

# Thinking about Crime

the money laundering consultancy



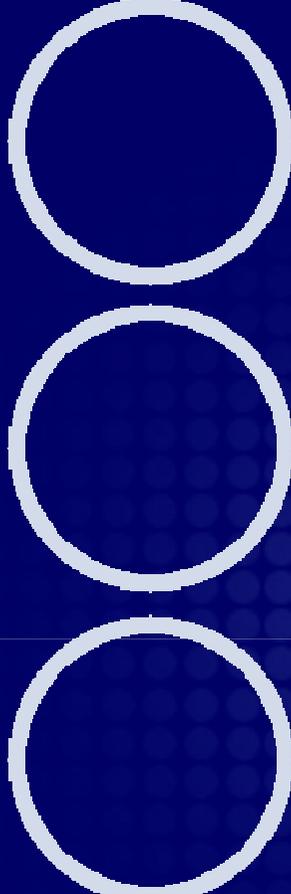


# Introduction to anti-money laundering

Presented in partnership with the  
Gibraltar Association of Compliance Officers

November 2014





# Today's agenda

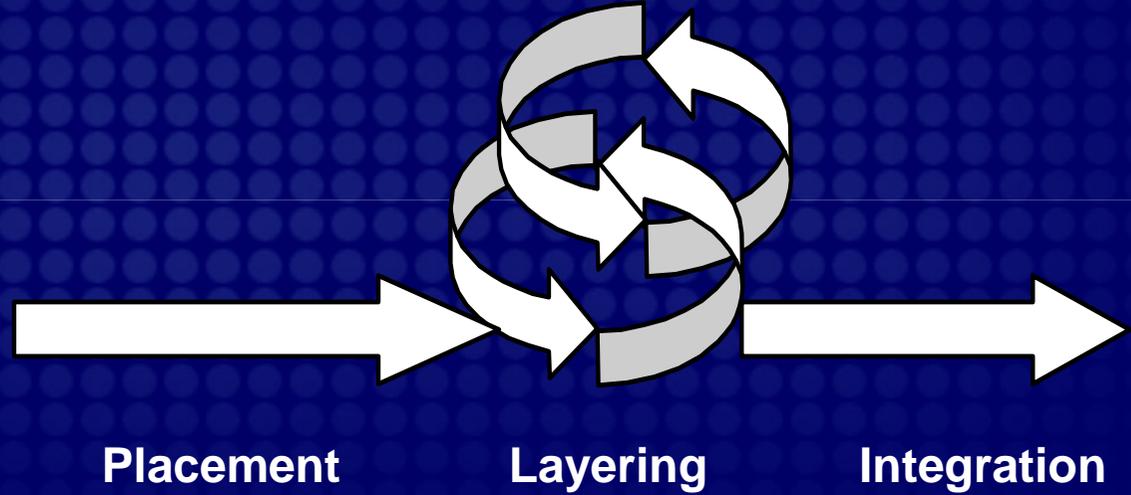
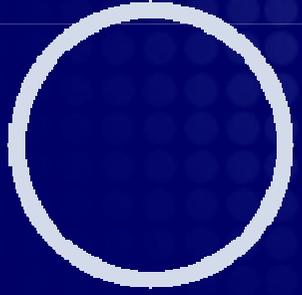
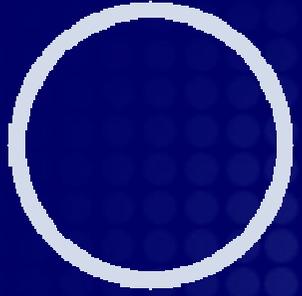
- Introduction to money laundering
- Gibraltar's AML legislation
- World AML bodies and their influence
- Why CDD is the key to it all
- Source of funds and source of wealth
- How do I know when I am suspicious?
- Record-keeping
- Colourful case studies
- Money laundering bingo

# What is money laundering?



- Money laundering is the process by which criminals attempt to conceal the origin of the proceeds of their illegal activities
- If successful, laundering:
  - allows criminals to maintain control over their criminal “earnings”
  - provides a legitimate cover for their source of income

# ○ The three traditional stages of money laundering



# ○ The three traditional stages of money laundering

○ ➤ **Placement:** moving criminal cash into the non-cash economy

○ ➤ **Layering:** carrying out numerous transactions, in order to muddy the audit trail and make investigation difficult

○ ➤ **Integration:** infiltrating the money into the legitimate economy in such a way that no-one will suspect (or be able to prove) its criminal origins

# ○ Why do criminals launder money?

- ➤ To spend it safely
- ➤ To avoid suspicion
- ➤ To avoid detection

- ➤ To avoid forfeiture
- ➤ To evade tax

- although smart criminals will always pay some tax

- ➤ To fund further criminal activity

# Why is money laundering wrong?

- Laundered money is transient – it is no basis on which to build a business or an economy
- It ruins the reputation of the financial institution and sector
- It gives criminals entry to legitimate institutions and enables them to take control
- It enables criminals to corrupt individuals at all levels of industry and government, giving them undue influence on decisions at the highest levels
- Ultimately, it can destabilise entire economies – e.g. Peru, Nigeria

# How big a problem is it?

➤ The IMF estimates that criminal funds account for 3.6% of the world's GDP

○ that's US\$2,100,000,000,000 a year...

○ .... or over \$67,000 [£43,000] a second

➤ Latest UK laundering figure is £57 billion per year

➤ Laundering is the world's third largest industry by turnover, after agriculture and oil

# Why target Gibraltar?

- o You are an active financial centre
  - o wide range of useful services
  - o big numbers (of clients and transactions) to hide in
- o You occupy a handy geographical position between continents
- o You speak the world's business language
- o You deal in two major world currencies
- o You have good international relations
  - o it is easy to move money into and out of Gibraltar
- o You are easy to get to – and a very nice place to visit!

# Neighbours...

## Between Spain and Morocco

- o smuggling of people, drugs and cash (and now pre-paid cards)
- o ships in the bay for refuelling and bunkering

## Spain

- o major drug entry point for cocaine, heroin and hashish
- o Marbella dominated by Eastern European organised crime groups (prostitution, kidnapping, extortion, etc.)

## Morocco

- o growing of hashish
- o people smuggling into Europe
- o Al Qaeda cells operating in Morocco have been linked to the 9/11 attacks in the US and the bombings in Madrid

# What is terrorist financing?



- The movement of terrorist property, which is:
  - money or other property likely to be used for the purposes of terrorism
  - proceeds from acts of terrorism
- Things to remember:
  - the amounts of money involved are generally small
  - terrorists make money in all sorts of ways – drugs, counterfeiting, arms trafficking, people smuggling, credit card fraud
  - there are several stages, e.g. make the money, gather it, move it and distribute it

# Gibraltar's anti-money laundering legislation



# Individual money laundering offences

- ★ Crime (Money Laundering and Proceeds) Act 2007, as amended
  - o Concealing or transferring
  - o Assisting
  - o Failure to disclose
  - o Acquisition, possession or use
  - o Tipping-off

# ○ Concealing or transferring the proceeds of criminal conduct

○ Committed if you **know or have reasonable grounds to know or suspect** that property – either your own or someone else's – is or represents the proceeds of criminal conduct

➤ And then you **conceal, disguise, convert, transfer or remove the property** from the jurisdiction

➤ Objective test of suspicion

○ “know or suspect, or have reasonable grounds for knowing or suspecting”

○ **should have been suspicious**

➤ Defence:

○ made a disclosure or intended to make a disclosure (but delayed for good reason)

➤ 14 years' imprisonment or a fine or both

# ○ Assisting another to retain the benefit of criminal conduct

○ ➤ Committed if you **know or suspect** that another person is engaged in or has benefited from criminal conduct and then you:

