Criminal Finances Act and more proposals published than generally this year, more and more forms of compliance, and the issue then is about proportionality in terms of costs and whether or not the sect that is willing to carry on acting as a financial policeman.

MARIOS SIATHAS: Okay. Roy? Anything to add on the challenges of the actual people who are doing the compliance jobs? The challenges now?

ROY CULLEN: One of the things that we've done at GOPAC, the Global Organization of Parliamentarians Against Corruption, by the way we have membership in 50 countries in all reaches of the world, is we produced an anti-money laundering action guide, I'll hold it up here. It's an Anti-Money Laundering Action Guide for Parliamentarians and it's in our three official languages, English, French, and Spanish.

The purpose of this is money laundering can be very technical and so for parliamentarians, we have other task groups looking at parliamentary conduct, the compliance with the UNCAC, the United Nations Convention Against Corruption, but this guide tries to demystify money laundering for parliamentarians so if they get up in their chamber, their legislature and they attack the government, for example, for not doing enough, and someone asks about tips or politically exposed persons or layering or smurfing, so we wanted to make them more familiar with the terminology of money laundering, and also in this guide, we show them how it's done.

And also then, what are some of the solutions. So we work closely with the FATF, with Interpol, with the World Bank, the IMF, and UNODC and we came up with this guide and so I think it's been a useful tool for parliamentarians, so when they take on this challenge, at least they're sort of briefed on some of the aspects of it that are, in many cases, quite technical.

So we're hoping that this is a useful tool. In fact, we've seen it has been and so we're going to continue on with initiatives such as that.

MARIOS SIATHAS: Thank you, Roy. Stefan? Any final remarks? Anything you want to say?

STEFAN CASSELLA: Yes, I think that the challenge going forward is to find ways in which all of us working together can overcome the hurdles that are presented by the concept of national sovereignty. Criminals act globally. They move money from country to country and jurisdiction to jurisdiction electronically or through couriers and they could care less about the existence of national borders.

Whereas we, in law enforcement and the regulatory industry, are required to comply with our own strict concepts of national sovereignty. Law enforcement in one country cannot send a subpoena to another. We have difficulty in enforcing each other's confiscation orders. We have difficulty even in asking other countries to freeze assets once they're identified. I can give an example of how it should work. Of how it can work in concept.

When General Abacha in Nigeria stole 4 billion dollars from his country, laundered that money through banks in the United States and then placed it in jurisdictions around the world, including France and Jersey, the United States was able to cooperate and obtain a non-conviction based confiscation order in Washington.

And then we took it to the Isle of Jersey in the Channel Islands and asked that it be enforced, and after applying Jersey law and being satisfied that concepts of due process were honored in the United States, the order was enforced and the money was recovered and ultimately will be returned to the Nigerian people.

Unfortunately, that's an example that is an exception to the rule. Generally, in my experience over decades the greatest hurdle to doing all the things we've been talking about for the past hour, is just getting cooperation from foreign jurisdictions and getting foreign courts to honor foreign process. We have to find a way of catching up with the way the criminals are able to operate with so much more flexibility and ease in this global economy.

MARIOS SIATHAS: Okay. So great. Thanks to all of you then. It was a pleasure having this discussion with you. Thanks to all participants to being on line with us for the last hour or so. I don't know if Mateo is joining us to close the session, but, Mateo are you here? Say the last words, bye bye from me.

MATEO JARRIN: Thank you very much, Marios for doing a great job moderating. Thanks, Stefan, Nick and Roy for being with us. I think it was a very insightful and useful webinar for our members.

Just a few admin issues to get out of the way, which I repeated at the beginning of the session. We have an audio recording of this event. It should be ready shortly. Also, we will have a full transcript of this event; that should be out within the next couple of weeks. We'll make sure to email all of you who signed up and attended this event, also the panelists, so you can share with your network.

So on behalf of Taxlinked, Masha and myself, just wanted to thank you and hope you have a great weekend.