

# PARAMETRIC INSIGHTS

## ECONOMIC CRIME UPDATES



### HELLO!

Welcome to the **seventh** edition of our newsletter! We hope that you will find our content useful, practical and engaging.

At Parametric Global Consulting, we focus on helping our clients navigate complex economic crime issues effectively through independent and impartial investigations and reviews, tailored training, and strategic advice.

We want you to be prepared to respond to legislative, policy and geopolitical changes, and our newsletter will keep you abreast of the swiftly evolving landscape.

Get in touch with us if you need our assistance with any ABC, AML, and other compliance issues in your organisation.

Do share the newsletter and sign up to our mailing list so that you are kept up to date!

I hope that the month ahead is fab and productive!

Best,

**Lloydette**  
Founding Partner



Parametric  
Global Consulting



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# THE INVESTIGATORS' MINDSET

## THE TRIAGE PROCESS: STEP TWO – RESPOND!

In the last issue, we discussed the benefit of using a triage process to assess how an issue will be handled. In the aftermath of the pandemic, indicators point towards a notable increase in financial crime risks; now more than ever, organizations must encourage a 'speak up' culture.

We covered Step 1 - React - of the 'three R's' system used at Parametric Global Consulting to support organisations: 'React; Respond; Remediate'.

### 2 – Respond:

Why is the second step so important?

Responding adequately once an allegation or concern is raised, is as crucial as reacting appropriately. Working out the best way to respond isn't always straightforward. Considerations may include the timing and nature of a response and understanding what an effective response looks like.

Your organization may have systems or procedures in place to manage responses to issues that have arisen via hotlines, internal reporting, or other means. Remember that your response may be scrutinised by law enforcement or regulators at some point. They may examine failures to respond to an identified issue, or failures to respond in a meaningful way.

Ensuring that a response is *effective*, is vitally important; the response should be tailored to the nature of the issue. An *effective* response is one that distils all relevant factors in a constructive and timely manner and sets out a clear plan of action. The plan should be executed using skilled and trained personnel.

A 'sweep under the carpet' mindset will damage trust and affect organisational culture. Tailored, active responses lead to effective resolutions and ensure that those who come forward, feel properly engaged with. Organisations that spend time and resources in crafting a triage process will be well-equipped in times of crisis.

**\*\*\* KEY TAKEAWAYS: Do you have a clear and effective triage process? Are relevant employees properly trained with the skills to triage and conduct any necessary investigations? Failure to respond meaningfully can draw scrutiny and/or criticism from law enforcement and regulatory bodies. \*\*\***

# LEGISLATION UPDATES

## REGISTER OF OVERSEAS ENTITIES

In **Issue 3**, we noted the introduction of the **Register of Overseas Entities (ROE)**, created by the Economic Crime (Transparency & Enforcement) Act 2022. The ROE is maintained by UK Companies House and came into force in August. It is intended to achieve 'greater transparency', help law enforcement agencies to 'investigate suspicious wealth more effectively', and deal with foreign criminals using UK property to launder money.

### ***What do you need to know?***

- Overseas entities that want to buy, sell, or transfer UK property/land, must register with Companies House, declare identity of registrable beneficial owners or managing officers, and update this information annually.
- There are deadlines (including retrospective ones) in place for registration and information provision. This differs depending on where in the UK the property/land is, and when it was bought/disposed.
- Registered overseas entities get a unique Overseas Entity ID to give to the land registry when it buys, sells, transfers, leases, or charges UK property/land. These activities cannot be carried out without registration.
- Verification of identity is required before applying for registration, when complying with the updating duty, and when applying for removal from the ROE.

### ***Will it work?***

- Obscurity of foreign ownership of UK property has been a long-running concern due to criminals and kleptocrats exploiting our systems to launder dirty money and conceal wealth.
- The ROE is a step towards improving transparency. It will become more challenging to hide ownership behind corporate structures and to hold anonymous property portfolios.
- Although it is an improvement, there is plenty of scope for rule evasion.
- For example, disclosure is not required if an oligarch owning shares in an offshore company that owns UK property, holds 25% or less of that company's shares.
- Properties can be transferred into irrevocable trusts in family members' names, potentially positioning them beyond sanctions.
- Some question whether it would be better to have an open register of true owners of UK land and property, not just of those owned by companies.