- facilitate retention or control of the proceeds of crime or of terrorist property by **concealment, removal** from the jurisdiction, **transfer** to nominees or **otherwise**
- use the criminal proceeds to **put funds** at the criminal's disposal or make **investments** on his behalf

○ ➤ Defences:

- did not know or suspect that it was criminal proceeds
- made a disclosure or intended to make a disclosure (but delayed for good reason)

➤ 14 years' imprisonment or a fine or both

# Failure to disclose (part of assisting)

Committed if you

- o know, suspect or have reasonable grounds to suspect that someone is laundering, or is attempting to launder, money
- o you find out about this at work, and
- o you fail to disclose your knowledge or suspicion of money laundering

Defences:

- o had reasonable excuse for not disclosing
- o privileged circumstances apply (notaries, independent legal professionals, auditors, external accountants and tax advisers only)
- “Good faith” provision
- 14 years’ imprisonment or a fine or both

# ○ Acquisition, possession or use

○ ➤ Committed if you **acquire**, **possess** or **use** property, knowing it to be, wholly or in part, directly or indirectly, the proceeds of criminal conduct

- ➤ Defences:
- adequate consideration was paid for the property
  - disclosure has been made or was intended (but delayed for good reason)
- 14 years' imprisonment or a fine or both

# Tipping-off

- Committed if you disclose that
  - a money laundering suspicion report has been made, or
  - a money laundering investigation is underway or contemplated

- Defences:
  - trying to dissuade a client from engaging in crime
  - privileged circumstances apply (notaries, independent legal professionals, auditors, external accountants and tax advisers only)
- 5 years' imprisonment or a fine or both

# Remember the Martini principle

- All offences apply to the proceeds of:
  - o any crime
  - o whoever committed it
  - o whenever they committed it
  - o wherever it took place (as long as it would have been a crime had it occurred in Gibraltar)



# Conviction 1: The Smiths



- Salford couple Richard and Lisa Smith aimed for a “premiership lifestyle”
  - they owned luxury cars, went on numerous holidays and spa breaks and had a £20,000 wedding in 2009
- Richard was initially arrested in May 2010 on suspicion of involvement in a fire at a vehicle recovery yard
  - escaped from a security van outside court
  - arrested in Spain and extradited to the UK
- During their enquiries, police found that Richard earned only £15,000 a year and Lisa was claiming benefits
- When they viewed a DVD of the couple’s lavish wedding, they recognised a large number of local criminals among the guests....
- Jailed on 23 December 2011
  - Richard for eleven years (money laundering, arson and escaping from lawful custody)
  - Lisa for eighteen months (money laundering)

# Conviction 2: The taxi gang

A gang of thirty-three was found guilty in January 2011 of laundering £100 million of drug money through a black cab rental and repair firm in Paddington

- o the money came from criminal gangs in Colombia, Spain, Israel, India, Dubai, Morocco and other north African states as well as the UK

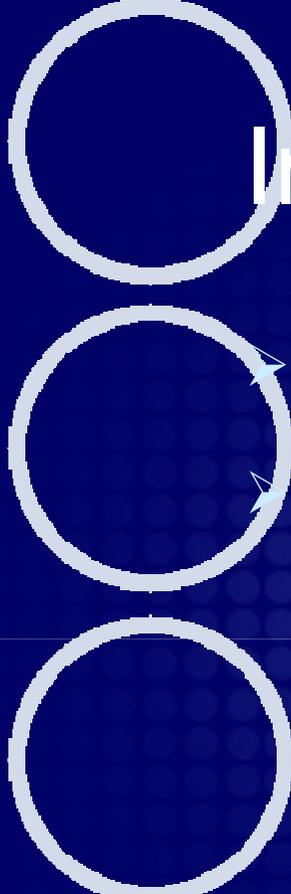
➤ Ringleader was Eyad Iktilat, who drove a Ferrari and a Bentley with vanity plates

“Money mules” brought bags of up to £500,000 cash to the taxi company for it to be converted into 500 euro notes via Euro Foreign Exchange (EFX), a corrupt currency exchange company in Paddington

- o EFX manager Jean-Claude Frigieri bought hundreds of thousands of pounds-worth of 500 euro notes from a banknote wholesaler

➤ Sentences:

- o Eyad Iktilat – 21 years, increased to 30 on appeal
- o Jean-Claude Frigieri – ten years
- o Maythen Al Ansari (the “banker”) – three years

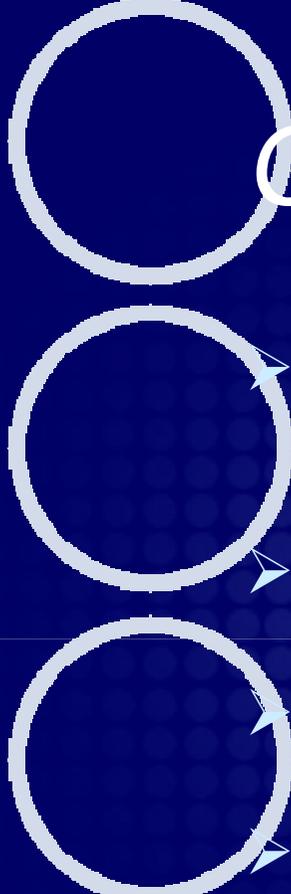


# Institutional AML obligations

Applies to those in charge of firms covered by the legislation

Crime (Money Laundering and Proceeds) Act 2007, as amended

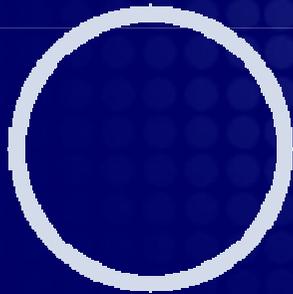
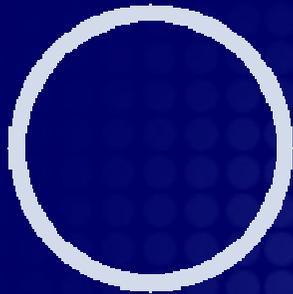
- o customer due diligence – identifying customer and any beneficial owner, and getting information on the purpose and nature of the business relationship
  - o ongoing monitoring
  - o record-keeping
  - o training
  - o reporting
- Failure to do so carries a penalty of two years' imprisonment, an unlimited fine or both



# *Guidance Notes*

- Issued by the FSC under powers granted by the Financial Services Commission Act 2007
  - last updated in January 2012
- Two level guidance
  - contains “Requirements” and “Expectations”
- Apply only to those sectors supervised by the FSC
- There is “Supplementary Guidance for the Auditing Profession”
- There are separate *Guidance Notes* for high value dealers

# World AML bodies



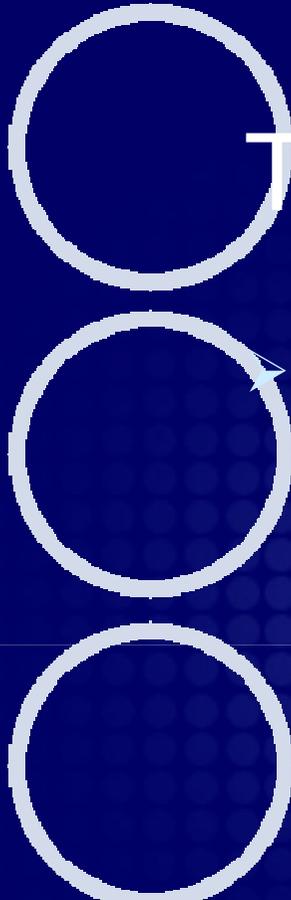
# ○ The birth of AML legislation

○ “Prevention of Criminal Use of the Banking System for the Purpose of Money-Laundering” (the “Basel Principles”) – December 1988

