# Compliance Digest

ISSUE 04 | April | 2017

Dear Readers,

Welcome to the 4th issue of our Compliance Digest. Training and capacity building form a crucial part of our compliance role. In this respect, the present issue brings you compliance and risk management related articles.

You will have updates in the Legislations, Regulations, Rules and Judgements.

Moreover, there are some interesting articles on Money Laundering though the Physical Transportation of Cash, Black Money and Demonetisation, Tax Evasion and Trump presidency's impact on Russian sanction.

Finally, you will browse some Compliance news around the world.

We wish you a pleasant reading!

**Anil Fangoo, CAMS**

***Group Head Compliance & Legal & Editorial Team***

## A Best-practice Model for Bank Compliance

The traditional compliance model was designed in a different era with a different purpose in mind. Compliance organisations used to promulgate regulations and internal bank policy largely in an advisory capacity with a limited focus on actual risk identification and management.

An emerging best-practice model for compliance in banking needs rely on three core principals to address these challenges:

1. An expanded role of compliance and active ownership of the risk-and -control framework. In most cases, banks need to transform the role of their compliance departments from that of an advisor to one that puts more emphasis on active risk management and monitoring. In practice, it means expanding beyond offering advice on statutory rules, regulations and laws and becoming an active co-owner of risks to provide an independent oversight of the control framework.

2. Transparency into residual risk exposure and control effectiveness. One of the traditional industry practices for the second line's engagement with the business has been to identify "high-risk processes" and then to identify "all the risks" and "all the controls" that pertain to each of them. This approach, however, falls short to creating a real and comprehensive transparency into material risk exposures and often becomes a merely mechanical exercise. New approach focused on residual risk exposures and critical process breakpoints ensures that no material risk is left unattended and provides the basis for truly risk-based, efficient oversight and remediation activities.

3. Integration with the overall risk-management governance, regulatory affairs, and issue-management process. Compliance risks are driven by the same underlying factors that drive other banking risks, but their stakes are higher in the case of adverse outcomes (for example, regulatory actions that can result in restriction of business activities and large fines). Therefore, it is only fitting that a modern compliance framework needs to be fully integrated with the bank's operational-risk view of the world.

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## Summary of the Guideline Notes on Anti-Money Laundering and Combatting the Financing of Terrorism



| Relevant Acts/ guidelines amened | Summary |
|---|---|
| **Guidance Notes on Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT)** | The bank should apply measures, to disrupt proliferation financing, which are similar to measures applied to counter terrorist financing. Proliferation might be a means for supporting the undertaking of terrorist activities |
| | The bank should develop indicators that would raise alert on customers and transactions that are possibly associated with proliferation financing-related activities. |
| | When the bank forms a suspicion of money laundering or terrorist financing and believes that performing the CDD process will tip-off the customer, the bank shall not pursue the CDD process and shall instead file an STR with FIU. |
| | The Bank of Mauritius has defined the responsibilities of the compliance officer and the implementation of a sound AML/CFT risk management framework. |
| | The bank should undertake risk profiling during the customer identification and verification process |
| | The Bank of Mauritius stated that the requested utility bill should be less than 3 months old. |
| | The bank should conduct due diligence on cooperatives, trusts, professional intermediaries' client accounts, and retirement benefit programmes, as specified by the Bank of Mauritius. |
| | The bank should not permit their accounts to be used by shell banks. |
| | The bank should document the reasons for justifying the decision to declassify a customer as Politically Exposed Person (PEP). |
| | The bank should ensure that cross-border wire transfers are accompanied by the relevant information. |
| | The bank should have an AML & KYC software in place to monitor transactions and risk-rate customers. |
| | The board of directors and senior management should ensure that the financial institution's processes are robust and adequate risk mitigating measures are in place. |
| | The Bank may as part of their KYC documents accept electronic certificate of incorporation issued by the Registrar of Companies of Mauritius. |
| **Limited Liability Partnership Act 2016 ("LLPA")** | The Limited Liability Partnership Act 2016 ("LLPA") has been passed on 2nd December 2016. |
| | Type of partnership where every partner in the LLP enjoys limited liability protection against the LLP's obligations and debts. |
| | Partners have limited liability protection against malpractice suits that stem from another partner's negligent acts. |
| | It is a body corporate and will have legal personality separate from that of its partners. |
| | It consists of at least 2 partners and a Manager. |
| | It will be regulated by the Registrar of Companies Act 2001. |
| | Every LLP shall have a partnership agreement. |
| | A body corporate or an unincorporated body may convert to a LLP subject to requirements. |
| | A foreign LLP may apply to the Registrar to be registered, or continue, as a foreign LLP in Mauritius. |
| | Every LLP shall have a registered office in Mauritius. |

