Money laundering – What it is and how to avoid

When someone suggested to me that the introduction of washable bank notes in the UK could facilitate money laundering (ML), I knew then there was a need for this feature!

Because of the clandestine nature of ML, it is difficult to estimate the total amount of money that goes through the laundry cycle.

However according to UNODC statistics (2018) the estimated amount of money laundered globally annually is between 2 - 5% of global GDP, or $800 billion - $2 trillion in current US dollars. Though the margin between those figures is huge, even the lower estimate underlines the seriousness of the problem.

What is money laundering?

ML normally comprises three common steps: (i) Placement - obtaining the money or introducing it into the financial system in some way; (ii) Layering - transferring or concealing the source of the money through complex or multiple transactions and (iii) Integration - returning the money back into the financial world so that it appears legitimate

Some Common examples.

Bulk cash smuggling involves smuggling cash into another country for deposit into offshore banks or other type of financial institutions that honour client secrecy.

Real estate laundering occurs when someone purchases real estate with money obtained illegally, then sells the property. This makes it seem as if the profits are legitimate.

Trade-based laundering where invoices are altered to show a higher or lower amount in order to disguise the movement of money.

Money Remittance and Foreign Exchange (MR/FX) sector, involves the misuse of MR/FX businesses for laundering money.

Situation in Portugal

The overall economic, financial and social context of Portugal has been heavily affected by the 2008 global financial crisis. The financial sector has been particularly hard hit, with banks in Portugal facing deteriorating balance sheets and liquidity pressure.

The country is now going through a gradual recovery, but this situation has created vulnerabilities that could be potentially exploited by criminals. It has increasingly developed a diversified and service-based economy where tourism plays an important role and the real estate market shows stable growth. Due to its geographical position, Portugal is a transit country between Latin America and West Africa to the rest of Europe, which facilitates the flows of funds, including illicit funds.

The law in Portugal

Any party will be committing a money laundering offence when converting, transferring, helping or facilitating any conversion transaction or transfer of benefits, obtained by himself or herself or by a third party, directly or indirectly, with the purpose of concealing its unlawful origin or avoiding that the perpetrator or participant in said transaction is criminally prosecuted. Likewise, the same penalty shall apply to any party who hides the true nature, origin, location, disposal, movement or ownership of the benefits or of the rights related to the transaction.

The Portuguese legal framework on anti-money laundering (AML) and counter-terrorism financing has evolved under various legislative changes since 1994.

Perhaps the most important to the person in the street is Law 92/2017, of 22 August which states that is prohibited to pay or receive in cash in transactions of any nature involving amounts equal to or greater than €3,000, or its equivalent in foreign currency. This limit is €10,000, whenever the payment is made by natural persons not resident in Portuguese territory and provided they do not act as entrepreneurs or traders.

Payments made by the taxable persons relating to invoices or equivalent documents of a value equal to or greater than €1000, or its equivalent in foreign currency, must be made by means of payment allowing identification of the recipient, namely bank transfer, cheque or direct debit.

How Portugal Rates

Portugal published a ML risk assessment in 2015, which highlighted that the main ML predicate offences in the country are tax crimes, drug trafficking, fraud and corruption. It also identified vulnerabilities including: anonymous operations and transactions; informal transfer systems; the lack of knowledge of beneficial owners and existence of bearer securities; the lack of transparency in the real estate sector.

Action in Portugal

Portugal's comprehensive AML regime criminalizes the laundering of proceeds of serious offenses, including terrorism, arms trafficking, kidnapping, and corruption. Financial and non-financial institutions have a mandatory reporting requirement of all suspicious transactions to the Public Prosecutor regardless of threshold amount.

All financial institutions, including insurance companies, must identify their customers, maintain records for a minimum of ten years, and demand written proof from customers regarding the origin and beneficiary of transactions that exceed 12,500 EUR. Non-financial institutions, such as casinos, property dealers, lotteries, and dealers in high-value assets, must also identify customers engaging in large transactions, maintain records, and report suspicious activities to the Office of the Public Prosecutor.

Portugal's Financial Intelligence Unit was established in 2002 and operates independently as a department of the Judicial Police. At national level, it is responsible for gathering, centralizing, processing, and publishing information pertaining to investigations of ML and tax crimes. It also facilitates cooperation and coordination with other judicial and supervising authorities, both nationally and internally.

Identifying and preventing ML

For businesses, some tips to help identify possible ML are:

1. Has someone been vague or reluctant to talk about the exact sums of money involved in a deal, or who the investors are?
2. Have some unusual instructions or conditions been introduced into a deal? Find out why.
3. Has somebody contacted you out of the blue to express an interest in investing money into your company? Do your research. Do they have an ulterior motive?
4. Have there been sudden changes to your working relationship with partners or other businesses? Do some digging.
5. Has money been moved without a proper explanation of where it's gone and why, or has there been a request to use a different account? These are clear warning signs that you should act on.
6. Have assets appeared suddenly or has somebody floated the idea of making a loss? Also, if someone has asked to make payments in cash, you should immediately be on your guard.

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