- advised banks to “make reasonable efforts to determine the true identity of all customers”

○ UN “Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances” (the “Vienna Convention”) – came into force on 11 November 1990

- criminalised the laundering of the proceeds of drug trafficking
- so far ratified (to some level) by 188 countries



# The birth of AML legislation

## Council of Europe Directives

- o “Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering” (the “First Directive”) – 10 June 1991
- o “Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC” (the “Second Directive”) – 4 December 2001
- o “Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing” (the “Third Directive”) – 15 December 2005

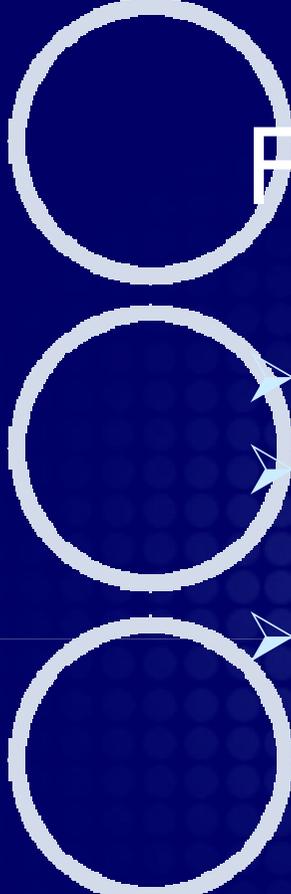
# ① The Fourth Directive (MLD4)

② Currently being debated

③ Changes are happening in the areas of PEP definition, requirements for registers of beneficial ownership, and treatment of tax evasion as a criminal offence

④ May be signed into force by the end of 2014

- EU Member States will then have two years to update their domestic legislation accordingly



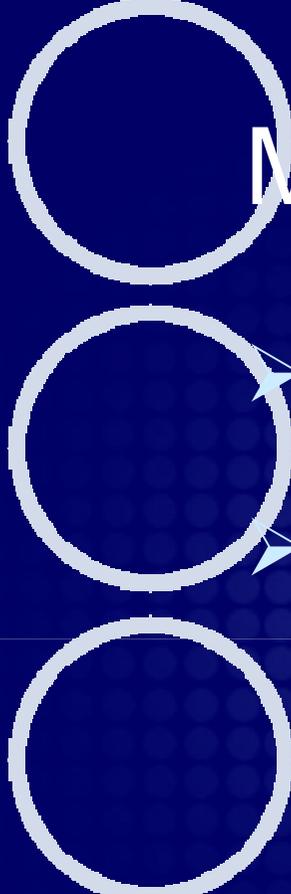
# Financial Action Task Force

➤ Founded at 1989 OECD Economic Summit

➤ Multi-disciplinary body of legal, financial and law enforcement representatives

➤ Has three main tasks:

- to monitor members' progress in implementing measures to counter money laundering
- to review money laundering trends, techniques and counter-measures, and their implications for the forty Recommendations
- to promote the adoption and implementation of the FATF Recommendations by non-member countries



# Mutual evaluations

▶ All FATF member countries are regularly evaluated by their peers

▶ The evaluation consists of a comparison with the Forty Recommendations

- the handbook and methodology used for these evaluations are freely published
- the same handbook and methodology are used by MONEYVAL and the IMF (and all of the FATF-style regional bodies) for their evaluations

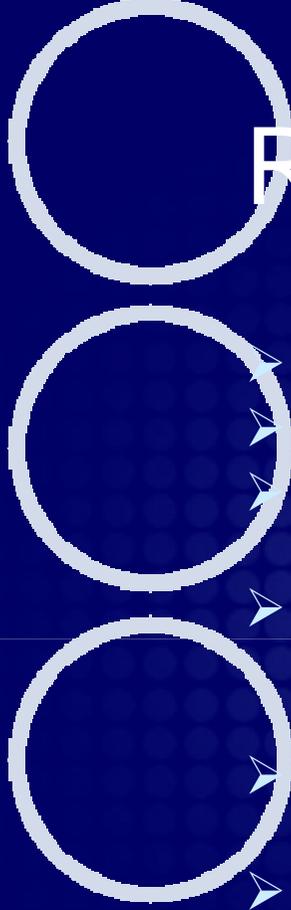
# Mutual evaluations

➤ On 22 February 2013, the FATF adopted a revised (more extensive) two-step methodology

- a technical compliance assessment
- an effectiveness assessment

➤ In short, the new methodology is designed to ask, “But does it actually work?”

➤ Gibraltar’s next evaluation by the IMF will use this new methodology



# Recent FATF thematic reports

➤ “Illicit Tobacco Trade” – *July 2012*

➤ “Trade-Based Money Laundering Typologies” – *July 2012*

➤ “Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals” – *June 2013*

➤ “The role of Hawala and other similar service providers in money laundering and terrorist financing” – *December 2013*

➤ “Money laundering and terrorist financing through trade in diamonds” – *January 2014*

➤ “Virtual Currencies: Key Definitions and Potential AML/CFT Risks” – *June 2014*

➤ “Risk of terrorist abuse in non-profit organisations” – *June 2014*

➤ “Financial flows linked to the productions and trafficking of Afghan opiates” – *July 2014*

# MONEYVAL assessments

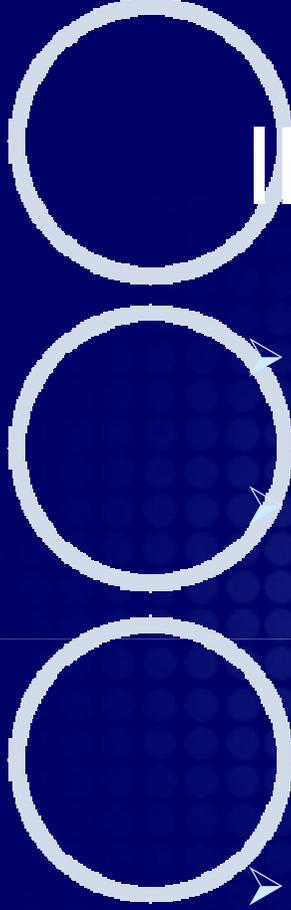
Conducts assessments of EU member states that are not members of the FATF – plus some others  
Summary AML/CFT evaluation reports available for first and second rounds

- o [http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Evaluation\\_reports\\_en.asp](http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/Evaluation_reports_en.asp)

Third-round evaluation reports published on all members:

- o Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Holy See, Israel, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Monaco, Montenegro, Poland, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Former Yugoslav Republic of Macedonia, and Ukraine

➤ Fourth round now underway



# IMF assessments

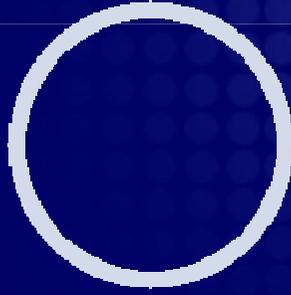
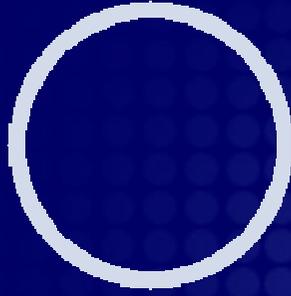
Conducted as part of their Offshore Financial Centers [sic] Assessment (OFC) programme and then as part of their Financial Sector Assessment Program (FSAP)

OFC assessments include

- o British Virgin Islands, Bahamas, Palau, Samoa, Malaysia, Netherlands Antilles, Belize, Turks and Caicos Islands, Samoa and Cook Islands in 2004
- o Bermuda and Cayman Islands in 2005
- o Cyprus in 2006
- o Panama, Andorra, Gibraltar and Samoa in 2007
- o Bermuda in 2008