## RECENT ACTS, REGULATIONS, RULES & GUIDELINES

| Bank of Mauritius Guidelines | Effective Date/ Amendment Date |
|---|---|
| Guidelines for Banks Licensed to carry on Private Banking Business (New) | February 2017 |
| Guidance notes on Anti-Money Laundering and Combatting the Financing of Terrorism for Financial Institutions (Amendment) | March 2017 |
| Guideline on Credit Risk Management (Amendment) | March 2017 |
| **FSC Rules/Regulations** | |
| The Investment Banking Rules (New) | October 2016 |
| Securities (Licensing) Rules 2007 (Amendment) | December 2016 |
| Financial Services Act 2007 (Amendment) | January 2017 |
| Financial Services (Exemption from Approval of Controllers and Beneficial Owners) Rules 2017 | January 2017 |
| **MRA** | |
| Income Tax (Common Reporting Standard) Regulations 2016 | January 2017 |
| **National Committee on Corporate Governance** | |
| The Code of Corporate Governance for Mauritius (2016) | Officially launched on 13 February 2017 |

Available on BOM, FSC, MRA and National Committee on Corporate Governance websites

### Guideline on Operational Framework for Primary Dealers

The operational framework for Primary Dealers Guideline, issued under the authority of section 50 of the Bank of Mauritius Act 2004 and section 100 of the Banking Act 2004, applies to all Primary Dealers appointed by the Central Bank. The guideline has been effective as from 1st March 2017.

A Primary Dealer is a bank appointed by the Central Bank to transact in securities issued by the Government of Mauritius and/or Bank of Mauritius through purchases and sales of securities directly from the Central Bank and purchase and sale from/to other buyers.

Primary Dealers have several obligations by abide to, for e.g., participate actively at auctions of securities by bidding at market-related yields/prices on a competitive basis and actively contribute to the development of the domestic securities market. Primary Dealers will obtain the exclusive rights to bid at auctions of securities traded in a primary market. There is a selection criteria for primary dealers who will be appointed for a period of one year, and renewable annually.

## Guideline on the Operational Framework for Foreign Exchange Market-Makers

This guideline is issued under the authority of Section 50 of the Bank of Mauritius Act 2004 and Section 100 of the Banking Act 2004. It is applied to all Foreign Exchange Market Makers appointed by the Bank. The Guideline will be effective as from 1st March 2017.

Foreign Exchange Market Maker is a bank appointed by the Bank of Mauritius that stands ready to buy and sell foreign currencies in the domestic interbank foreign exchange market.

The Bank may apply to become Foreign Exchange Market Maker by writing to the Bank of Mauritius with the business plan and other required documents/information. The Bank of Mauritius must notify the applicant of its decision within a period of 1 month from the date of the submission of a complete application. The selection of Foreign Exchange Market Makers will be based on a particular criteria such as a minimum Tier 1 Capital of Rs 4 billion and FOREX Market turnover, representing a daily minimum average of USD 3 million or equivalent over the last quarter.

The Foreign Exchange Market Makers will be appointed for a period of one year and renewable annually. The number of Foreign Exchange Market Makers will be only restricted to a maximum of 5 or such other number as the Bank of Mauritius may determine.

## Guideline on Credit Risk Management

The guideline on Credit Risk Management (the "Guideline") is issued under the authority of Section 100 of the Banking Act 2004 and section 50 of the Bank of Mauritius Act 2004. The Guideline, which applies to financial institutions, is effective as from 20 March 2017.

The objectives of this Guideline are to promote

- Sound credit risk and valuation policies and practices dealing with loans and similar products
- Sound risk management processes
- Adoption of an active, anticipatory approach to assessing risks and losses for loan portfolios
- Adequate disclosure of provisions for credit losses, both collective and specific.

Financial institutions must ensure that they have in place appropriate credit risk management and internal controls to regularly assess credit impairments in accordance with their stated policies and procedures and supervisory guidance on the subject.

The importance of credit policy has been highlighted in several guidelines such as Guideline on Related Party Transactions, Guideline on Corporate Governance, Guideline on Credit Concentration Risk, Guideline on Public Disclosure of Information and guideline on Credit Impairment Measurement and Income Recognition, all issued by the Bank of Mauritius.

## The Code of Corporate Governance for Mauritius (2016)

The Code of Corporate Governance for Mauritius was first published in 2003 and has now been revised in order to be aligned with new laws and guidelines and also to learn and apply governance lessons from the BAI and Bramer Bank collapses in 2015.