### ***Keep in mind:***

- Failure to update the ROE, and annually update information held at Companies House once registered, is a criminal offence.



- Penalties for non-compliance include daily fines of up to £2,500, imprisonment for up to five years, and restrictions when buying, selling, transferring, leasing, or charging property/land. These penalties will only be effective if there are resources for effective enforcement.
- Verification of the information accompanying a registration application can only be carried out by appropriate professionals and a 'UK-regulated agent'. It can take a long time if dealing with complex entities.
- Government guidance states that it is quicker and easier for an overseas entity to be registered by the same UK-regulated agent that carried out its verification checks.
- Overseas entities that fail to update will cease to be registered until they comply. In the meantime, new property acquisitions cannot be registered.

**Action:**

- It is important to apply for registration quickly, once relevant information has been gathered and verified. There is likely to be a surge of applications, and poor timing will affect transactions.
- Ensure a careful assessment is carried out on whether property portfolios will trigger the registration requirement.
- Your impacted clients should be warned of the registration requirements, along with your organisation's position on verification and registration.
- The registration requirement is partly retrospective. Therefore, former transactions should be audited to see if they are caught by the legislation.

**\*\*\* KEY TAKEAWAYS:** *The Register of Overseas Entities has a retrospective element. There are criminal sanctions for non-compliance. Verification of identify is required prior to registration. \*\*\**

## TECH SPOTLIGHT

### TRUST TECH: WHISTLEBLOWING PLATFORMS TO CONSIDER

In our [last issue](#), we discussed the role that trust tech plays in empowering whistle-blowers. There are various whistleblowing platforms on the market that are secure, user-friendly, and make it easier to raise concerns.

It is possible to integrate a system proportionate to your organisation's needs. Here are a few to consider:

**VAULT:**

- Vault's reporting app encourages whistle-blowers to raise concerns internally first. It enables fast resolutions, preventing reporters from becoming frustrated with the process.

- Complaints are directed to a named manager, who can message anonymous employees to request more information before a resolution is reached.
- Employees can choose to disclose their concerns once similar complaints have been registered. The 'GoTogether' feature gives employees the option to report as part of a 'pattern'. An example of this is when another app user in the organization names the same perpetrator.
- The platform also includes features such as the Resolution Hub, which enables collaboration on investigations. It is an innovative case management system that helps internal investigators gather and structure case data so it can be read, understood, and acted on easily and effectively.

**NAVEX:**

- NAVEX's whistleblowing hotline service is integrated with their broader E&C solution, which means that all compliance activities can be managed from one centralised platform.
- It is customisable and scalable, and suitable for organisations of all sizes.
- Various reporting channels can be facilitated, including web, 'telephony', open-door, and mobile. It is possible to start with a web-only solution and later add other channels.
- Hotline compliance is simplified to local regulations and privacy laws, and incident-tracking software monitors where incidents happen.
- Localisation, translation, and interpretation services are available in 150+ languages, optimising the solution for global businesses.
- The case management software enhances automation, consistency and effective auditing and investigations.

**WALOR:**

- Walor provides a digital reporting channel. It is intuitive, with a focus on the whistle-blower experience. Anyone can access the platform and submit a report via a 'company link'.
- They target 'micro' to medium-sized organisations.
- Employees can easily report confidentially or anonymously via the secure platform.
- Walor examine reports preliminarily and handle initial alert screening for objective case management.
- The platform currently only supports Danish and English as primary language options, with more to come soon.
- When cases are forwarded to the organisation, they receive a legal overview setting out Walor's assessment of seriousness, categorization, and commentary on further action.
- The platform has a network of advisers, who can assist in subsequent internal investigations.