More recent FSAP assessments include

- o Austria, Jersey and Mexico in 2009
- o Armenia, Comoros, Germany and St Vincent & the Grenadines in 2010
- o Afghanistan, Albania, Kuwait, Guernsey and Netherlands in 2011
- o Czech Republic and Maldives in 2012



# Why CDD is the key to it all



# ○ CDD: the point of the process

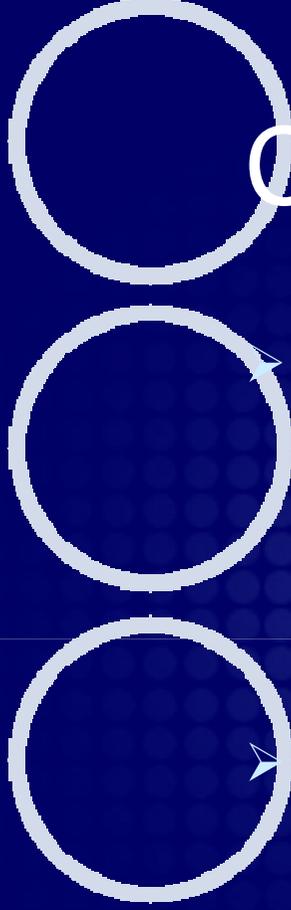
○ ➤ To meet the requirements of the law, always conduct verification of client identity and ongoing monitoring to the correct level

○ ➤ To protect yourself and your employer, always record the fact that you have done so

- use in-house checklists and aides memoire to guide you

○ ➤ Think laterally – you are trying to verify the identity of anyone who is:

- making the decisions
- holding the purse strings
- undertaking business with you



# CDD: the risk-based approach

“A risk profile of a business relationship needs to take into consideration the following four risk elements that are present in every business relationship:

- o Customer Risk
- o Product Risk
- o Interface Risk
- o Country Risk

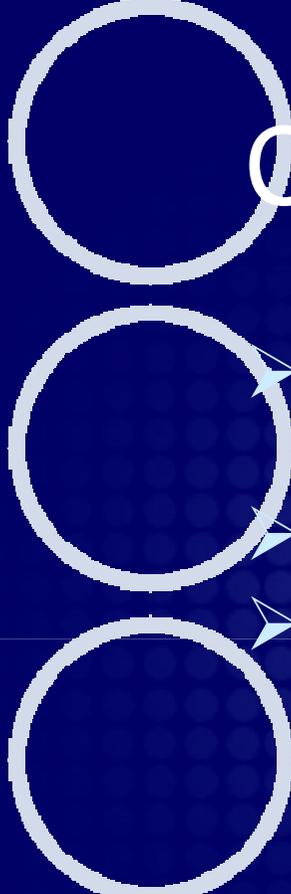
“Together, the four risk elements above are combined to produce a risk profile. It is the results of this risk profile and the firm’s risk appetite that will determine the intensity of the documentation and other process that will need to be obtained at the commencement of a business relationship or as an ongoing requirement.”

# ○ CDD: the risk-based approach

- ➤ Your clients are divided into risk categories
  - low, standard and high are the common categories
- ➤ You can then apply the appropriate level of due diligence to counter (“mitigate”) that risk
  - but you need to do at least enough on every client to be able to categorise them!
  - the common levels of due diligence are standard, reduced (sometimes called simplified), and enhanced
- ➤ Monitoring becomes even more important

# ○ CDD: not just at the outset

- ➤ CDD information should be updated and maintained throughout the relationship with the client
  - otherwise people will be making decisions based on out-of-date information
- ➤ Use client care calls as an opportunity to check information
  - Any significant changes (e.g. of name or signatory) must be verified promptly



# Client identification: names

- Passport is primary [but not only] ID document
- Record full name and any former names
- If a client changes his or her name, the new name should be verified
  - certified copy of Deed of Change of Name
  - certified copy of marriage certificate
  - certified copy of divorce decree absolute
- Date of birth, gender and nationality are also very useful to the police

# Client identification: addresses

- Record full address, including postcode
- PO Box addresses are not acceptable
  - they can be used as an additional mailing address, but not as a first address
  - some countries do use them extensively (e.g. South Africa, the Cayman Islands and the UAE) and you should get a local agent to confirm the physical existence of the address
- House/contents insurance documents usually give the street address to which they refer and the name of the insured person
- Tax demands also give name and address
- Medical communications can be useful for married women

# Client identification: oh dear

IME <b>FATIMA</b>		KATEGORIJE VOZILA ZA KOJE VRIJEDI DOZVOLA:		VRSTE VOZILA ZA KOJE VRIJEDI DOZVOLA:	
PREZIME <b>AYISHA KHOMEINI</b>		<b>A</b> Motocikli	M.P.	<b>F</b> Tramvaji	M.P.
DATUM I MJESTO RODENJA <b>02.12.1972.</b> <b>KIRKUK, IRAK</b>		datum polaganja		datum polaganja	
JMBG <b>0212972335009</b>		<b>B</b> Vozila, osim vozila kategorije A, čija najveća dopuštena masa nije veća od 3.500 kg i koja nemaju više od osam sjedala, ne računajući sjedalo za vozača.	M.P.	<b>G</b> Traktori	M.P.
PREBIVALIŠTE <b>ZAGREB</b> <b>DUBRAVA 27</b>		<b>11.04.1991.</b>		<b>11.04.1991.</b>	
PU <b>ZAGREBAČKA</b> DOZVOLU IZDAO U		datum polaganja		datum polaganja	
POTPIS		<b>C</b> Vozila za prijevoz tereta čija je najveća dopuštena masa veća od 3.500 kg.	M.P.	<b>H</b> Radni strojevi i mopedi	M.P.
<b>07.12.1975.</b>		datum polaganja		<b>11.04.1991.</b>	
DANA		<b>D</b> Vozila za prijevoz osoba, koja, osim sjedala za vozača, imaju više od osam sjedala.	M.P.	datum polaganja	
<b>06.12.2035.</b>		datum polaganja			
VRJEDI DO		<b>E</b> Skupovi vozila čija vučna vozila spadaju u kategoriju B, C ili D, a priključna su vozila najveće dopuštene mase veće od 750 kg.	M.P.		
<b>0309123</b>		datum polaganja			
BROJ					
POTPIS VOZAČA <i>Fatima Ayisha Khomani</i>					

NAPOMENA:

# Monitoring of client relationships

Reviews should be undertaken on a risk-based basis

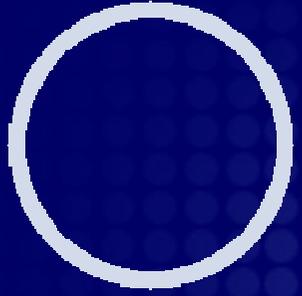
- o higher risk clients reviewed more often
- o lower risk ones less often

Review should also be done if there is a significant change to the relationship

Remember that the review may involve changing the risk rating of the client

- A review may result in no action – but note that down
- Monitoring will certainly involve enquiries into source of funds