The National Code of Corporate Governance 2016 (the "Code") will be effective as from 1st July 2017 and will apply for the reporting year ending 30th June 2018.

The Code applies to Public Interest Entities is defined as follows according to the Financial Reporting Act 2004 and the Financial Reporting (Amendment of Schedule) Regulations 2016:

- Entities listed on the Stock Exchange of Mauritius;
- Financial institutions, other than cash dealers, regulated by the Bank of Mauritius
- Financial institutions regulated by the Financial Services Commission, from the following categories:
  - (i) Insurance companies
  - (ii) Collective investment schemes and closed-end funds
  - (iii) CIS managers and custodians
  - (iv) People licensed to carry out leasing, credit finance, factoring and distributions of financial products
- **Any company which has, during 2 consecutive preceding years, at least one of the following:**
  - (i) an annual turnover exceeding 500 million rupees; or
  - (ii) total assets exceeding 500 million rupees.
- **Any group company which has, during 2 consecutive preceding years, at least one of the following:**
  - (i) an annual turnover exceeding one billion rupees; or
  - (ii) total assets exceeding one billion rupees,
- Public sector organisations listed as Public Interest Entity under the First Schedule of the Financial Reporting Act.


This Code consists of a set of eight principles which aim at improving and guiding the governance practice. The "comply or explain" methodology has been replaced by the "apply and explain" approach. Therefore, the revised Code no longer imposes a check box approach but instead encourages organisations to decide how to apply each principle to their

## RECENT SUPREME COURT JUDGEMENTS

| Judgements | Summary |
|---|---|
| **QUALITY SOAPS LTD & ANOR v DEVELOPMENT BANK OF MAURITIUS LTD** [2017 SCJ 86] | The appellants alleged wrongful acts and doings and/or omissions committed by the respondent and its *préposés*, including, amongst other grounds, delay in processing their loan applications; favouring their competitor, piecemeal disbursements to the appellants, thereby, causing embarrassment and prejudice to the appellants vis-à-vis other commercial banks. The appeal was dismissed as the appellants failed to prove any "*faute*" or "*abus de droit*". |
| **CHADY S B (MRS) v HABIB BANK LIMITED** [2017 SCJ 14] | The plaintiff sought an order for the defendant to erase the seizure it caused to be inscribed in respect of the plaintiff's immovable property, to put an end to the sale by levy proceedings initiated by the defendant for the sale of the plaintiff's property and to pay to the plaintiff the sum of Rs 5,000,000 for the prejudice suffered as a result of the defendant's wrongful acts. The defendant invoked *res judicata* due to the existence of the "*triple identité de parties, d'objet et de cause*". The present matter was not strictly *res judicata* as the requirement of threefold identity namely, same demand, same cause of action and same parties acting in the same capacity was not satisfied. By persisting to re-litigate a question which has already been adjudicated by the Appellate Court, the plaintiff was clearly making an abuse of the process of the Court. The Plaint was accordingly dismissed. |
| **TERASAWMY M T v BANK ONE LTD & ORS** [2016 SCJ 515] | The immoveable property of the plaintiff became the object of a seizure by the defendant and was put up for sale. The plaintiff averred that she contributed financially to the erection of a building on the said land and she was not made aware of the charges on the property by the defendant. She prayed for the charges to be declared null and void, a direction for the defendant to make entries in its registries and damages. The plaintiff, as the former wife, had a right in the community of goods, pursuant to articles 1424 and 1427 of the Civil Code. The defendant argued that the plaintiff was debarred from pursuing the matter under article 1427 of the Civil Code following the dissolution of the marriage as the *action en nullité* was not entered before two years. The Court held that even as an '*indivisaire*', the plaintiff's remedy did not extend to having the charge declared null and void. The *plea in limine* though partially correct, did not debar the plaintiff from praying the court for damages from the defendant for *faute* as she had done under her third prayer. |
| **NUNDOOSINGH J v STANDARD BANK (MAURITIUS) LIMITED** [2016 SCJ 494] | This was an application under section 64(3) (h) of the Banking Act 2004 ("Act") for an order to disclose and communicate documents. Section 64 (2) of the Act imposes a duty of confidentiality on banks with regards to information relating to the affairs of their customers. However, section 64 (3) provides for the non-application of this duty of confidentiality in certain specific instances. Section 64(3)(h) of the Act provides that any party to a proceeding before a court, may summon any person referred to in section 64(1) and the court shall order the disclosure of the information. The Court held that the Judge in Chambers could not, on affidavit evidence, decide on the issue of confidentiality in the context of the case which was already before the Court. It was best left to be decided by the trial court, which was empowered by section 64(3) (h) of the Act to decide. Section 64(10) of the Act found its application for the disclosure of confidential information, before the Judge in Chambers, mainly where the information was required for any civil or criminal proceedings contemplated or for the purpose of any enquiry. The Court accordingly declined the order prayed for disclosure. |

