

PARAMETRIC MONTHLY

ECONOMIC CRIME INSIGHTS



HELLO!

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

At Parametric Global Consulting, our focus is to help 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.

Do share the newsletter and sign up to our mailing list so that it hits your inbox every month!

I hope that the month ahead is fab and productive!

Best,

Lloydette
Founding Partner



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CASE UPDATES

ONLY GOLDMAN SACHS BANKER TO GO TO TRIAL OVER 1MDB SCANDAL FOUND GUILTY

Earlier this month, Roger Ng - the only Goldman Sachs banker to go to trial over the multi-billion-dollar 1MDB embezzlement scandal - was found guilty for participating in the looting of the Malaysian sovereign wealth fund. The fraud has been described as one of the largest financial scandals in history. The conviction came after a two-month federal trial in New York. The fund was originally set up to help Malaysia's people and economy, and finance public development projects. The charges arise from a scheme where Goldman Sachs helped 1MDB raise billions through bond sales, and divert part of it to government officials, bankers, and associates over six years. Ng was the firm's former head of investment banking in Malaysia and is described as being central to the scheme. He was convicted of all three counts in the case; conspiring to violate US anti-bribery laws, conspiring to launder money, and conspiring to sidestep Goldman's internal accounting controls. Ng faces up to 30 years in prison.

SFO RAMPS UP INVESTIGATION INTO GUPTA BUSINESSES

In May 2021, the SFO announced an investigation into suspected fraud, fraudulent trading, and money laundering in relation to the financing and conduct of the business of companies within Gupta Family Group Alliance (GFG). This came about after GFG's major funding provider, Greensill Capital UK, collapsed in March 2021. Recent operations saw an escalation into the probe. This week, SFO investigators across the UK issued notices under Section 2 of the Criminal Justice Act 1987 at trading addresses linked with GFG. This happened shortly after French police officers searched properties linked to GFG in France. SFO teams attended trading addresses, issuing Section 2 notices to request relevant documents to the investigation. This included company balance sheets, annual reports, and correspondence. Investigators spoke with multiple executives across England, Scotland and Wales, who co-operated. An internal note to staff by chief transformation officer Jeff Kabel indicated that the company would comply with information request orders, 'co-operate fully', and consistently rejected all wrongdoing.

BRIBERY RESOLUTION LEADS TO STERICYCLE AGREEING TO PAY OVER \$84 MILLION

This month, Stericycle Inc. (Stericycle) agreed to pay more than \$84m to resolve FCPA offences, and Brazilian and US investigations, into the bribery of Brazilian, Mexican and Argentinian foreign officials. The bribes amounted to around \$10m, with the international waste management company earning at least \$21.5m in profits from the scheme. False books and records were made to mask corrupt and improper payments made by subsidiaries. Stericycle entered into a three-year DPA with the Department of Justice (DOJ), who charged the company with counts of conspiracy to violate the FCPA's anti-bribery and books and records provisions. They have agreed to undertake compliance, self-reporting, and

monitoring measures, and face a penalty of \$52.5 million. The SEC also charged Stericycle with the same offences as the DOJ, along with a count of conspiracy to violate internal accounting controls provisions. The company agreed to pay almost \$28.2m to resolve these charges. The DOJ has agreed to credit up to one-third of the criminal penalty against fines Stericycle pays to authorities in Brazil in related proceedings.

THE DEEP DIVE

THE COCA COLA CASE: A TIMELY REMINDER ABOUT SECTION 7

So often, the mantra of some companies when discussing bribery and corruption risks that they face is: “My company is not a big corporate”; “We don’t do any business in high-risk jurisdictions”; “Hard to see how the risk of bribery and corruption can occur in the type of business we do”; “We operate only in the U.K. so unlikely to have these types of issues.”

This month’s conviction of a former senior executive at Coca Cola Enterprises UK alongside two other individuals for corruption, and three companies for s.7 failure to prevent bribery offences, is a timely and stark reminder for companies of all sizes to remain alert to potential bribery and corruption risks.

