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Multi-agency Strategies in anti-money laundering

“Multi-agencies” may refer to different enforcement agencies co-operating in both preventing and investigating and prosecuting money laundering. In addition it can refer to the use of a larger agency encompassing multi agency tasks and skills in one agency in this case tasked with fighting money laundering. This latter enlarged agency with broader powers is sometimes called a *“super agency.”*

2. Why use multi-agencies? There are two more obvious strategic reasons.

A.) Concealing, disguising and transforming the source and nature of laundered property may involve a number of different financial institutions and Designated Non-financial Businesses and Professions (DNFBPs). These legal persons are likely regulated; supervised and overseen for law enforcement by a number of different agencies due to the different nature of their businesses and their professional or commercial activity. An effective anti -money laundering approach needs to embrace the different areas of enforcement to best ensure co-operation and minimise duplication of investigations. In other words give a strategic overview; and

B.) Different agencies have different skills experiences and training that have developed over time to fit the activity regulated by the agency. These specialised skills and experiences are difficult or next to impossible to acquire in other agencies. When tackling a criminal money laundering strategy that covers a diverse area of commercial activity overlapping different agency jurisdictions then multiple officers with specialisations covering all the agency jurisdictions enhance enforcement.

Super Agencies

3. In some legal jurisdictions, the strategy has been to create and develop a *“super agency”* to provide the strategic advantages of a multi-agency approach. That is, for the two identified strategic reasons summarised as:

A.) suspicious money laundering activity over different commercial activities requires early co-operation and strategic overview for good enforcement; and

B.) different skills and experiences from diverse agencies working together can lead to better outcomes when money laundering activity extends over a number of different commercial activities.

4. The difficulty with super agencies is that it is, as always, people who above all must drive forward any new approach in anti-money laundering. Investigators and prosecutors need to be

provided with the right powers and resources to do the job. It is no good setting up a new agency and overnight expecting diverse groups of staff to develop the necessary team work and sense of pride that must underpin any successful law enforcement body. Any new agency would require huge investment in people and resources and there would be inevitable delay in forging a new identity and a suitable statutory framework. What is needed is a reliable and stable organisation backed by practical legal powers.

History of some Super agencies in the United Kingdom (UK)

5. The history of new agencies in the field of economic crime in the UK has been chequered and serves to assist in our discussions. In the United Kingdom, the Asset Recovery Agency (ARA) was quietly merged into the Serious Organized Crime Agency (SOCA) and abolished in April 2008 only five years after the ARA was established. SOCA itself was closed down in 2013 after only seven years in existence. Its operations were merged into a new National Crime Agency in October 2013.

6. SOCA was responsible for the UK's suspicious activities reports (SARs) via the UK financial intelligence unit (FIU) as well as for asset recovery after it merged with the defunct ARA. The National Crime Agency (NCA) is responsible for organized crime in five specific areas. That is:

- Child sexual exploitation;
- Modern slavery and human trafficking;
- Illegal firearms;
- Cyber-crime; and
- Money laundering.

It is still early to say how effective it may become and there has been limited open source feedback so far. There does seem to be some positives. One observation is that my suggestion that much time can be consumed by new agencies before they can be effective stands true.

Alternatively empower current agencies to work together better

7. Reliable and stable organisations already established should be available in most jurisdictions. These will be the existing prosecutorial authorities or enforcement bodies. Why not develop the current agencies giving them the multi-agency approach by a strong sense of partnership with memorandums of understanding between agencies and empowered sections within agencies dedicated to anti-money laundering? These agencies will have the benefit of the National Risk Assessment that every FATF/APG country must develop. This would inevitably include the Financial Intelligence Unit (FIU) of an individual jurisdiction.

8. In Hong Kong the existing agencies have developed anti-money laundering expertise within sections that have a particular exposure to this area of crime. These sections then have recourse to legal advice from the Department of Justice in sections where the counsel have experience in

prosecuting money laundering and related offences and legal actions such as asset recovery and corruption. The FIU in Hong Kong is jointly run by the Police and Customs and Excise.

9. Within the enforcement agencies they have both recruited and nurtured expertise in certain technical areas to help this approach. In particular accountants and other finance professionals who have worked in the private sector in securities trading and banking. These professionals can provide insights as well as technical skills. They can assist to quickly assess lines of investigation.