*Available on* [Supreme Court website]

# MONEY LAUNDERING THROUGH THE PHYSICAL TRANSPORTATION OF CASH



Cash remains a significant raw material for criminal groups and is used by choice as an anonymous financial instrument by a wide range of criminals, even in complex money laundering systems. In many cases, even when the proceeds of a crime are initially generated in electronic form (such as the theft of funds from a bank account), criminals choose to withdraw the funds from a bank account in cash, transport it to another country, and pay it into another account in order to break an audit trail.

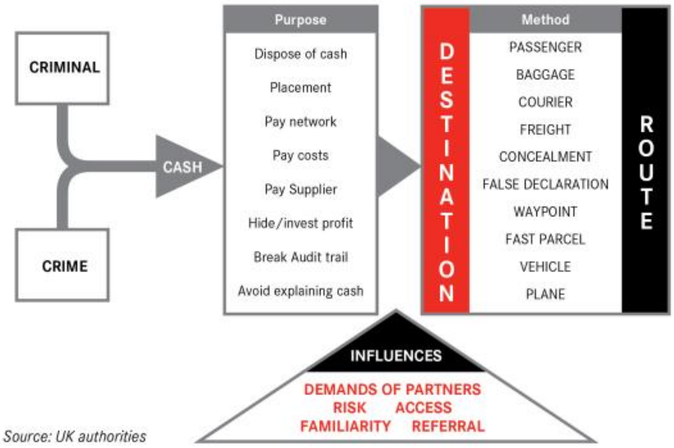
The physical transportation of cash across an international border is one of the oldest and most basic form of money laundering. Either in the form of bulk cash smuggling (BCS) and/or cash couriers, this continues to be a problem in many countries worldwide. It is an issue that concerns both developing countries with cash-based economies as well as countries with developed and sophisticated financial systems.

There are no fully reliable estimates for the amount of cash laundered in this way, but the figure would seem to be between hundreds of billions and a trillion US dollars per year.

Physical transportation of cash as a method of money laundering is not restricted to a particular type of crime. Although many jurisdictions report the use of this typology by drug trafficking organisations, it is also linked to the illegal trafficking of other commodities, such as alcohol and tobacco, and it is also used widely by criminals involved in other activities including tax fraud, weapons and arms smuggling, organised immigration crime and the financing of terrorism. There are no cash smuggling methods associated to a greater extent to one form of criminality than another, and no guarantee that criminals committing the same type of crime will move their proceeds in the same way and by the same route.

Instead, the methods used to physically transport criminal cash are dependent on a decision making process undertaken by the criminal. This process begins with the criminal deciding what the purpose of the cash movement is (for example, to break the audit trail, to pay a supplier, to bank it in another jurisdiction etc.). This will dictate the ultimate destination, which will in turn determine the method used, and ultimately the route chosen. At all stages, influences such as risk, familiarity, simplicity and the demands of partners will affect the decisions made. Understanding the decision making process can assist in developing control techniques by authorities tasked with combatting the problem.

*Source: FATF Paper*




*Source: UK authorities*

## Methods and Techniques used

The choice of the route used to move the cash between jurisdictions will depend on a number of influencing factors and will be determined only after the purpose, destination and method of transportation have been decided. The methods can include:

- Passengers and natural personal
- Vehicles and accompanied freight
- Cargo and mail

## Control in the Cross-border Transportation of Cash

Customs and other similar border authorities clearly have a significant role to play in combating money laundering through the physical transportation of cash. However, authorities can only play an effective role when national legislations equip them with adequate authority to act.

## Challenges to the detection and control of cross-border transportation of cash

**The challenges posed are:**

- Specific training(s) on how to identify cash-based money laundering are not given to customs officers
- Some countries do not have the required manpower to police all of its border-crossing, at all times
- Some countries do not yet have access to or make use of tools such as X-ray facilities, body scanners and cash detection dogs
- Lack of clear and usable typologies and best practices, both from an international and national perspectives
- Lack of relevant information available to judge whether cash being transported across borders may possibly be connected to money laundering
- Once cash has been discovered in cargo or mail, barriers exist regarding the rapid and timely exchange of information between countries with respect to the origin/ source of the cash.

