

## **Scenario**

A formal letter of request was received by the United Kingdom Central Authority (“UKCA”). The letter of request provided that an operation in the requesting state is underway. The operation is aimed at dismantling a large criminal organisation headed by the suspect (“S”). It is believed that S controls several funds in the requesting state and abroad, as well as companies and holdings. It is alleged that S used complex business activities, including complex accounting schemes, to conceal the true purpose of the criminal organisation which was, amongst other things, to launder the proceeds of tax fraud and other criminal proceeds on a very large scale. The letter goes on to request UK assistance in restraining S from dealing with a number of London accounts which are held by funds/ companies controlled by S.

In this case it was information provided by the UK-FIU that led to the request for assistance. A number of London banks had independently (and in accordance with UK money laundering legislation) made a Suspicious Activity Report to the UK-FIU as a result of their own concerns about the legitimacy of the monies and open-source awareness of the criminal case in the requesting state.

Before the Letter of Request was sent, police to police enquiries revealed that some of the monies in the accounts sought to be restrained by the requesting state were not actually located in England & Wales. They were however controlled by institutions in England and Wales.

Shortly after the UKCA formally referred the external request to the CPS, the application for a restraint order was made without notice and in Private. The restraint order was granted. The requesting state were then sent the copies of the restraint order and the order was personally served on S.

However, a month later, the CPS were notified that one of the account holders sought to apply to discharge the order.

## **Questions**

1. What options are available in your jurisdiction when a suspicious activity report (or report with similar purpose) is made to the police regarding

monies linked to overseas jurisdictions? Does your jurisdiction have any provisional freezing measures?

2. Does your legislation permit consequential freezing requests in third jurisdictions? To freeze property pursuant to an external request, does the property have to be physically located within your jurisdiction or is it sufficient if it is controlled from within your jurisdiction?
3. What are your disclosure duties when making the application to effect an external request?
4. What challenges may be made in your proceedings to freeze pursuant to an external request or enforce an external order?
5. What use can be made by a requesting state of witness statements (or information contained in those statements) served by applicants in the course of their application to discharge the restraint order?

6. Who bears the costs of freezing/ enforcement in your jurisdiction pursuant to an external request for assistance? Can costs issues ever be a bar to providing assistance to another jurisdiction? How are costs issues in mutual legal assistance cases resolved in your jurisdiction?

Gary Balch  
Head of Central Confiscation Unit  
Crown Prosecution Service (Organised Crime Division)

March 2009