Let’s use the facts of this case to deconstruct some of these mantras in turn.

“My company is not a big corporate!”

The three companies convicted of s.7 Bribery Act offences were WABGS Ltd, Tritec Systems Ltd and Electron Systems Ltd. WABGS had a turnover of over £100m per year and the other two had a significantly smaller turnover of approximately £1m.

The principle of proportionality is key when determining what needs to be done to sufficiently mitigate bribery and corruption risks. There isn’t always a direct correlation between a company’s size and its risk profile; therefore, the focus should be on the risk profile. In this case, the competitive tendering process should have been an area of concern for the companies as Noel Corry, the former Coca Cola executive, received significant amounts in cash and gifts in kinds as bribes. The large sums paid to him, amounting to approx. £1.5m over nine years, would have been prevented by robust internal and financial controls.

“We don’t do any business in high-risk jurisdictions!”

There are jurisdictions where bribery and corruption risks are more prevalent - in particular, involving government officials. Companies that operate in those types of jurisdictions should have the appropriate policies and procedures to mitigate and manage those risks.

The risk of bribery and corruption is possible in every jurisdiction and in this case, it was all home-grown corruption. The individual and companies convicted were British and there are no international elements to this case. The bribery scheme was discovered by Coca Cola, who contacted the police and subsequently provided support and assistance to the police investigation.

Section 7 of the Bribery Act requires companies to have adequate procedures to prevent those associated with the company from being involved in paying bribes. The question of jurisdiction is not addressed nor relevant for a company to fall foul of the s.7 provisions.

“It’s hard to see how the risk of bribery and corruption can occur in the type of business we do!”

The contracts in the Coca Cola case were for electrical services. Contracts were awarded to the companies, but very little or no electrical works were ever carried out or even required from the outset. The three companies received payment for these contracts and Corry was a beneficiary in the forms of bribes. Corry also provided the companies with sensitive and confidential information that enabled them to gain an advantage over other companies during the bidding-for-contracts process. The companies collectively benefitted from £13m in contracts obtained through bribery.

The introduction of the Bribery Act 2010 heralded a renaissance in awareness about bribery and corruption risks. Companies, across all sectors, established procedures and developed compliance programs as a result. Every business is the type of business that bribery and corruption can occur in, and companies should guard against complacency. It is important to periodically monitor the procedures and policies in place to ensure that they accurately reflect the current risk profile of your company and the way in which it operates.

The MET Police’s first and the Crown Prosecution Service’s second s.7 failure to prevent bribery prosecution and conviction is an opportunity to revisit your compliance policies. The CPS prosecutor stated: “The contracting companies should have had in place compliance measures which would have prevented the payments being made and led to the corruption being exposed.”

Two of the companies that received contracts pleaded guilty to 1 count of corruption and 1 count of failure to prevent. The third company also pleaded guilty to 1 count of failure to prevent. All received significant fines and costs orders. The three men pleaded ‘guilty corruption’ and/or ‘conspiracy to bribe’. All received custodial sentences which were suspended, as well as community orders and costs.

Coca Cola took civil action against its former executive which forced him to sell his family home and give up his pension, recouping £1.7m for Coca-Cola. The three companies also paid financial settlements to Coca Cola.

TECH SPOTLIGHT

HOW CAN AI HELP DETECT FINANCIAL CRIME?

In last month's issue, we looked at how Artificial Intelligence (AI) can actively support corporate investigations. This month, we'll focus on how it can help detect financial crime ...

Time is of the essence when it comes to financial crime, and this is where detection becomes all-important. The ACFE Report to the Nations 2022 indicates that the longer a fraud remains undetected, the greater the financial loss to the organisation will be. AI can function as an efficient investigative tool by proactively alerting to the existence of suspicious activity and the need to investigate. It's important to note that faster detection also improves deterrence.