## HOW WIDESPREAD IS TAX EVASION? COST OF 'ROUND-TRIPPING' - A METHOD INVESTORS USE TO AVOID THE TAX COLLECTOR

Tax evasion is the illegal evasion of taxes and involves taxpayers deliberately misrepresenting the true state of their affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting, such as declaring less income, profits or gains than the amounts actually earned, or overstating deductions. In contrast, tax avoidance refers to the legal use of provisions in tax laws to reduce the amount of tax payable. Around the world, over the past two decades, there has been increasing sensitivity around tax evasion and it was highlighted that this was facilitated by banks and financial institutions. Due to the severity of the offense of tax evasion, most jurisdictions have introduced legal and regulatory changes to put this requirement into effect and have mandated that FIs incorporate tax evasion controls in their anti-money laundering (AML) framework. Moreover, international financial centers have been extremely sensitive to being perceived as tax havens. Regulators have mandated their FIs to strengthen their AML controls and ensure robust tax evasion related controls so that the jurisdiction is not exposed to reputational risk. FIs must therefore:

- Ensure there is adequate senior management commitment and a culture where facilitation of tax evasion is not tolerated
- Ensure that tax evasion-related risks are adequately assessed through the AML risk assessment process
- Ensure that AML controls are implemented to mitigate any identified tax evasion related risks
- Monitor staff behavior to identify rogue employees who attempt to subvert controls

While there are numerous tax evasion strategies, the most common one entails the use of offshore jurisdictions to conceal income or wealth from tax authorities. These offshore jurisdictions are variously referred to as tax havens or financial privacy jurisdictions or offshore financial centers and normally have the following features:

- Nil or nominal taxes
- Lack of effective exchange of tax information with foreign tax authorities
- Lack of transparency in the operation of legislative, legal or administrative provisions
- No requirement for a substantive local presence and self-promotion as an offshore financial center.

Furthermore, the term 'round-tripping' is used to denote cross-border flow of investment. In such cases, money from a country flows to a foreign country and comes back as foreign direct investment (FDI). In the context of black money, it leaves the country through various channels such as inflated invoices, payments to shell companies overseas amongst others. After cooling its heels overseas for a while, this money returns in a freshly-laundered form, thus, completing a round-trip. There are a number of observed factors that promote round tripping. Tax concessions allowed in the foreign country encourages individuals to park money there.

There is a growing public and political concern linked to tax evasion and its correlation with national deficits and debts and the following key developments were implemented to tackle this:

- In 2000, the Organisation for Economic Cooperation and Development (OECD) published a list of jurisdictions it considered as tax havens.
- In 2010, the U.S. enacted the Foreign Account Tax Compliance Act (FATCA) to detect foreign financial accounts held by U.S. persons.
- In 2012, the Financial Action Task Force (FATF) amended its recommendations to include tax crimes in the designated list of money laundering predicate offenses.
- In 2014, the OECD introduced the Common Reporting Standard for automatic exchange of financial account information between participating jurisdictions.

*Source: ACAMS, Reuters*

## TRUMP PRESIDENCY IMPACT SANCTIONS ON RUSSIA

It is as hard to remove as to add sanctions. With the recent retaliating steps of former US president, Barack Obama, against Russia over fresh sanctions, the world is awaiting the newly-elected president Donald Trump for the next Russian sanctions move.

The American sanctions specifically target Russia's energy sector, where the country is most vulnerable. No U.S. oil company can do business with Russia, nor can any companies sell drilling technology needed to access oil and gas reserves. U.S. banks cannot issue long-term loans to Russian businesses for energy-focused projects. All of these in a view to weaken Russia's economy hoping that the pressure will compel Putin, over time, to reverse his annexation of Crimea and to withdraw Russian troops and its support of rebels in eastern Ukraine.

The White House is now considering to remove sanctions in effort to combine forces in ISIS fight and start the relationship anew. As a first step, sanctions regimen against Moscow has been amended to allow certain transactions with Russia's FSB1 approval, i.e. any products that contain cryptography, like cellphones and laptops. The amendment does not allow critical oil and gas drilling technology to be exported to Russia, and all current economic sanctions against Russian businessmen and designated politicians stand.

**What will happen if Russia sanctions are lifted?**

At best, amended sanctions may help Russia to return to the state of economic stagnation. The World Bank is forecasting growth rates between 1.5% to 1.8% over the next 3 years, which is much below the global average. Russia's economy would draw commercial interest from other nations, which may currently be subject to hundreds of U.S. and EU restrictions, including so- called "sectoral" sanctions like prohibiting the issuance of long-term debt to companies that are owned or otherwise controlled by their entities.