# Source of funds and source of wealth

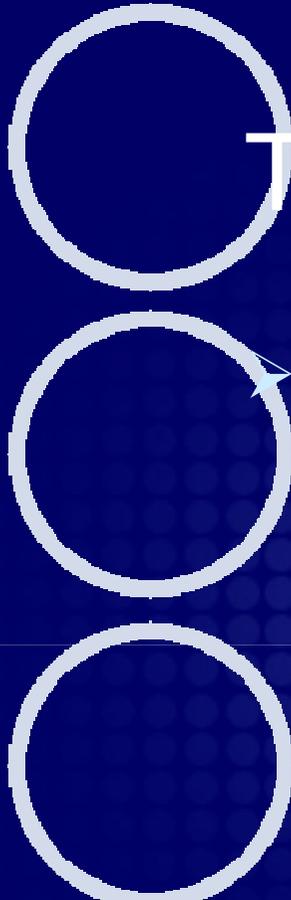


# ○ The naming of parts

○ ➤ Source of funds is the source of the money for a particular transaction

○ ➤ Source of wealth is the source of their money in general

○ ➤ “Source” does not mean “route”  
○ so you need to know how the money was originally generated – not that it comes from an account at Barclays



# The statutory requirements

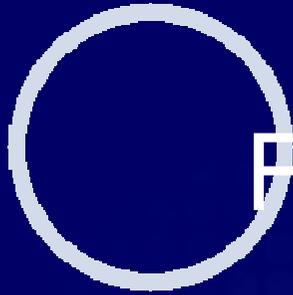
“Ongoing monitoring’ of a business relationship means the scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant financial business’s or person’s knowledge of the customer, his business and risk profile and keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date.”

*Crime (Money Laundering and Proceeds) Act 2007, s10(C)*

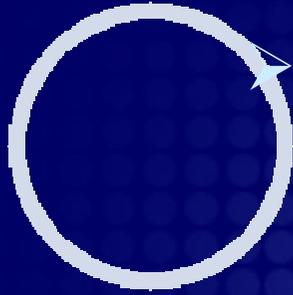
# The statutory requirements

- “A relevant financial business that proposes to have a business relationship or carry out an occasional transaction with a politically exposed person must—
- o (a) have approval from senior management for establishing the business relationship with that person;
  - o (b) take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or occasional transaction; and
  - o (c) where the business relationship is entered into, conduct enhanced ongoing monitoring of the relationship.”

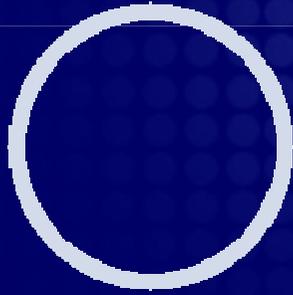
*Crime (Money Laundering and Proceeds) Act 2007, s10(K)*



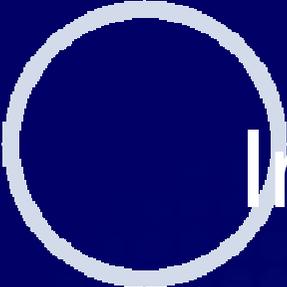
# FSC requirements



“The threats posed by different types of individuals is mainly attributable to the nature of their economic activity or source of wealth. For example, the risk to a firm that a salaried employee whose only transactions through a business relationship are those derived from electronic payments made by his employer are going to be much lower than an individual whose transactions are cash based with no discernable source for this activity.”



*FSC AML Guidance Notes, section 6.2.1.1*

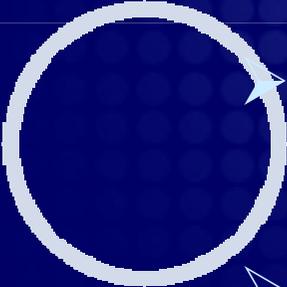


## In short...



➤ Making enquiries about SOF/SOW is part of good CDD practice

- it is a legal obligation when dealing with high risk customers (including PEPs) to take “adequate measures” to establish their SOF/SOW



➤ Monitoring SOF/SOW – and doing a sense check each time – is part of relationship monitoring

- SOF/SOW descriptions must be specific and where necessary supported by documentation
- File notes are crucial when it comes to SOF/SOW deliberations

# Possible documentary evidence

Source	Document
Savings from employment	Document showing salary, employer's name and address, and nature of business (e.g. recent payslip, or letter from employer)
Sale of investments	Document showing transaction (e.g. statement from investment provider, or bank statement showing settlement from investment provider)
Sale of property	Signed letter from professional participant (e.g. solicitor or estate agent), or sale contract



# Possible documentary evidence

Source	Document
Loan	Document showing name of loan provider, and date, amount and purpose of loan (e.g. loan agreement or statement)
Inheritance	Document showing name of deceased, their relationship to the client, date of death and amount received (e.g. signed letter from solicitor, or Grant of Probate)
Maturity or surrender of life assurance policy	Document showing name of policy provider, date of maturity or surrender, and amount received (e.g. closing statement, or letter from policy provider)



# Possible documentary evidence

Source	Document
Sale of company	Signed letter from professional participant (e.g. solicitor or accountant), or sale contract
Profits from company	Document showing name and address of company, nature of business, and annual profits (e.g. latest audited company accounts)
Divorce settlement	Document showing name of ex-spouse, amount received and date of settlement (e.g. court order, or signed letter from solicitor)



# Possible documentary evidence

Source	Document
Other court award (e.g. compensation)	Document showing reason for award, amount received and date of award (e.g. court order, or signed letter from solicitor)
Gift	Document showing who gave the gift, when and why (e.g. letter from donor), plus verification of identity of the donor, and information about the source of their wealth

# SOE/SOW and jurisdiction

➤ Consider the stated SOE/SOW in relation to the jurisdiction

➤ Watch out for funds coming from, and wealth generated in, troublesome jurisdictions

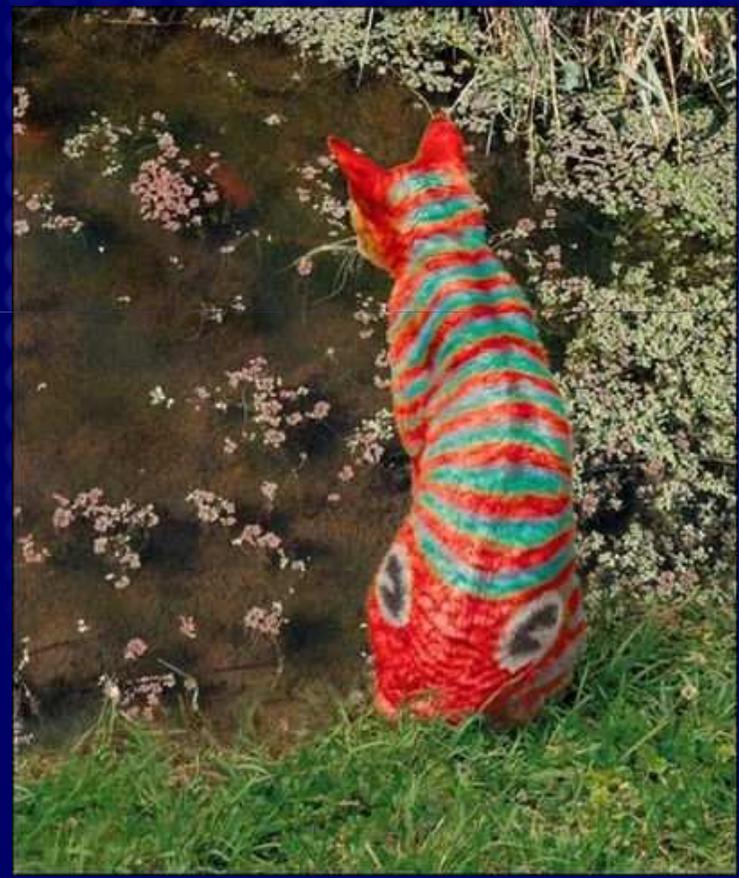
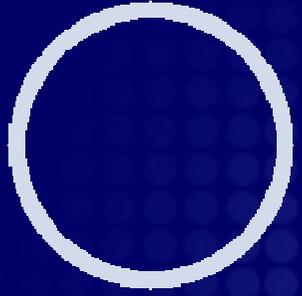
- o lax tax regimes

- o high risk of corruption

- o poor history of compliance with sanctions

➤ What real connection does the client have with the jurisdiction – or is it just a conduit for their money movements?

