



# **MONEY LAUNDERING TYPOLOGIES REPORT**

**Bermuda**

**January 1, 2013 – December 31, 2015**

# 1 Money Laundering Typologies in Bermuda

The intended purpose of the typologies and red flags of suspect activity linked to money laundering is to do the following:

- Identify potential and actual illegal activity associated with money laundering and other predicate offences;
- Educate the *reporting entities and persons* about the various methods and techniques that criminals may use to launder the proceeds of crime;
- Identify areas that need added attention and assist the *reporting entities and persons* to identify higher risk opportunities that require regular or ongoing monitoring;
- Assist with the prevention, detection, and response to money laundering; and
- Establish emerging threats through analysis of patterns and trends.

Through the promotion of AML/CFT awareness and training as well as amendments to Bermuda’s AML/CFT framework, these improvements have effectively detected and deferred some of the opportunities that criminals and their associates have sought to use to launder the proceeds of crime. With technology constantly evolving, criminals will continue to discover alternate ways to launder funds. Likewise, the *reporting entities and persons* must remain abreast of the emerging patterns and trends in order to successfully prevent, detect and respond to money laundering and terrorist financing.

In this report, we will discuss the following two Suspicious Activity Report (SAR) classifications selected by *reporting entities and persons* upon filing with the FIA Bermuda: tax offences and corruption.

## 1.1 Corruption

Between 1<sup>st</sup> January 2013 and 31<sup>st</sup> December 2015, there has been an increase in the number of local and international Suspicious Activity Reports (SARs) filed with the FIA, which cited corruption as the suspected criminal offence. A total of sixty-one (61) SARs were filed with incident of suspected corruption. Out of the fifty-three (53) filed locally, the majority were filed by long-term insurance companies. The eight (8) international SARs filed were incoming requests from foreign Financial Intelligence Units (FIUs) or agencies. A table showing the breakdown of SARs filed due to suspected corruption is shown below in Figure 1.

**Figure 1. Number of SARs filed with Incidence of Suspected Corruption**

| Year | No. of Local SARs Filed with the FIA | No. of International SARs Filed with the FIA |
|------|--------------------------------------|--|
| 2013 | 7                                    | 2  |
| 2014 | 26                                   | 3  |
| 2015 | 20                                   | 3  |
|      | <b>53</b>                            | <b>8</b>                                     |

Thirty-one (31) indicators of suspected activity that were selected by the *reporting entities and persons* upon filing SARs involving corruption are as follows:

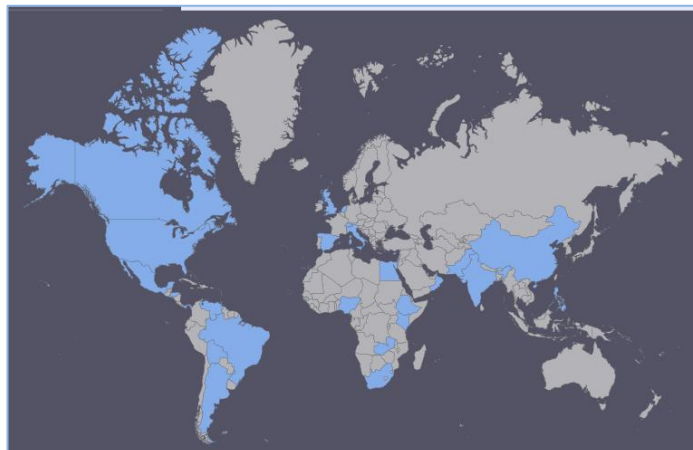
1. Adverse Media
2. Arms/Military
3. Beneficial Ownership
4. Bribery
5. Company
6. Consent Request
7. Corruption
8. Criminal history
9. Dormant/Inactive Account Reactivated
10. Drafts/Managers Cheques
11. Early Redemption
12. Electronic Transfers
13. Embezzlement
14. Foreigner(s)
15. High Risk Country
16. Inadequate/Evasive Explanation
17. Inconsistent Account Activity
18. Investment Related
19. Legal Arrangements
20. Money Laundering
21. Ongoing Monitoring
22. PEP Foreign
23. PEP Local
24. Police Production Order/FIA Notice
25. Politician(s)
26. Safety Deposit Box
27. Terrorism related
28. Travel
29. Use of Trusts
30. Wires
31. Watch Lists