The risk of AML/CTF exposure in dealing with partly sanctioned countries and the necessary vigilance delivers some takeaways regarding risk assessment and enhanced due diligence (EDD) requirements. This often requires in-depth investigations in order to manage the risks.

Despite Donald Trump's willingness to remove sanctions imposed on Russia and restore friendly ties, Russia's corrupt business culture will remain a serious impediment to economic cooperation.

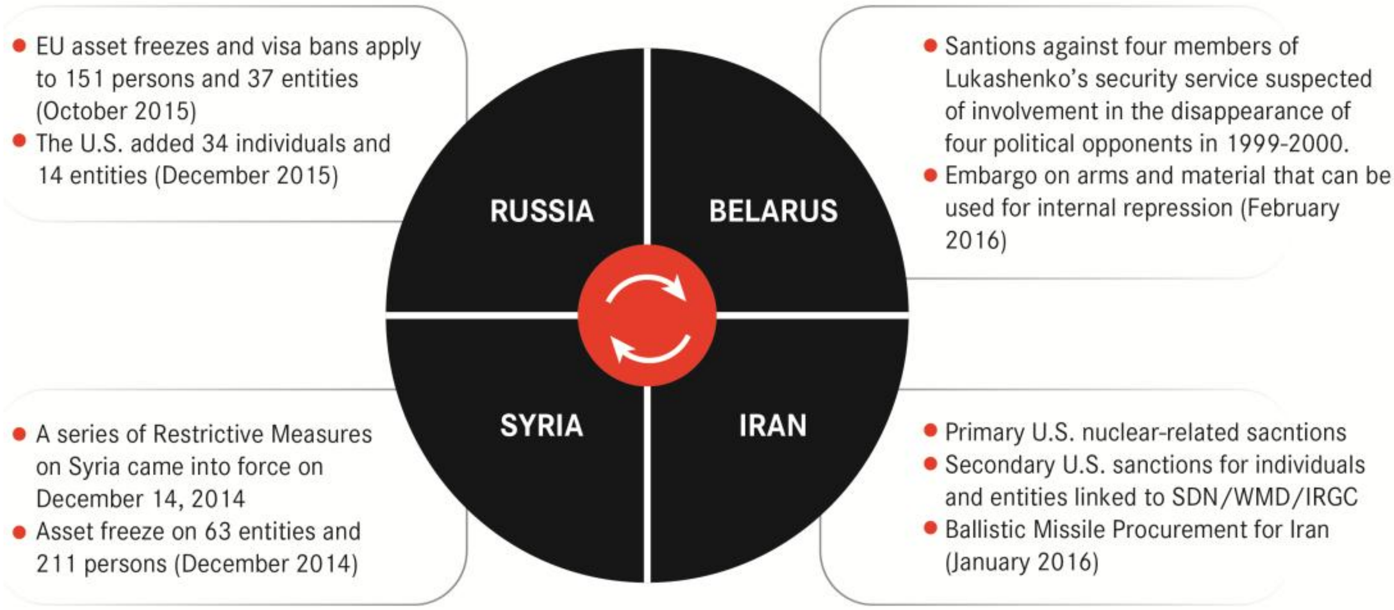



*Figure 1: Key Sanction measures in force against Russia, Belarus, Syria and Iran as of February 2016*

FSB[1]: The **Federal Security Service of the Russian Federation** is the principal security agency of Russia and its main responsibilities include counter-intelligence, internal and border security, counter-terrorism, and surveillance as well as investigating some other types of grave crimes and federal law violations.

*Source: Daily News, Foxtrot Alpha, ACAMS*

## WILL DEMONETISATION PUT AN END TO THE BLACK MONEY GENERATION

In November 2016, the Government of India decided to demonetise all Rs 500 and Rs 1000 notes in circulation. While such schemes have not worked in India in the past, a political commitment had to be honoured. The government had claimed that the action would curtail the shadow economy and crack down the use of illicit and counterfeit cash to fund illegal activity and terrorism. The question that now arises is not whether the government is right for demonetising the currency; instead, the concerns are centred on whether this method is effective in reducing the shadow economy.