AI can:

- 1. Apply advanced algorithms** to determine any deviations or irregularities in systems. If detected, they can be flagged instantly, sending alerts to the appropriate personnel. This ensures that action can be taken as soon as possible, and if necessary, trigger an investigation.
- 2. Use data to identify behaviour** that doesn't fit within an expected profile. Not only can it highlight where exceptions exist, it can improve anomaly detection considerably. AI monitoring systems also have a higher success rate due to sophisticated predictive rules. They can significantly reduce false alerts and save time for the most important matters.
- 3. Facilitate real-time insights** by detecting and reporting irregularities and problematic and corrupt behaviour as it happens. This is due to AI's enhanced ability to analyse enormous amounts of data. It can collect and scrutinize data from various sources to understand what typical behaviours and operations are supposed to look like.
- 4. More easily verify transactions**, by determining those that do not conform to standard norms. These may have escaped conventional transaction monitoring systems.
- 5. Create predictive solutions** that facilitate early identification of financial crime by leveraging trends and patterns collected from past transactions and behaviours. For example, machine learning algorithms can learn from historical fraud patterns, and recognise them in future transactions.
- 6. Allow you to identify risks earlier** and, therefore, begin the management and investigation process more swiftly. This is incredibly helpful, as time sensitivity is a critical consideration when investigating financial crime.
- 7. Help reduce the human resources** needed to evaluate monitoring alerts for suspicious activities due to augmented detection accuracy and document evaluation.

We'll have more to come in this mini-series on the role of AI in investigations, and the ways in which it supports, and has the potential to support, corporate investigations.

SANCTIONS ENFORCEMENT

MAJOR CHALLENGES OFSI FACES WITH SANCTIONS ENFORCEMENT

In light of the sanctions regime against Russia, and the recent Treasury Committee report (*'Defeating Putin: The development, implementation and impact of economic sanctions on Russia'*), there are several challenges the Office for Financial Sanctions Implementation (OFSI) faces when it comes to enforcing sanctions. Here are three key issues:

Resources

The concerns around adequate resourcing for OFSI are not new. However, it has now become an urgent and pressing concern, given the extensive sanctions now in place. OFSI has an important and central role in the sanctions enforcement landscape, yet it is under-resourced for the mammoth task it now faces. HM Treasury's Outcome Delivery Plan for 2021-2022 reported that OFSI had less than 40 full time employees, whose duties also include issuing licences and publishing guidance and interpretation. By way of comparison, OFSI's US equivalent Office of Foreign Assets Control (OFAC) employs over 200 people.

OFSI does not have the level of resources and expertise needed to deal with the challenges brought about by the Ukrainian war. The lack of resources available to OFSI is a particular problem given the tremendous uptick in demand and the need for rigorous enforcement of the sanctions in place, with more likely to follow. This is not simply a matter of increase in capacity. More importantly, it is about recruiting additional staff with the appropriate expertise.

Private Sector

It is essential that OFSI improves its engagement with private sector bodies. It relies on the private section for the effective implementation of sanctions, and that requires clear and detailed communication from OFSI and other enforcement bodies to the private sector.

Given the speed at which some sanctions have been imposed, it is understandable that there may be an initial lack of clarity. However, OFSI should work quickly and efficiently to provide clarity where needed. It is crucial that the private sector is not left in dark about the basic facts of sanctions measures and consequently, their implementation obligations. Guidance provided on sanctions should be clear, precise, and readily available.

Effective and timely engagement with the private sector will increase compliance with sanctions, and also strengthen OFSI's enforcement decisions.

Fragmentation of enforcement landscape

OFSI has been accused of being 'toothless', with a low enforcement rate and average fine not being sufficiently impactful. The changes ushered in by the Economic Crime Act 2022 should improve matters, however, a less disjointed UK sanctions enforcement landscape may also enhance OFSI's enforcement reputation.