The nationalities of the Subjects featured in SARs filed between the years 2013 and 2015 that involved corruption involved are as follows:

- American
- Argentinian
- Bermudian
- Bolivian
- Brazilian
- British
- Canadian
- Cayman Islands
- Chinese
- Cypriot
- Dutch
- Egyptian
- Ethiopian
- Filipino
- Honduran
- Indian
- Israeli
- Italian
- Kenyan
- Mexican
- Nigerian
- Omani
- Pakistani
- Panamanian
- Salvadoran
- South African
- Spanish
- Swiss
- Venezuelan
- Zambian

A map of the countries associated with the aforementioned nationalities is shown over page in Figure 2.

**Figure 2. Nationalities Featured in SARs classified as Corruption**



### 1.2 Politically Exposed Persons and Corruption

According to Transparency International, the global coalition against corruption (<https://www.transparency.org>), corruption is defined as the abuse of entrusted power for private gain. It can be classed as grand, petty and political, depending on the amounts of money lost and the sector where it occurs. The influence of those in power allows for these individuals to evade AML/CFT procedures in order to sustain power, status and wealth. In this section, the focus will be on those individuals with prominent public functions, their close relations and associates, all of whom are known as Politically Exposed Persons (PEPs). As a result, it has been crucial for Bermuda's financial services sector to employ suitable and evolving risk management systems to determine whether or not an individual is a PEP or not, in accordance with Financial Action Task Force (FATF) guidance.

A review of Suspicious Activity Reports (SARs) filed between January 1<sup>st</sup>, 2013 and 31<sup>st</sup> December 31<sup>st</sup>, 2015, identified that out of the sixty-one (61) SARs filed that were classified as corruption, fifty-five (55) or 90% of them involved PEPs. A table showing the breakdown of SARs filed due to suspected corruption involving PEPs is shown in Figure 3.

**Figure 3. Number of SARs filed with Incidence of Suspected Corruption involving PEPs**

| Year | Total No. of SARs involving PEPs |
|------|----------------------------------|
| 2013 | 4                                |
| 2014 | 31                               |
| 2015 | 20                               |
|      | <b>55</b>                        |

Identified were two insightful points linked to PEPs and corruption on which the subsequent two case studies were based. The purpose of these upcoming case studies is as follows:

1. to highlight some key cases of suspected activity that have been identifiably linked to PEPs and corruption as it pertains to the Bermuda economy;
2. to identify red flags associated with PEPs and corruption; and
3. to provide corresponding suggestions on how to address such red flags.

Please note that not all SARs filed with the FIA Bermuda were deemed to contain suspect and/or criminal activity upon further investigation, nonetheless, the willingness of reporting entities to share information of possible concern has been encouraging.

The first point of interest noted over page in Case Study 1 was the recognition of the suspect/criminal activity of PEPs via open or close source information prior to issuing a withdrawal, early redemption or full liquidation.

#### **Case Study 1 - Corruption**

In 2011, the Subject, who is a citizen of Mexico, opened an investment policy at a Bermuda domiciled long term insurer with an initial investment of USD\$200,000.00.

In 2015, the Subject then requested a full liquidation of the account despite having no other transactions on the account prior to this liquidation request. Although it had been known that the Subject was a former PEP, holding prominent public officers between 2002 and 2012 in Mexico, it was the request for full liquidation that prompted policy and procedure driven source of wealth and background checks prior to disbursement.

Via open source information checks, it was discovered that the Subject had been implicated in insider trading and was potentially connected to organized crime in 2006 and in 2010. Based on the information identified, it still remained unclear as to whether the SUBJECT had ever been formally charged with a crime. As a result, the local insurer deemed this situation to be high risk and became concerned that the funds in the account could be linked to criminal activity.

A Suspicious Activity Report (SAR) seeking consent was then filed with the FIA Bermuda in order to process a full liquidation of the funds and to terminate the relationship with the Subject.