Methodologies

Debriefing past cases

10. A methodology that can be used in such multi-agency approaches is debriefing of current and historic cases. When this is done by joint teams from different agencies in collaboration it can be effective. This is because it gives the opportunity for an overview with persons who have expertise or experience in different aspects of a prosecution. During the overview process including discussions, the collaboration allows for an exchange of information. This is usually more practical and faster than exchanges that are done intra agency outside a team collaboration.

Information Sharing: both in multi agencies and super agencies

11. The NRA has created a joint money laundering intelligence task force (JMLIT) established in 2015 that seeks to co-operate with the private sector and relevant professional/regulatory bodies. It is intended to tackle high end money laundering. It has an Action Plan to cover four areas:

- Stronger partnership with private sector and other government agencies;
- Enhancing law enforcement response including developing new capabilities;
- Improving the effectiveness of the supervisory regime and options to ensure a risk based approach rather than a tick box compliance; and
- Increasing the international reach of enforcement agencies and information sharing with other jurisdictions.

This new approach is proving to work well and will be supplemented by the proposed provisions of the Criminal Finances Bill currently passing through Parliament.¹

12. The establishment of this task force reflects increased interest in public private intelligence sharing to fight financial crime. This initiative may be termed as a threat reduction initiative in the first instance. As it matures it may provide good investigatory and prosecution leads. There is a trend in using the private sector to detect and share crime intelligence. There are three reasons in respect of banks that have been identified:

¹ [Hansard 15 November 2016 Criminal Finance Bill 1st sitting](#)

- a) Banks will be far more effective in identifying and reporting suspected financial crime if they share information. If they act on their own then they become individual silos and criminals can take advantage of that;
- b) By partnering with technology companies banks can more efficiently and effectively identify suspicious transactions; and
- c) Financial intelligence is more robust when information flows between private and public sectors.²

13. Financial intelligence sharing is a leading developmental area of anti-money laundering policy and operational risk mitigation. The Royal United Studies Institute (RUSI) based in London, the UK has earlier this year established a program to share research and insight from the different models of financial intelligence sharing and public-private partnership being developed around the world.

14. Tom Keatinge, Director of RUSI's Centre for Financial Crime and Security Studies has stated: *'There is very strong private sector and law enforcement interest in the potential of public-private partnerships to disrupt financial crime and achieve a more effective response to money-laundering risk. Without such collaboration, financial crime-fighting outcomes will remain less effective than they might otherwise be.'*

15. One of the joint sponsors of the program at RUSI is HSBC. *'The future of financial crime risk management will be determined through innovation in public-private information sharing being tested in different jurisdictions around the world. It will be key to landing on a sustainable and more effective global system to catch bad actors.'* Jennifer Shasky Calvery, Global Head Financial Crime Threat Mitigation at HSBC.

16. Hong Kong is conscious of this trend in methodology and adapting to it in a proactive manner. The Commercial Crime Bureau is taking a similar initiative to the JMLIT and embracing public-private partnership (PPP) in tackling financial crime. A similar intelligence exchange platform is being built with a view to strengthening concerted efforts to curb serious fraud and money laundering.³ This trend though is not dependent on having a super agency. It can be as it is in Hong Kong part of deeper co-operation within established agencies. This cooperation has included sending an officer of the Commercial Crime Bureau (CCB) to be seconded for a short period to the JMLIT in September last year.

Conclusions

17. A new agency to prosecute economic crime is not required. It would have little hope of being adequately resourced as funding would still have to be applied to most if not all the established agencies. (It may be that one or two existing agencies would be made defunct or

² How to Beat the Money Launderers, David Fein, General Counsel Standard Chartered Bank, Financial Times, 22 November 2016

³ CCB visit Singapore, Police Off Beat (Official news publication of the Hong Kong Police Force) 15 March 2017

merged to save funds.) Years of hard work would be required to develop into a world class body and to gain recognition within the jurisdiction and world-wide.

18. My preference is to develop a multi-agency approach and strategy as opposed to a super agency. In addition to ensure adequate powers for anti-money laundering crime cases. This will involve modern legislation that is adapted to accommodate changes in criminal methodologies and new technologies. The existing prosecutorial authorities can be used as the lead organisation for all serious crime prosecution. This is especially so when you already have a respected and established prosecutorial authority. There will be a cadre of experienced staff present in the agency. This way continuity and stability are ensured.

19. Growing specialist divisions within the established agency to take responsibility for prosecutions developed by the multi-agency approach will allow adaptation to changing trends in methodology and technology. For example, the PPP information sharing in conjunction with the STRs. It is these specialist divisions that can participate in suitable information sharing platforms like the JMLIT. As part of the established agency consistency and continuity are maintained.

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