*This article has not been sponsored by any of the companies above.*



**\*\*\* KEY TAKEAWAYS:** *Does your organisation use any trust tech tools to improve the whistleblowing process? Is it fit for purpose? Do you have a communication plan for raising awareness of your whistleblowing platform? \*\*\**

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## CASE UPDATES

### **NCA ATTEMPTS TO RECOVER SUSPECTED PROCEEDS OF CRIME HELD IN BARCLAYS' ACCOUNTS**

**According to the National Crime Agency, Barclays is holding** tens of millions of suspected illicit funds on behalf of unidentified customers. The UK bank is now listed as an interested party in the NCA's £54m High Court claim against two unnamed account holders. The agency is seeking a Recovery Order on the basis that the money in these accounts is likely to be the proceeds of crime.

The claim comes after Barclay's internal investigations found that the account holders were unable to provide information regarding provenance of the suspect funds. Barclays 'ring fenced' the money as a result, and the case will be heard in November 2022.

### **COURT PRELIMINARILY APPROVES \$79.5M SETTLEMENT OVER GOLDMAN SACHS' 1MDB FRAUD SCHEME**

**A New York federal court preliminarily approved a settlement agreement** between Goldman Sachs and a Georgia pension fund, who accused a group of former and current Goldman Sachs directors of securing billions in 1MDB bond issuances through bribes with high-ranking officials in various countries. The settlement was made to resolve claims that the directors allowed the billion-dollar fraud scheme to occur, by failing to abide by their duties. The pay-out will be around \$79.5m. Under the proposed settlement, the multinational investment bank and financial services company have agreed to compliance measures.

### **GLENCORE TO PAY \$485M DUE TO MARKET MANIPULATION**

**Glencore was sentenced in September following a DOJ investigation** into market manipulation by the commodities giant. The company had already indicated a guilty plea in May 2022, and \$485m in fines and forfeiture was levied by the sentencing judge. The terms of the May 2022 plea agreement around DOJ allegations of oil price manipulation, were enforced. The multinational commodity trading and mining company must also give up the millions it made on the scheme. The penalty is part of a total \$1.1 billion in fines and forfeitures Glencore agreed to pay to resolve both bribery and market-manipulation probes in the US, UK, and Brazil. Sentencing on the bribery charge in the UK is scheduled for November.



## BRAZILIAN AIRLINE PAYS MILLIONS TO SETTLE FCPA VIOLATIONS

**Brazilian airline - GOL Linhas Aéreas Inteligentes S.A. - agreed to pay** more than \$41m to resolve parallel bribery investigations by criminal and civil authorities in the U.S. and Brazil. GOL entered into a Deferred Prosecution Agreement with the DOJ in connection with a charge of conspiracy to violate the FCPA's anti-bribery and books and records provisions. In accordance with the DPA, GOL will pay a criminal penalty of \$17m. The DOJ has agreed to credit up to \$1.7m of that criminal penalty against an approximately \$3.4m fine the company agreed to pay to authorities in Brazil. Due to GOL's current financial position, and inability to pay the full fine, the entire penalty - \$87m to the DOJ and \$70m to the SEC - was reduced to \$17m and \$24.5m, respectively. GOL will make payment over the next two years as part of its resolution with the SEC. They received full credit for their cooperation with the DOJ's investigation.

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## DATES FOR YOUR DIARY

### THE UNITED KINGDOM'S SANCTIONS REGIME: NAVIGATING AN EVER-MOVING HORIZON

BCL Solicitors LLP | 12-10-22 | [Register](#)

The Russian invasion of Ukraine was a major test. Using enabling primary legislation and regulations, the UK rapidly sanctioned numerous individuals and entities. However, core elements of the new regime are opaque, which raises significant difficulties for designated persons and their professional advisors. These elements may only become clear following challenges. This webinar will analyse key aspects of the UK sanctions regime as it applies to designated persons and associated businesses, including the regime, and issues for designated persons and associated businesses.

### FINCRIME & SURVEILLANCE SUMMIT

FINCRIME SUMMIT | 13-10-22 | [Register](#)

Develop your financial crime fighting abilities through the FinCrime & Surveillance Summit online conference. Learn from experts preventing criminals from using the financial system to commit harmful crimes in the modern world - from human and drug trafficking to terrorism and corruption.