**Red flags of suspicious activity** that were noted in Case Study 1 and corresponding suggestions on how to address these flags are as follows:

1. According to adverse media, the Subject was probably hiding the funds linked to corruption for up to 5 years before the opening of the policy. Although the Subject was no longer in an official government position upon submitting an application to the local insurer, ongoing monitoring was still required. These oversights indicate a breakdown in the enhanced due diligence process as the Subject was known to be a PEP and a risk based approach should have been applied.

2. Suspected activity was only detected once the Subject requested a full liquidation of the policy and subsequent checks of open source information were conducted. Receipt of a sudden request from a PEP for a full liquidation without having any other transactions on the account, should raise red flags that the Subject may wish to integrate the invested funds. By doing closed and open source information checks, information about the Subject can be acquired so that better risk analysis can be performed.
3. Although adverse media did not declare that the Subject had been formally charged with a crime, the function of the FIA is to receive reports on suspicious activity, whether or not the activity is later deemed to not be suspect. By submitting a Suspicious Activity Report (SAR), it will help to avoid damage to the reputation of the reporting entity and persons in case the subject in question is featured in future SARs filed by other reporting entities and enforcement action has to be taken.

Overall, although monitoring systems of the reporting entities and persons featured in Case Study 1 may not have effectively detected all incidents of adverse media linked to their clients, the employment of AML/CFT policies and procedures prompted background checks to be conducted prior to making transfers to the Subject.

The second point of interest noted in Case Study 2 was the omission to disclose PEP status and the hiding of funds in the names of family members, friends and/or business associates.

#### **Case Study 2 - Corruption**

The Subject, who is a citizen of Mexico and the spouse of a Mexican who was imprisoned for a number of corruption related offences, including embezzlement and misuse of public funds, was suspected of being involved in money laundering and corruption related activities.

In 2013, the Subject invested approximately \$1.9 million with a local long term insurer via a US based advisor, and claimed that the source of wealth derived from a wealth management account held at a renowned overseas bank.

In 2014, open source information checks identified a listing of wealth management account numbers held jointly by the Subject and the Subject's imprisoned spouse, which had been seized during a raid by the police. As a result, a Suspicious Activity Report (SAR) was filed with the FIA Bermuda.

Again in 2014, a subsequent SAR was filed with the FIA about a request received from the Subject for a partial withdrawal. Also included in this SAR was the mention of an urgent update from the US financial advisor, regarding the urgency of the transfer on behalf of the Subject. Finally, the long term insurer noted as a red flag that there had been occasions where the financial advisor had assisted criminals in moving the proceeds of their crimes.

The long term insurer believed that the monies held for the SUBJECT were the proceeds of criminal conduct. Accordingly, the SUBJECT's account had been internally frozen by the insurer pending instructions from the FIA and/or law enforcement.

**Red flags of suspicious activity** that were noted in Case Study 2 and corresponding suggestions on how to address these flags are as follows:

1. As was noted in this case study, it is often much easier to find information on the PEP as opposed to the associates of the PEP when there is no associated adverse media available. Thus, it is important for the reporting entities and stakeholders alike to take reasonable measures to assess and document the background information of a subject although not all close associations may be identified.
2. Relying solely on the advice of the financial advisor with regards to the source of wealth of the Subject is not advised. In this case, further checks should have been done and further questions should have been asked with regards to others individuals who may have been associated with the wealth management account. Also, the relevant account KYC documentation should have been requested to confirm the declarations of the Subject. Generally, there was a lack of enhanced due diligence applied when accepting new customers prior to 2013, stressing the issues that stem from solely relying on information from third parties i.e. third party reliance.
3. Once it was identified that the Subject was an associate of a PEP, it was imperative that closed and open source information was sought on not only the associates of the Subject but also those of the PEP. The associates identified through these searches may be the beneficial owners of other accounts at the same reporting entity, who may also be hiding the proceeds of crime.