How do I know when I am suspicious?



# ○ The tricky nature of suspicion

○ ➤ There is no legal definition of 'suspicion'

○ ➤ The word is defined in terms of what it means to the individual

○ ➤ It is an emotion or a mood rather than a fact

➤ Suspicion cannot be transferred

# So how do I know when I am suspicious?

➤ A suspicious transaction is a transaction that may be indicative of money laundering – but the activity on the account may be genuine

➤ You should also be alert to a client's overall activity, as well as his transactions

➤ The only solution is to be aware of what is expected of your client and his activity – and therefore alert to anything which is unexpected, unusual or abnormal

# How do I know when I am suspicious?

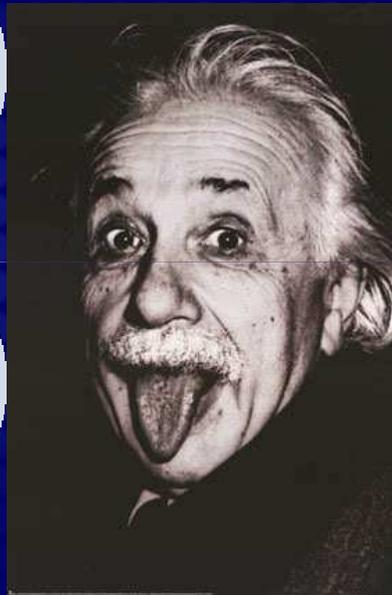
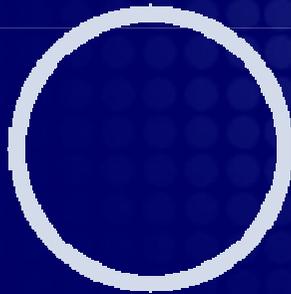
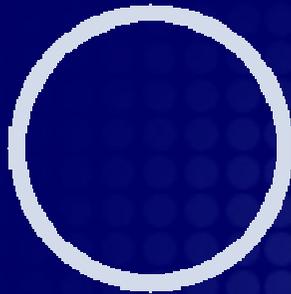
➤ Suspicion can be aroused by a series of acts which, individually, are not suspicious but which, when later viewed as a series, give rise to suspicion

➤ Suspicion can also be aroused by a single action, which because of the time or the circumstances in which it occurs gives rise to suspicion

➤ You might like to think of a spectrum of suspicion

○ curiosity → unease → doubt → concern → **suspicion** → belief → knowledge

# How do I know when I am suspicious?



“The important thing is not to stop questioning.”

*Albert Einstein*

Develop some healthy suspicion:

- why me?
- why my employer?
- why this activity?
- why now?

And if you are suspicious, make a report to your MLRO

# Reporting: why it matters

Reporting is the heart of Gibraltar's anti-money laundering regime

Once you have made a report, you have fulfilled your statutory reporting duty

Under drug trafficking and terrorism legislation, it is an offence not to make a report if you are suspicious

- Only when you have made a report do you gain protection in the eyes of the law
- The law also protects you from breach of customer confidentiality

# 1 The reporting procedure

2 If you have a suspicion, you must report it promptly to your Money Laundering Reporting Officer

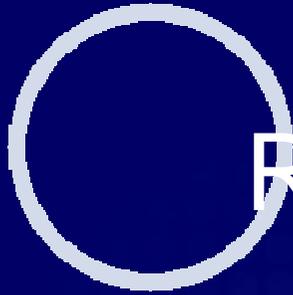
3 ➤ Complete a reporting form – paper or online, as required:

- o complete it to the best of your ability
- o sign and date it
- o do not keep a copy
- o send it (and any supporting documentation) directly to the MLRO – do not “filter” reports through anyone else

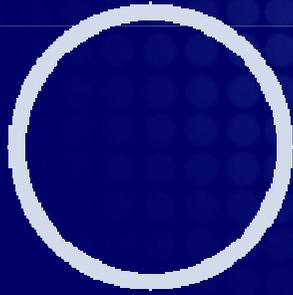
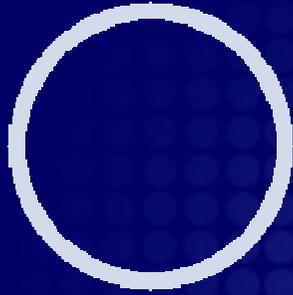
➤ Now remember to be careful not to tip-off

# Reporting: what happens next

- Your MLRO will acknowledge your report in writing
- He will undertake a review of the report
- He may then make an official disclosure to the Gibraltar Financial Intelligence Unit (GFIU)
- He will provide you with feedback as far as is permitted by law
- Remember to report any further suspicions as well



# Record-keeping



# Retention period

When a business relationship has been formed, customer identity records must be kept for at least five years from the date of the end of the relationship with the customer

Transaction records must be kept for at least five years from the date of the completion of the transaction

Money laundering reports must be kept for at least five years from the date of the report

- o if any records have been involved in a money laundering investigation, the MLRO should get clearance from investigators before destroying records

# Record format

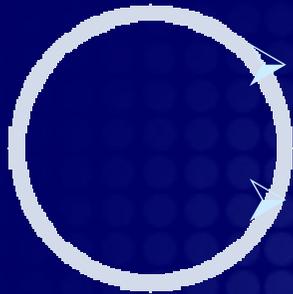
Records should be kept in a durable format that is admissible in court

- o hard copy (most useful for forensic purposes)
- o microfiche
- o electronic format

They should be filed and stored in such a manner that they can be retrieved accurately and quickly, to meet the requirements of a court order

➤ Consider security and data protection issues

# File notes

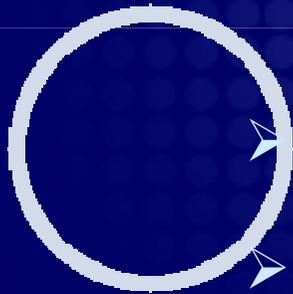


File notes join the dots between the documents

- o they explain who made what decision, when and why

Do not rely on your memory for this

- o your memory fades...
- o if you leave your job, your successors will still need access to the information



So always make fulsome file notes and then sign and date them

The information may be crucial during an investigation

- o particularly if your own conduct and compliance is under scrutiny

# Colourful case studies



# Bank of New York: the story

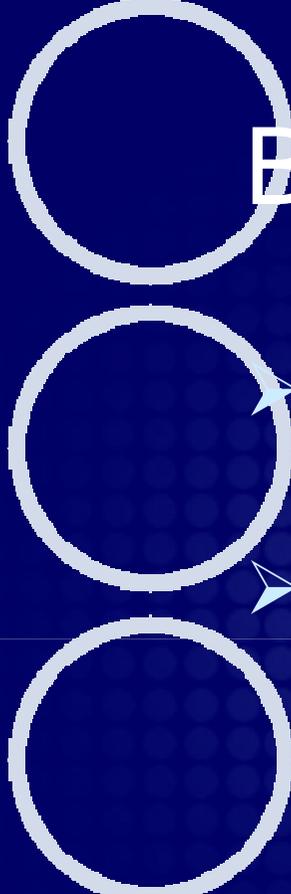


- Story broke in August 1999
- Involved the BoNY – the world's sixteenth largest bank
- Investigations launched in London, New York and Moscow
- Laundered funds estimated at over US\$500 million