### DETECTING FRAUD THROUGH VENDOR AUDITS

ACFE | 26-10-22 | [Register](#)

Does your organization have an established contractual right-to-audit in your purchasing and vendor contracts? Auditing vendors and suppliers is critical to deterring and detecting fraud. It ensures that your organization is being treated equitably and is not a victim of fraud. (CONTD)

This course aims to help develop a solid foundation for vendor audits. This includes crucial information like identifying which vendors to target, how to prepare for a vendor audit, how to identify, gather and audit relevant vendor documentation, and common vendor fraud schemes to look for.

### INVESTIGATING SEXUAL MISCONDUCT

ACi | 14-10-22 | [Register](#)

*(Don't Be That Investigator: Trauma-Informed and Culturally Sensitive Approaches to Investigating Sexual Misconduct)* In partnership with Ropes & Gray, this in-person event will examine how corporate investigators can manage complainants, witnesses and employees accused of wrongdoing in a culturally sensitive way, including duty of care to all parties concerned. It will cover ways to respond to complex sexual misconduct allegations using trauma-informed approaches as part of a robust response, the role bias can play in an investigation, employment law implications, and how sexual misconduct investigations link to wider organisation culture discussions.

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## USEFUL RESOURCES

### PODCAST: ETHINTEGRITY

Access: [Apple Podcasts](#) | [Spotify](#) | [Youtube](#)

**Nichole Pitts' 'Ethintegrity Podcast' provides a safe space** to hold 'big, brave, and bold conversations'. The podcast includes behind-the-scenes interviews across various industries, honest conversations with other DEI and Ethics & Compliance professionals, and examines inspiring people, brands, and entrepreneurs in the DEI & Ethics world. The podcast weaves together ethics, DEI, and life experience, and discusses current challenges, lessons learned, opportunities for growth, and advice.





## THE DEEP DIVE

### 5(ISH) THINGS THAT YOU NEED TO KNOW ABOUT THE MONACO MEMO

**There is much to digest in the Department of Justice's newly** released Memo by Lisa Monaco, the Deputy Attorney General. The full scale and impact of the Memo and what it means for corporates will be broken down over the next few issues. Let's get started with a high-level summary:

**1** - The DOJ has made it clear that it is not business as usual. This means that the focus is firmly back on individual accountability. This has been restated as the **primary priority** for the DOJ. Companies will be expected to provide **all** information on individual wrongdoing first, and at the earliest opportunity. This is now classed as "priority evidence". Failure to do so will mean that the corporate loses some or all of the cooperation credit available.

**2** - The prosecution of individuals in other jurisdictions will not necessarily stop the DOJ from pursuing its own prosecution of the same individual. The DOJ reaffirms its commitments to international cooperation but makes it clear in the Memo that it won't have its hands tied in any action it chooses to take against individuals. This means the DOJ will determine the effectiveness of the prosecution in the other jurisdiction, and the type of sentence that the individual will receive if convicted.

**3** - A corporate's previous "bad character" is now in full focus and will be examined closely by the DOJ when making an assessment as to its suitability for a corporate resolution. This is designed to align with how the DOJ would treat an individual's previous criminal conduct. A corporate's previous misconduct will be considered in the context of the current issues, and whether it reflects systemic compliance issues or indicates poor organisational culture.

**4** - The Memo encourages corporates to self-report misconduct in a timely manner. The DOJ recognises the need for greater clarity and transparency in relation to the benefits of self-reporting. There are two core principles; firstly, the DOJ won't generally seek a guilty plea from corporates that self-report, cooperate fully and undertake full remediation related to the misconduct. Secondly, the DOJ will not impose monitors on corporates that have self-reported and are able to demonstrate that they have an effective and tested compliance program.

**5** - The DOJ will consider the corporate's compensation structure and whether it penalises misconduct with provisions such as compensation clawbacks. There will be close examination, by the prosecutor, of what happens in practice, and how the corporate works to promote an ethical culture.

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One last thing! Monitors - the DOJ's focus on transparency and accountability is an acceptance that there are issues in this area. The Memo sets out the need for monitors to be selected using a clear and consistent process. It also places an expectation on prosecutors to continually review monitorships and ensure that their scope of work is adjusted accordingly.