

The RANE Insight Series Presented in Partnership with Exiger

The Hidden Risks of Trade Finance: Rooting Out Money Laundering, Corruption, Sanctions Violations, and Terrorism Financing

Conference Call Recap

Thursday, February 25, 2016

SPEAKERS

Nigel Coles, Managing Director, Exiger

During a thirty-year law enforcement career, Coles served with Merseyside Police in Liverpool, the National Criminal Intelligence Service (NCIS) and the Serious Organised Crime Agency (SOCA) in London, reaching the rank of Assistant Director. He undertook a wide range of detective roles including managing covert intelligence resources and heading-up the UK's national Financial Intelligence Unit responsible for developing intelligence from the suspicious activity reporting regime. In his current role at Exiger, based in the firm's London office, Coles is focused on financial crime compliance — with an emphasis on Trade Finance — and investigative operations. As part of his work at Exiger, Coles is a senior member of the HSBC Monitor's team.

John Cassara, Author and Industry/Government Consultant

Cassara began his 26-year government career as an intelligence officer during the Cold War. He later served as a Treasury Special Agent in both the U.S. Secret Service and US Customs Service where he investigated money laundering, trade fraud and international smuggling. He also worked six years for Treasury's Financial Crimes Enforcement Network (FinCEN) and was detailed to the Department of State's Bureau of International Narcotics and Law Enforcement Affairs. Cassara has authored or co-authored several articles and books, including *Hide and Seek: Intelligence, Law Enforcement and the Stalled War on Terrorist Finance*, and most recently, *Trade-Based Money Laundering: The Next Frontier in International Money Laundering Enforcement*.

Theodore S. Greenberg, President and Founder of TG Global LLC

Greenberg has been practicing law for over 40 years. He served in prosecutorial and managerial positions at USDOJ including Money Laundering Chief, Fraud Section Deputy and Acting Chief, an Assistant United States Attorney, and a member of the U.S. Delegation to the Financial Action Task Force. Greenberg served as the Deputy Independent Counsel (In Re Espy), and as the Court Appointed Independent Monitor in State of Arizona... vs. Western Union Financial Services, Maricopa County, Arizona. At the World Bank he was a Senior Counsel and Senior Financial Sector Specialist. He is the founder of TG GLOBAL LLC, which provides consulting services on anti-money laundering and terrorist financing regimes, corruption, OFAC and FCPA. Greenberg is an author of, among other works, *Stolen Asset Recovery: A Good Practices Guide For Non-Conviction Based Asset Forfeiture* and *Politically Exposed Persons: Preventive Measures For The Banking Sector*.

MODERATOR

David Lawrence, Co-Founder & Chief Collaborative Officer, RANE

Both the U.S. and European authorities have identified trade-based money laundering (TBML) as a growing threat, whether it's used to transfer illicit funds, get around sanctions, or finance terrorism. With comparatively little transparency or data around trade finance, the practice of manipulating invoices and misrepresenting prices, quantity, quality, or origin of goods as part of an import/export transaction has proved particularly challenging to stamp out. This has created serious risks for the banks that provide short-term financing (or letters of credit) to facilitate trade finance as well as the companies and suppliers involved in the deals. Three RANE experts with a wealth of experience in government and private practice spent an hour offering their insight into uncovering and protecting against illicit trade finance activity. Highlights from the discussion, which was co-hosted by Exiger, follow:

DEFINING AND MEASURING TRADE-BASED ILLICIT FINANCE

- John Cassara defined trade-based illicit finance as the process of disguising proceeds of crime, and moving value through the use of trade transactions and attempting to legitimize their illicit origins. He admitted that the term was very broad, and includes things like tax evasion and incentive fraud, capital flight, evading capital controls, barter trade, underground financial systems, and more.
- “A lot of talk has been made about trade finance that isn’t really trade finance,” Nigel Coles said. “It’s really trade-based money laundering — the exchange of large amounts of money across borders by any means relating to trade.”
- Theodore Greenberg recalled several specific instances of trade-based illicit financing. In one case, Colombian cartels purchased hypodermic needles for a fraction of a cent, transported them, and billed their purchaser \$25 each. In another case, a U.S. Customs agent noticed a significant amount of gold being imported from Guyana, a country where there happen to be no gold mines. In a third episode, criminals were purchasing construction equipment at regular invoice price and selling them in Colombia for half the price, destroying the local construction industry in the process. “The point is just to get the money moving, and any transaction that achieves that can be used for illicit financing,” he said.
- Cassara added that, compared with the hefty resources that have been devoted to combating more traditional money laundering since September 11, 2001, illicit trade finance has been relatively ignored until recently. The U.S. government has never systematically investigated it, despite hundreds of billions of dollars in illicit value being moved in and out of the United States every year.
- “There are vast sums of money and commodities being transferred illicitly,” said Coles, “but they have to touch the legitimate banking world. They have to come into the light at a certain point. And people have to be alert to see it.” Often, funds are transferred by firms or corporates, and banks have to understand the human beings behind the companies involved — their clients, and their clients’ clients.