Effective sanctions implementation requires coherent and coordinated policy across different government departments involved in sanctions. The Foreign Commonwealth & Development Office (FCDO) is responsible for dealing with international sanctions policy and negotiating international sanctions, the Department for International Trade implements trade sanctions and embargoes, and Her Majesty's Revenue & Customs (HMRC) enforces trade sanctions breaches. There is a fragmented approach, with numerous departments responsible for overseeing different aspects of sanctions. In contrast, the US has a more consolidated sanctions landscape, with OFAC administering and enforcing both trade and economic sanctions.

According to the Foreign Affairs Committee's critical report (*'Fragmented and incoherent: the UK's sanctions policy' [2019]*), one key element of the sanctions policy overlooked in relation to the UK's post-Brexit sanctions regime, is an effective structure for cross-governmental coordination. The report suggested that fragmentation is a major stumbling block in terms of effective implementation. Sanctions require close cross-department co-operation for effective implementation and there is clear room for improvement.

THE INVESTIGATORS' MINDSET

UNDERSTANDING THE CULTURAL CONTEXT

During an investigation, a crucial element when gathering the facts and getting an understanding of what may have occurred is the cultural context. Its importance cannot be overstated. This is particularly relevant in cross-border investigations, but it may even apply in regions or states within a country.

Your investigation team should ensure that they have a good grasp of societal norms. It is necessary to know what is considered acceptable or unacceptable. They need to understand what the unwritten rules are that shape attitudes, beliefs and behaviour.

Investing the time to do this will bear fruitful results during your investigation. It will:

1. allow you to gain the trust of those involved in the investigation;
2. help you understand the nuances in language, perception and outcomes;

3. let you work effectively within that jurisdiction;
4. overcome any misunderstandings capable of slowing down the investigative process; and
5. grant you the ability to apply a more insightful, contextual understanding when reviewing the facts and the allegations.

DATES FOR YOUR DIARY

MONEY LAUNDERING SCHEMES WORKSHOP

ACFE | 09/05/22-12/05/2022 | [Register](#)

This virtual seminar will cover: recognising traditional and emerging methods of laundering assets; tools and techniques to conduct a successful money laundering investigation; honing investigative skills; the connection between money laundering and bank frauds; and tools, language, and information needed to find hidden assets. There will be interactive opportunities to dive into methods criminals use to move and hide illicit gains, and explore real-life cases of money laundering.

INVESTIGATIVE INTERVIEW TECHNIQUES

ACFE | 17/05/2022-19/05/2022 | [Register](#)

An ability to obtain information or admissions during a fraud examination interview can often make, or break, a case. This interactive course, presented by expert instructors, will teach attendees how to be more effective in asking direct and follow-up questions whilst evaluating verbal and non-verbal responses. By learning fundamental interviewing techniques, attendees can learn how to obtain better information from subjects to enhance any investigation or examination.

COMPLIANCE & ETHICS ESSENTIALS WORKSHOP

SCCE | 09/05/2022-12/05/2022 | [Register](#)

This workshop is designed to provide a comprehensive introduction to the elements of a compliance program, and support attendees to become more effective compliance team members. It is ideal for individuals with less than two years of compliance-related experience, including new field entrants. Industry leaders will instruct attendees through compliance and ethics fundamentals, and help build a foundation for compliance careers.

BANKING INVESTIGATORS FORUM

The ACi | 26/05/2022 | [Register](#)

In partnership with Forensic Risk Alliance, ACi is hosting an invitation-only, limited-space event. Over a full day, they will cover investigations topics specific to the banking investigations community.

Agenda items include whistleblowing, 'conduct investigations', recording investigative interviews, investigations and data sharing, crypto investigations, measuring investigations, and centralising investigation teams.

USEFUL RESOURCES

PODCASTS

GREAT WOMEN IN COMPLIANCE

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

This podcast is part of the Compliance Podcast Network and hosted by Mary Shirley and Lisa Fine. Every week, they speak with amazing, inspirational women in compliance making a difference. These are women who have helped develop the field of compliance into what it is today, broken down barriers, lead teams tackling cutting-edge issues, or recently joined the compliance world.