'Black money' is basically undeclared money. It is generated either by illegal or illegal activities that are not reported to the government, and it is not accounted for in taxes. According to economist Abhijit Sen, "a large part of the black money is actually the liquidity for a very large economy". Pro-establishment die-hards would argue that the two high value notes have been withdrawn to check black money. Therefore, it had to be planned in total secrecy and executed in the shortest delay, so as to thwart nefarious attempts by hoarders to dump currency. But what is it that these hoarders could have done in a reasonable time frame that they are not doing now?

They could use multiple bank accounts in other names. They could redistribute their money in small parts, buy gold and convert local currency into foreign. All this and more is happening now and taxmen are reportedly collecting this information readily. Many must have got wind of this and saved their money either through due process or through 'falsely named' accounts. It is to be noted that there is no limit on how many bank accounts one can operate in India. Thus, multiple accounts under one's name and accounts in the names of relatives will allow a substantial number of the middle and higher middle class to salvage redundant notes despite the demonetisation.

This demonetisation could enable India to get rid of counterfeit currency and fake notes of Rs 500 and Rs 1000 that have allegedly entered the country through the Chinese and the Pakistani borders. However, counterfeit currency is only a minuscule percentage of the shadow economy.

Another pressing issue is how the common man has been affected by the move. The demonetisation in India has adversely affected the poor, wage labourers, small businesses, farmers and other minorities. Often, these small income earners save cash in large denominations for a rainy day. Given the incidence of bank accounts and bank transactions being extremely low, these are the communities who do not engage much with formal banking and have been hit the most by the demonetisation drive.

This measure affected only those individuals who hold cash. Others who have already converted their money into assets, and invested in gold and other luxury items have only been marginally affected. This demonetisation may likely not impact the structure, level and incidence of corruption in India. Often, the proceeds of corrupt bureaucrats and politicians never arrive in India; they are handled offshore. Otherwise, they will now be only too happy to have Rs 2000 notes at their disposal.

The benefits of demonetisation are yet to be seen and this move may have caused some hardship to people living in the cash economy. Nevertheless, Mrs. Georgieva-Kinova, the Chief Executive of the World Bank, stated in a recent interview that the move will help foster a clean and digitised economy in the long run, even comparing Modi's decision to that of the European Union, which is also phasing out high denomination bills over a longer period of time.

To conclude, the outcome of such a drastic action in curbing the shadow economy can only be measured in the long run.

*Source: The Quint, The Economist, The Hindustantimes*

## CLOUD COMPUTING - THE FUTURE OF BANKING

The cloud is a paradigm shift in computing, by which infinite computing capabilities and resources (servers, storage, networks, applications and services) are delivered as a service to customers using internet technologies.

Cloud-based services have been driving efficiency and cost reduction across industries for quite some time now. In banking, however, the transition towards cloud storage and access has not been met with the same enthusiasm due to various reasons like risk management, being one of the primary explanations.

Nevertheless, security matters do not neglect the benefits that cloud-based infrastructure in banking carry. Amongst some of them, professionals point out the opportunity to standardise IT across a company, making it more straightforward for regulators to have a clear picture of any organisation. Cloud-based storage and services make IT updates across the units of a complex international financial institution more efficient.

Singaporean bank, DBS, has signed an agreement with Amazon Web Services (AWS) to leverage its cloud technology. DBS plans to create a hybrid cloud environment that will be used alongside its existing data centers.

DBS has highlighted that using cloud will help to better meet customer needs and speed up the pace of innovation. It is one of a growing number of financial services firms that are testing or using AWS cloud, including Capital One and JPMorgan. Here are some reasons why banks are using cloud technology:

### FLEXIBILITY.

Both cloud and data centres allow banks to choose where they want to run systems. For operations that require a high level of security, they can use existing data centres, which are known to be secure but have limited capacity. For operations that have lower security requirements but require high levels of processing power - like experimenting with new products — banks can choose to use the cloud.

### SCALE.

Cloud technology enables banks to quickly scale process capacity up or down in order to react to changes in customer demand. This also means that the bank has a reduced need for physical data infrastructure. The first department of DBS to leverage AWS will be Treasury and Markets. The cloud integration will allow the business unit to more effectively handle short-term trading surges, like those caused by Brexit.

### RISK.

A hybrid cloud can mean either a combination of private or public cloud, or a combination of cloud and legacy infrastructure. In either case, a hybrid cloud environment can be used to create a level of redundancy in critical systems, meaning that, if one element of the environment goes down, the bank's systems are not completely switched to offline mode.

*Source: The Business Insider, Lets Talk Payment*

## Basel: Luxembourg and Switzerland to return Frozen Assets related to AML

The Basel Institute on Governance issued a press release regarding the recent decisions by courts in Luxembourg and Switzerland to return almost $17 million in assets to Peru that were frozen based on Swiss criminal cases involving money-laundering charges.