Further analysis of the fifty-five (55) SARs filed that involved PEPs and suspected corruption identified the following professions and associations of those persons:

- Archbishop
- Associates of former mayors
- Business associate of government officials
- Close associate of a politician
- Director of Business Development
- Former chauffeur of a PEP
- Former Interim Governor
- Former mayor
- Former member of the judiciary
- Former Minister in the Department of Foreign Affairs
- Former Minister of Commerce and Industry
- Former Minister of Defence
- Former police superintendent
- Former politician
- Former Prime minister
- Former Secretary of Finance
- Former Secretary of Finance
- Mayor
- Minister of Agriculture
- Political strategist
- Politician (Chairman)
- Retired judge
- Senior Officer of Intelligence Services
- Separated Judge of the Supreme Court
- Son of former president
- Wife of a politician

## 2 Tax Offences

Out of **1,151** Suspicious Activity Reports (SARs) that were filed with the FIA Bermuda between January 1<sup>st</sup>, 2013 and December 31<sup>st</sup>, 2015, **115** of those SARs were classified as tax offences by reporting entities. The majority of the SARs classified as tax offences were effectively and diligently filed by local banks. The local banks had been notifying American accountholders of the recently signed Agreement that required all financial institutions in Bermuda to comply with legislation enacted in the United States known as the Foreign Account Tax Compliance Act (FATCA), which came into effect on July 1<sup>st</sup>, 2014. Hence, many of the SARs filed during this time period were due to defensive filing which caused for amended review procedures and policies of financial institutions.

A table showing the breakdown of SARs filed due to tax offences is shown below in Figure 4.

**Figure 4. Number of SARs Classified as Tax Offences**

| Year | No. of SARs Filed |
|------|-------------------|
| 2013 | 0                 |
| 2014 | 23                |
| 2015 | 92                |
|      | <b>115</b>        |

Case Study 3 features two linked SARs involving tax evasion and individuals on work permits in Bermuda. In the first SAR, the Subject attempted to physically remove USD cash from a local bank account in structured amounts in order to evade taxes. In the second SAR, another method that was used with tax evasion was smurfing.

### Case Study 3 – Tax Evasion

In 2014, the Subject, who is an American citizen and was resident in Bermuda on a work permit with a local company, opened up a safe deposit box at a local bank. Upon opening the safe deposit box, the Subject inquired if large amounts of cash could be kept in the box. During conversations with a senior bank official, the Subject discussed tax reporting to the IRS and it appeared as if the Subject was trying to evade the reporting of the funds that he was accruing in a local account. Reviews of the Subject's bank account revealed that a total of 10 USD cash withdrawals were made over a 9 month period, totalling approximately USD \$21,000.00.

The second SAR filed detailed featured two American citizens, hereinafter called the 'Subjects', who were selected for secondary inspection upon departure at the Bermuda L. F. Wade International Airport. The Subjects were interviewed and the first Subject admitted that the purpose of the trip to Bermuda was to visit the spouse who was employed in Bermuda on a work permit. The same Subject also had USD\$9,899.00 in possession that the Subject desired to take back to the USA to pay for school tuition. The second Subject admitted travel as a friend of the other Subject and checks revealed that the second Subject was in possession of USD\$5,000.00. The first Subject then admitted that the funds derived from the Subject's spouse, who was temporarily employed in Bermuda.



**Red flags of suspicious activity** that were noted in Case Study 3 and corresponding suggestions on how to address these flags are as follows:

- An inquiry by a visitor or expatriate worker about reporting to the IRS and the use of a safe deposit box to store large amounts of money is a possible indicator of tax evasion. This activity should encourage the filing of a SAR.
- An individual's anxiety about the accrual of funds in a local bank account, especially as a foreign worker, could indicate that those funds may have reached or are reaching an overseas reporting threshold for tax purposes. This activity should encourage the filing of a SAR.
- The need for an expatriate worker to withdraw USD cash over a 9 month period, totalling USD \$21,000.00 USD, is unusual as normally, USD currency is usually sought when travelling out of country. Bermudian currency is usually withdrawn in Bermuda, although USD currency can also be used in Bermuda as it is on par. This activity should encourage the filing of a SAR.
- In the second SAR, a family member and a friend were used to transport structured funds across the border to evade taxes. This activity is called smurfing. Smurfing often involves various persons who conduct numerous transactions in order to place funds into the financial system so as to then layer or disguise the origin of the funds. This process involves breaking up a transaction involving a large amount of money into smaller transactions, often below a reporting threshold.