Trade based Money laundering

Summary

- Trade base money laundering (TBML)
- examples of TBML
- The “techniques”
- Red Flags

TBML

- As per PWC report January 2015 ; **80 % of illicit financial financing flows from developing countries are accomplished through trade-based money laundering**

- Banks have a role to play in minimizing the impact of trade-based money laundering by reviewing the trades that are financed and conducting due diligence checks on customers to determine the legitimacy of those trades. Regulators are increasingly focused on ensuring that banks identify where the goods are being shipped; what transportation is used; and whether the goods are potentially used for dual use purposes.
- **Corporates** need to ensure that they are not dragged into these schemes, sometimes willingly or unwillingly

What is Moneylaundering

- Money laundering is “the process by which one conceals the existence, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate.”
- This process generally occurs in three stages. Placement involves the introduction of criminally derived funds into a legitimate enterprise (e.g., depositing cash into a bank account or investing in a company). Layering involves the movement of criminal proceeds to distance them from their source (e.g., routing money through multiple bank accounts). Integration involves the re-introduction of criminal proceeds into the legitimate economy in a way that makes them appear legitimate (e.g., purchasing assets).

TBML

- That doesn’t mean each and every transaction which deviates from the norm is TBML however it certainly requires extra due diligence when noticing a red flag and you should and need to be able to explain why something is or isn’t correct

- A client could be dragged into a transaction which from their side would look quite normal but in the bigger scheme of things could be part of an elaborate tax evasion scheme, therefore it is important not to ignore what happens after a transaction is completed at your clients side (refrigerators to the north pole, paid under an lc deserves a proper investigation)

What is common in line of business?

when dealing with new clients, new markets or products, it is important to know what is “normal”, remember if it sound to good to be true it usually is and it surely helps to make the right decision if you know your client

- - a private individual now wanting to start dealing in oil ? (unless it is to buy petrol at a bulkdiscount for his Maserati)?
- - company’s buying at prices well above known * market prices
- - “non logical” paperwork under an L/C ?
- A corporate working in with a third party making the payment

* Not always do we have a public pricing available but if we do we should compare it !

Common TBML techniques

- Under invoicing
- Over invoicing
- Multi invoicing
- Over and under shipment
- Fraudulent description of trade goods
- Phantom shipment
- Transfer pricing

Under invoicing

- Company X ships 10 computers to Company Y worth $1,000 each, but invoices Company Y for 10 computers worth $500 each. Company Y wires $5,000 to Company X, then resells the computers to a retailer for $10,000, pocketing $5,000 of criminal proceeds. This scheme allows Company X to transfer value overseas to Company Y, and both companies to point to apparently plausible trades to justify the transaction.
- Although from a book keeping perspective this would create a loss, the end result is money which now has a supposedly “clean” origin

- Second scenario, export of potatoes, these are invoiced under market-value but the freight charges are overstated, this usually to avoid paying taxes, duties or to evade import limits
- Please note this can be already done with differences in the range of 5 to 10 % making it quite difficult to discover

Over invoicing

Exporter inflates amount invoice when exporting under l/c or overstates quantity

Company X ships 10 computers to Company Y worth $1,000 each, but invoices Company Y for 10 computers worth $2,000 each. Company X pockets the $10,000 difference between the invoiced price and the “fair market” price, which constitutes the proceeds of crime. This scheme gives Company Y an ostensibly legitimate reason to wire $20,000 to Company X, including an extra $10,000 of dirty money that has been laundered into clean funds.

- To apply for Tax incentives when exporting certain goods
- Evading capital controls by placing “overpaid” funds into an offshore account
- Money laundering by creating artificial profits

- As an exporter or importer might be abused in such a scheme without knowing it!

Multi invoicing

- Transaction is “sold” multiple times on paper under various instruments
- 1 l/c receives the actual title documents, another one receives copies (and this can be replicated multiple times)
- Please note that this does not automatically mean that every lc requesting for copy docs is trying to over-invoice there could be valid reasons (shipment only takes 2 days and it does not make sense to present original shipping docs under an L/C)

Over / Under shipment

- Similar to over or under invoicing however instead of doctoring the amounts the quantities are manipulated
- to avoid import duties
- to avoid lc charges

- Please note that overshipment can be used for legitimate purpose to compensate for for instance breakage during shipment

Fraudulent description of goods

- - for instance shipping goods appearing on the Cites list (such as endangered woods)
- - dual use i.e. misrepresenting goods to avoid discovery
- - tax incentive i.e. on paper ship goods which are eligible for a tax incentive or subsidies
- - foreign currency control, ship goods on paper which are allowed to import which otherwise would not allow for access to foreign currency
- Shipping scrap and pricing it at a premium by claiming it is A grade material

Trade Diversion

- Company A sells pharmaceuticals from the US to company B located in a so called developing country
- B sells pharmaceuticals back another party in US and sells the pharmaceuticals slightly under (Higher) US market pricing (so called parallel trade)
- US company sells aircraft parts to a European distributor who is supposed to sell them onwards to an European buyer yet sells them to Iran

Phantom Shipment

- No actual shipment by either only presenting non-title documents or even by falsifying shipping documents

- - pescanova case https://www.undercurrentnews.com/2015/04/09/bdo-pescanova-was-a-fraud-arranged-from-the-top/
- - Simetal case https://books.google.de/books?id=W8EV_yHkiv0C&pg=PA137&lpg=PA137&dq=simetal+fraud&source=bl&ots=l0OgfwjOSk&sig=3YaCWhLEIWGtMzXs2vE-N6pr23s&hl=en&sa=X&ved=0ahUKEwiajfv-ptrYAhXBC5oKHTB6BfcQ6AEIQzAF#v=onepage&q=simetal%20fraud&f=false

Transfer pricing

- Transfer pricing (by under or over invoicing) is a related party transaction, used by large multinationals as part of their tax strategy, as such, such pricing may **not** be in breach of any applicable law but the system can be abused (optimizing vs evading)

Red Flags

- Transaction flows to illogical countries/parties (crude oil to Saudi Arabia, cowmeat to India etc)
- Over extending letters of credit by amending, time and time again
- Mismatch on import and export leg when dealing with Trading companies (losing money on the export leg)
- Prepayments on high value goods to high risk counterparts or countries
- (Cash) payments from third parties not directly involved in the transaction

Red Flags

- Documents request do not evidence actual and correct shipment
- counterpart is vague about it’s line of business, ownership etc
- Background of client is not inline with the current business (consultants going into oil business)
- Public domain email addresses (hotmail, gmail, yahoo)
- Size of the business is out of line with the size of the company
- Logic of the shipment when shipping through various jurisdiction or entities
- Quantity/amount of the transaction in relation to the instrument (example high value goods under doc collection) or quantities which when looked upon closer do not make sense due to their sheer size (sugar equal to brazils annual production in 1 single shipment)
- “End user” is a freight company
- Discrepant documents under letters of credit evidencing over shipment

Red Flags

- Shipment not in line with lc (different ports)
- Complex trade structures which look overly complicated
- Incorrect packaging; 40 foot container for parcel of spareparts weighing 10 kilos
- High value goods ; precious metals/stones, electronics, cars
- Non standard terminology – irrevocable, assignable, divisible, confirmable, transferable lc
- Significant mismatch between goodsdescription on Invoice vs B/L

conclusion

- Use common sense

- Don’t be afraid to ask questions
- Know your client , know your business
- You should be able to explain !
- http://www.fatf-gafi.org/publications/methodsandtrends/documents/trade-basedmoneylaundering.html