# Bank of New York: the story



- Lucy Edwards (aka Lyudmila Pritzker) and Peter Berlin
- Created a conduit via BoNY for funds fleeing Russia
- Used specially-created banks and shell companies
- US\$7 billion passed through 160,000 transactions – via just three desktop computers



# Bank of New York: the story

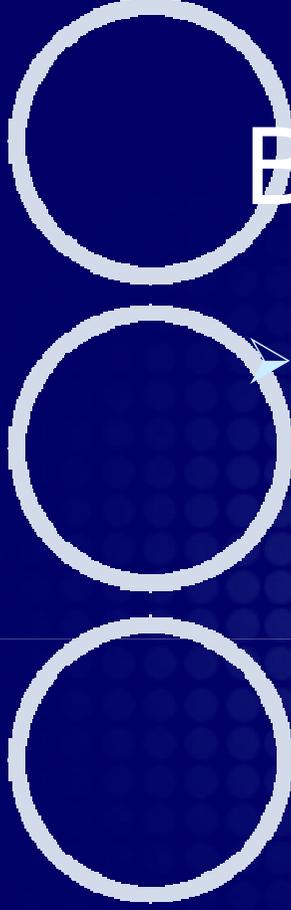
- Betrayed by secretary Svetlana Kudryavtsev
- Several bank accounts were held open and investigated for a year
  - Lucy Edwards was fired
  - her assistant Natasha Kagalovsky was sent on leave of absence
- Edwards and Berlin entered a plea bargain

# Bank of New York: issues

BoNY policy was to court business from Russia  
Embarrassment for President Bill Clinton

## Court cases

- o shareholder action taken against bank directors for lack of duty of care
- o unsuccessful action for unfair dismissal taken by Edwards
- o successful action for defamation taken by Kagalovsky
- Bank admitted to key “lapses” in its procedures
- Acquired SearchSpace transaction monitoring software, at great cost



# BoNY: latest developments

➤ BoNY CEO Thomas Renyi was this year voted the 35<sup>th</sup> “most loathsome New Yorker”:

- “The sloe-eyed CEO...paid himself more than \$10.6 million this year, proving once again that in the world of finance, it is always possible to go back to your old inflated pay scale as soon as the bad press dies down. [Renyi] managed to survive by letting two subordinates assume full responsibility for the billions in dirty Russian money that was somehow (unbeknownst to him) being pumped through his bank.”

➤ In November 2005, BoNY agreed to pay a penalty of US\$26 million to the US government and to repay \$12 million to victims

# Abacha: the story

➤ President of Nigeria  
from 1993 to 1998

➤ Stole an estimated  
US\$4 billion

- took money directly  
from the Treasury
- awarded contracts to  
his own front  
companies
- took bribes from  
foreign contractors

➤ Money deposited in  
overseas accounts by  
his sons



# Abacha: the story

➤ Older son Mohammed already in prison on murder charge and now indicted on money laundering charge – was being defended by the late Johnnie Cochrane

➤ Nigeria is now impoverished and is trying to trace and reclaim the money around the world

➤ Switzerland was eager to help but there was initially less co-operation from London:

- FSA investigation report published in March 2001 found 42 Abacha accounts in 23 banks, which had accepted \$1.3 billion of Abacha money
- banks involved were named and shamed by the *Guardian* on 4 October 2001

# Abacha: latest developments

In October 2001, the Abacha family lost an appeal to prevent the UK repatriating frozen funds

In December 2001, the Abacha family repaid €163,116,061.99 (about US\$200 million) – they promised to return more but reneged

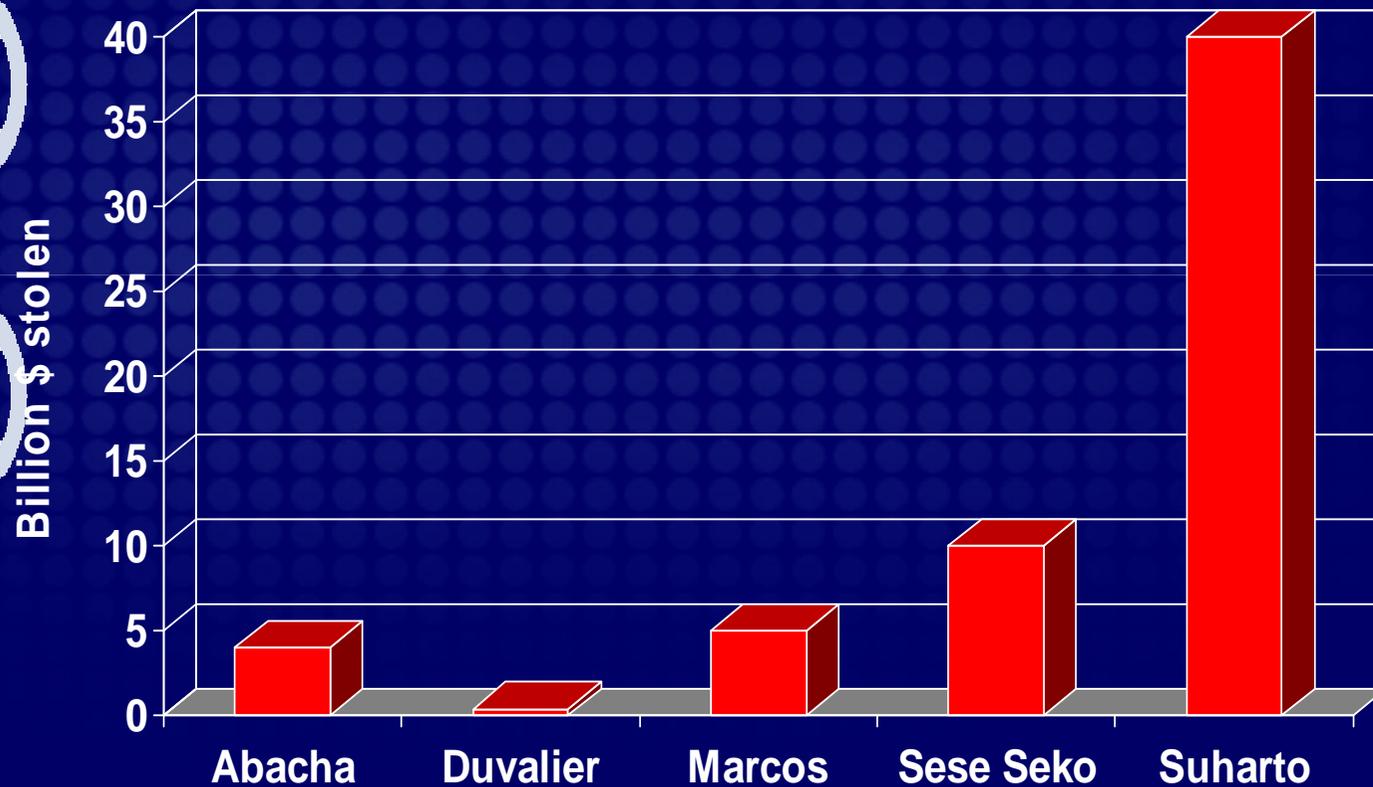
In February 2004, the UK repaid £5 million

- o the Economic and Financial Crimes Commission of Nigeria had threatened to sue
- o the original money was confiscated in 1998 from a Nigerian businessman at Heathrow
- o the payment includes five years' worth of interest

# Abacha: latest developments

- 34 luxury houses and 54 luxury cars have been seized
- US\$290 million was repatriated by Switzerland in September 2005 and \$170 million in May 2006
  - other accounts frozen in Luxembourg and Liechtenstein
- Maryam Abacha is under investigation for embezzlement of public funds and human rights abuses
  - she maintains that her husband did not steal any money, just “put away the funds in some foreign accounts for safe-keeping”
- Nigeria is one of the most corrupt countries in the world