Source: ACAMS: 15 March 2017

## Global Anti-Bribery Enforcement on the Rise

Anti-bribery enforcement actions increased dramatically on a global scale over the past year, with the extractive industry facing the brunt of that activity. From 2006 through 2016, the United States continued to bring the highest number of enforcement actions over the last decade.

*Source: Compliance Week: 14 March 2017*

## RBI Fines Transport Cooperative Bank Ltd for KYC Failures

The Reserve Bank of India issued a penalty of five lakh rupees against the Indore, India-based financial institution for Know-Your-Customer violations pursuant to the Banking Regulation Act, 1949.

*Source: ACAMS: 16 March 2017*


## ZTE to pay combined $1.9 billion for violating U.S Trade Sanctions

ZTE, a telecommunications company established in the People's Republic of China, today agreed to pay a record-high combined civil and criminal penalty of $1.19 billion, pending approval from the courts, for violating U.S. sanctions by sending U.S.-origin items to Iran.

ZTE has agreed to enter a guilty plea, which is contingent on the court's approval, and pay a fine in the amount of $287 million, and a criminal forfeiture in the amount of $143.5 million. The criminal fine represents the largest criminal fine in connection with an International Emergency Economic Powers Act (IEEPA) prosecution.

The plea agreement also requires ZTE to abide by a three-year corporate probation. During this time, an independent corporate compliance monitor will review and report on ZTE's export compliance program. ZTE is also required to cooperate fully with the Department of Justice regarding any criminal investigation by U.S. law enforcement authorities.

Additionally, ZTE simultaneously reached settlement agreements with the U.S. Department of Commerce's Bureau of Industry and Security (BIS) and the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC)

*Source: Compliance Week: 07 March 2017*

## U.S extends its search for Dirty Money in Real Estate

The U.S. Treasury Department said it will extend its search for criminals who seek to launder money by buying U.S. real estate.

The U.S. Treasury Department Financial Crimes Enforcement Network (FinCEN) will extend to 180 days a rule ordering title insurance companies to report to authorities all-cash purchases in parts of California, Texas, Florida and New York.

The order mandates that the title companies identify the real purchaser, even when the sale is made through shell companies.

The agency said since imposing the original order in January 2016, it has found 30 percent of these cash real estate transactions involve a person who had previously been reported to the authorities for suspicious financial activities.

*Source: Reuters: 23 February 2017*

## Denmark's Danske Bank and Sweden's Nordea say cooperating with authorities in Money Laundering Probe

Denmark's Danske Bank and Sweden's Nordea are cooperating with authorities over possible incidents of money laundering which have taken place in their overseas branches from 2011 to 2014.

Danish newspaper Berlingske reported that the two banks were being investigated by authorities in Moldova and Latvia over money laundering. More than 7 billion Danish crowns ($1.0 billion) were transferred to accounts in the two banks from 2011 through 2014.

Danske Bank stated in a press release that the transactions were almost exclusively carried out at its Estonian branch, and that the bank had already discussed about these with Danish and Estonian authorities.

*Source: Reuters: 20 March 2017*

## SUMMARY OF THE LAST ISSUE - COMPLIANCE DIGEST ISSUE NO. 3

**The Compliance Digest Issue No.3 is available at this link.**

**In the third issue of the Compliance Digest, readers were able to grasp:**

- An update in the Legislations, Rules , Guidelines and recent Supreme Court Cases
- Articles on Developing a Client Selection criteria; E-KYC; Facing the Challenge of Sanction; Correspondent Banking and De-risking
- An insight of Mauritius Bankers Association (MBA)
- Global Insight with Valerie Houbert
- A glimpse of the global news on the financial industry around the world

## Achievement of the Bank

AfrAsia Bank Limited is the proud winner of the 2017 edition of the PWC Corporate Reporting Awards, receiving three trophies out of a total of eight in the following categories:

- Financial Institutions
- Online Reporting
- Risk Management Disclosures - Financial Institutions

AfrAsia Bank Limited has also been awarded Best Banking Brand Mauritius 2017 by Global Brands.


*Compliance Digest is a newsletter issued by the Compliance Department of AfrAsia Bank Limited on a quarterly basis and provides updates and important compliance and risk management issues.*

*The editors welcome ideas for articles in future issues. Please send your ideas or submissions to Anil Fangoo at Anil.Fangoo@afrasiabank.com or to Khusboo Puryag at Khusboo.Puryag@afrasiabank.com*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