BEST PRACTICES FOR SPOTTING SUSPICIOUS TRANSACTIONS

- “There’s no great secret to combating trade-based money laundering,” Coles argued. “Follow standard AML financial crime practices,” including having effective compliance programs, due diligence, and really understanding the client. It is also crucial to minimize the disconnect between those conducting due diligence and those reviewing transactions.
- It is important to maintain an open, ongoing dialogue between business people and compliance departments. “Sometimes business people get so carried away with their interest in launching a new product that the compliance department is the last ones they go to see,” Greenberg said. “That can’t continue.”
- Financial institutions must understand various methodologies in trade-based money laundering review. Cassara advised companies to learn red flag indicators, and identified the Financial Action Task Force and Asia-Pacific Group as organizations that publish guides to such red flags. “The bottom line, though,” he said, “is that you’re looking for anomalies. If something doesn’t make economic or market sense, take a look at it.” He also noted the existence of commercially available programs that compare transactions to market prices and flag suspicious entries.

TECHNOLOGY VS. THE HUMAN FACTOR

- Greenberg warned against becoming reliant on electronic techniques for identifying suspicious transactions, as is common with other types of fraud and money laundering prevention. “So far, technology has not caught up with the deed in terms of trade-based financing,” he said. “Rules and procedures in financial institutions have to be notched up to ensure that there is proper escalation on suspicious transactions, and that will only work by a hands-on process.” He also added, “Some of the process can be mechanized, but the minute a bell goes off, papers should be grabbed and people should be sitting down with the compliance department.”
- A personal touch allows reviewers to explore suspicious activity more deeply. “People file reams of FTRs [Financial Transaction Reports] when a transaction hits \$10,001, but they never look at what the underlying components are,” Greenberg explained. A human working on the case could inspect facilities, get to know a customer’s business, and be better able to identify suspicious activity.
- Coles emphasized the importance of having knowledgeable and trained reviewers. “They need to understand different geographies and sub-regions of the world, what they’ll be importing and exporting,” he explained. “Sometimes they’re too easily satisfied by an implausible explanation — their intuition was right, but they didn’t follow through.” He added, “The bad guys are not stupid people — they’ve got time to work out the controls. So don’t be too easily satisfied.”

TRAINING EMPLOYEES FOR EFFECTIVE SCREENING

- Coles recommended that training involve not just a discussion of what trade-based money laundering is in theory, but also real examples within the institution itself so that it

resonates with trainees. “Real-life scenarios work great, because the scales drop from people’s eyes and they start to get it,” he said. “Too much training is formulaic — people’s eyes glaze over.”

- Many companies, and particularly financial institutions, are not updating their training as often as needed, Greenberg warned. “The general rule of thumb seems to be that people get trained once a year, and then they’re urged to read updates as they come out. That’s not adequate,” he argued. He also reinforced Coles in emphasizing the need for training that uses recent, real-life examples.
- Training is crucial not just for reducing the likelihood of trade-based money laundering; it is also a critical way by which an institution’s leaders can reduce personal liability if such illicit activity happens. Greenberg noted that it demonstrates that the leadership understood the risks, chose to take them on, and took steps to mitigate them.
- Access to new and developing information is vital for keeping reviewers knowledgeable. Coles noted the existence of a number of proprietary databases that can be used, but open-source searching can work as long as employees are properly trained. Cassara suggested that reviewers should regularly follow guidance from the Financial Action Task Force and similar regional bodies.

INVOLVING SENIOR MANAGEMENT IN TRADE FINANCE RISK MANAGEMENT

- Operating executives and board members of larger institutions should be getting the message that, when something goes wrong, they will come under scrutiny. “More and more,” Greenberg said, “I think you’re going to see prosecutors looking at what the board knew and when they knew it.” Risk-analysis issues, especially regarding foreign trade, need to be discussed very closely with the board so that they know what they’re signing on to and to what extent risk has been mitigated. Senior management needs to communicate downward that risk mitigation is a priority.
- Coles noted that many C-suite executives are becoming more risk averse, possibly because they are more individually liable. “Completely de-risking is usually not an option, but you can manage risk if you understand it,” he added. A critical issue with trade finance risk so far, he continued, is that up to now people have largely ignored the risks and forged ahead blindly.

To learn more about trade finance and money laundering from one of the expert speakers, please contact RANE for an introduction.

RELATED READING

[Trading with the Enemy: Trade-Based Money Laundering is the Growth Industry in Terror Finance](#), US House of Representatives Committee on Financial Service, February 3, 2016

[Trade Based Money Laundering](#), Financial Action Task Force, June 23, 2006

[APG Typology Report on Trade Based Money Laundering](#), Asia/Pacific Group, July 20, 2012

[Improving Global AML/CFT Compliance: On-going Process](#) (High-Risk Jurisdictions), Financial Action Task Force, February 19, 2016

[Best Practices on Trade Based Money Laundering](#), Financial Action Task Force, June 20, 2008

[Banks' control of financial crime risks in trade finance](#), Financial Conduct Authority, July 2013

[Lawmakers eye crackdown on illicit trade](#), *The Hill*, February 18, 2016

[Guidance on Combating Trade-based Money Laundering](#), Hong Kong Association of Banks, February 2, 2016

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