# How does Abacha compare?

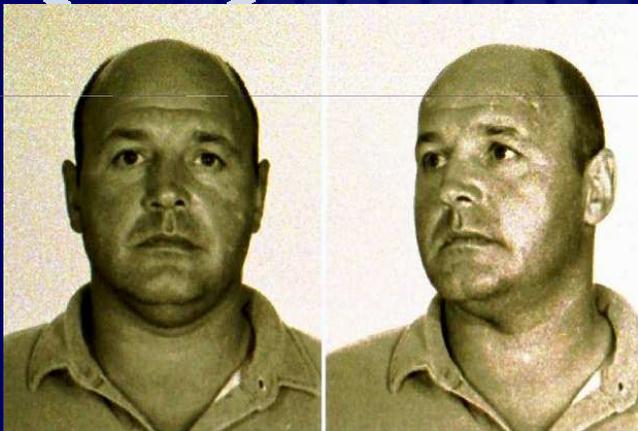


# Curtis Warren

- Born in May 1963 in Liverpool
- Left school at 11, stole a car at 12
- First term inside was at 15
  - three months for burglary
- Sent to Borstal at 18 for assaulting a police officer
- Sentenced to two years in 1982 for attacking a prostitute and her client (whom he was blackmailing)
- Became a nightclub bouncer and befriended local drug dealers
  - quickly became a supplier then a trafficker



# The Charrington connection



- In September 1991, Warren and fellow drug trafficker Brian Charrington went to Venezuela and arranged a deal with the Cali cartel to smuggle cocaine into the UK
- After missing one shipment, HM Customs and Excise intercepted a second shipment of 907kg of cocaine in early 1992
  - Charrington, Warren and 26 others were arrested
- It was revealed by police that Charrington was a paid informant
  - in January 1993, the whole case was dropped and all involved acquitted of all charges
- On his release, Warren walked past the HMC&E agents and said, "I'm off to spend my £87 million from the first shipment and you can't touch me"

# The usual cash conundrum

To process the cash from drug sales, Warren used addicts

- o they would carry bundles of £500,000 from Liverpool to London
  - then change the money into large denomination French and German notes
  - then deposit it into banks and wire it offshore
- o for each £500,000 bundle, they were paid £300
- o in this way, Warren controlled the laundering of over £20 million – for a bargain price of £12,000

To get the money back to Liverpool, Warren paid an associate to set up a string of small businesses in the area, and then lent large amounts of money to them

- Warren's name was never used
  - o he even bought his home in the name of a dead man

# Location, location, location

Feeling the heat from gang wars, in 1995 Warren moved to Sassenheim in the Netherlands

- o by this time, he owned more than 300 houses in the north-west, as well as office blocks, the Barrow AFC football ground, Spanish casinos, Turkish discos, a Bulgarian vineyard, land in the Gambia and several Swiss bank accounts

In 1998, he appeared in the *Sunday Times* "Rich List"

- o he was described as a "property developer" with an estimated fortune of £40 million

# Interesting home decor

Dutch police raided Warren's home in October 1996 and found:

- o guns, ammunition, hand grenades and 960 CS gas canisters
- o 400kg of cocaine, 1,500kg of cannabis resin, 60kg of heroin and 50kg of ecstasy
- o 400,000 Dutch guilders and US\$600,000

However, with his photographic memory, he was able to run his business without keeping any paper records

Warren's scheme was shipping South American cocaine to his Bulgarian vineyard, where the drugs were dissolved in wine for onward shipment to the Netherlands and UK (where the drugs were distilled out again)

- He was sentenced to 12 years in jail
- Forensic accounting investigations found only £20 million
  - o and none of it could be legally touched or confiscated by the Dutch police, the British police or Interpol

# Temper tantrums

➤ In September 1999, Warren got into a fight with a fellow prisoner, who died of his injuries

- Warren was found guilty of manslaughter and given another four years

➤ In 2002, Dutch police obtained an asset seizure order against Warren, ordering him to repay 26 million guilders [about £10 million] or face another five years in prison

- after legal negotiations, Warren agreed to repay 15 million guilders

➤ In February 2005, Warren was charged by the Dutch authorities with running an international drug smuggling operation from his Dutch prison cell

- he was found guilty but successfully appealed

➤ He was released from prison in June 2007

# Nobody loves me

easyJet would not sell Warren a ticket home

- o he went by ferry from Vlissingen to Harwich, then drove to Liverpool

He applied for British, Irish and Portuguese passports and was refused

He was made subject to the Serious Organised Crime Agency's "lifetime offender management" programme, whereby his every move was watched

Just three weeks after his release, he was seen going to Manchester Airport and paying cash for a ticket to Jersey

- o SOCA called Jersey Police to warn them

# When I'm calling you

In Jersey he spent time with his friend Taffin Carter  
Knowing that drugs sell for three times the UK price in Jersey, the local police bugged local phone boxes and the home of Carter's girlfriend

- o they heard that Carter was to travel to Amsterdam to meet an associate of Warren, Moroccan Mohammed Liazid

Jersey Police asked to be allowed to bug Carter's hire car from St Malo but the French and Belgian police refused

- o Jersey Police bugged it anyway, and monitored the transmissions – along with the Dutch Police, SOCA and Interpol
- SOCA monitored Warren in Liverpool, while Dutch police monitored Liazid in Amsterdam, tracking who was speaking to whom
  - o in just three weeks, Warren made 1,587 telephone calls – all to Liazid

# Losing the final gamble

In July 2007 Warren was arrested in St Helier and charged with conspiracy to smuggle drugs

- o he pleaded not guilty

For two years, the courts argued over the legality and admissibility of the information obtained by the bugging of Carter's car

It was finally agreed that there was sufficient evidence from other sources to substantiate the case

- o Jersey Police offered Warren a deal: plead guilty, and you'll get 8 years and no confiscation of assets
- o Warren turned it down
- On 7 October 2009, he was found guilty
- On 3 December 2009, he was sentenced to 13 years
  - o he is serving his time in HMP Belmarsh in London

# ○ Chasing the money

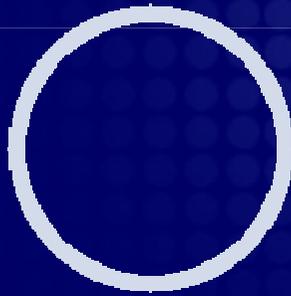
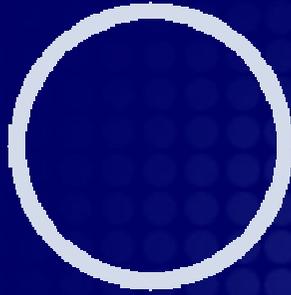
○ On 5 November 2013, the Royal Court of Jersey ordered Warren to repay £198 million within 28 days, or serve an additional ten years

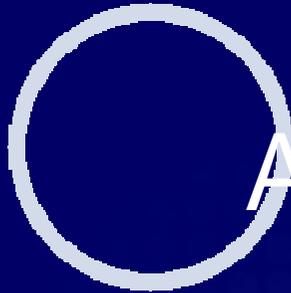
○ On 5 December 2013, it was reported that he had failed to pay and so would be serving the extra decade

- he had been due for release in January 2014

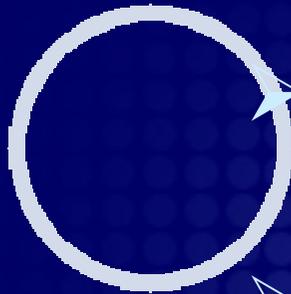


# Money laundering bingo





And finally.....



➤ Thank you for your attention and participation



➤ If you have any questions, please contact me:

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