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Typologies of money laundering or terrorist financing clues that could give rise to a suspicious transaction report

This document is the annex of AMF Position-recommendation n° 2010-22 – AMF guidelines clarifying certain provisions of the General Regulation regarding the prevention of money laundering and terrorist financing.

Fictitious examples, some of which show that a violation of the laws and regulations may indicate money laundering

- Cash credit transfer to a portfolio management company's own account

A large transfer to a portfolio management company's account from the account of an asset management customer that is an off-shore structure representing the interests of the family of the main shareholder and manager of the portfolio management company. After examination, the deposit, which was used to pay for the purchase of bonds by the portfolio management company on the customer's behalf, corresponded to funds from a European private bank (EU) where the identity of the payer was not the same as the identity of the offshore structure.
Ultimately, the funds flowed between France, another European Union country and an offshore financial centre. The portfolio management company could have relied on the customer due diligence of the European bank as regards the identification of the payer, but the unusual complexity of the transaction compared to the usual patterns in asset management means that the portfolio management company should have filed a suspicious transaction report.

- Forged invoices, fictitious employment

Following the acquisition of a controlling stake in a portfolio management company and his appointment as manager, Mr X made a proposal to the board of directors to set up a collective investment scheme to finance a real estate development in an Asian country and to market the collective investment scheme to investors in the Middle East. For this purpose, Mr X incorporated three companies in country Y, which is not the country where the development is located. These companies are a holding company and two subsidiaries in which he acts as the "director". The subsidiaries' actual business activities are vague. The portfolio management company signs an "assistance agreement with one of the new companies for the real estate development. This agreement gives rise to total annual invoices that become the bulk for the portfolio management company's turnover. The actual existence of the services rendered under this agreement is not certain.

The same director obtains the approval of the portfolio management company's board of directors to hire a business introducer residing in country Z for the purpose of raising funds for the French collective investment scheme and companies in country Y that are partners of the portfolio management company with respect to Middle Eastern customers. Only one customer domiciled in country Z will be introduced with an account under management containing a large sum that is withdrawn a few days later. The business introducer turns out to be working also for the holding company incorporated in Asia by the director of the portfolio management company and for a family-owned real estate and investment company incorporated in country Z. The compensation paid under the terms of the agreement for "business introductions and consultancy" jeopardise the financial soundness of the portfolio management company.
Ultimately, the justification for the various arrangement and flows of funds between different entities is neither clear nor consistent.

- Real-estate transactions with a "shell" company

A large transfer from a portfolio management company's own account to a customer account takes place. Then, a few days later, a transfer takes place in the other direction, from the customer's account to the portfolio management company's own account. The first transfer turns out to have been made to provide

financing (a loan) for the acquisition of a real-estate asset on behalf of the portfolio management company's customer by an offshore structure. The name of this offshore structure has a similar name to that of the portfolio management company and appears to have ownership links with the portfolio management company. The second (larger) transfer corresponds to the offshore structure's repayment of the loan and its share of the capital gain by the customer, who resold the real estate asset very quickly and realised a large capital gain.
The funds transfers between the lender (the off-shore structure) and the borrower (the portfolio management company's customer) were made through the portfolio management company.
These financial transactions, which are not consistent with the pattern of a portfolio management company's usual business activities, led the Tracfin reporter to file a suspicious transaction report.

- Round-tripping market transactions

A portfolio management companies enters into an order reception/transmission relationship with an individual through three accounts opened in the names of three separate limited liability companies, one incorporated in France, one incorporated in another EU country and one incorporated in a non-EU European company in which the individual is the main shareholder. The individual trades on different markets in a liquid security for amounts that are not noticeable in comparison to the daily trading volumes for the security, giving simultaneous buy and sell orders so as to avoid a substantial price movement, which means the individual incurs no risk of losses and is not seeking to make a profit. Using the three accounts to trade in the same security, the individual gives two buy orders on two of the accounts and a sell order on the third account for a quantity corresponding to the two sell orders combined.

The funds for the buy orders come from an offshore bank B. The credit balance from the sell orders is periodically transferred to an account in North America. The subsequent investigation showed that the account with Bank B received credit transfers from South America that stemmed from drug trafficking.

Ultimately, the funds moved between France, North America, South America and an EU country and were masked by three legal entities, with no risk of losses, other than the fees charged by financial intermediaries.

- Use of hedge funds

A portfolio management company manages funds of funds that it has invested in foreign investment funds and, more specifically, offshore hedge funds offered by independent investment promoters and registered in a country with lax regulations and supervision. The distinguishing characteristic of these investment funds, in addition to the purportedly high return on their investments, is that the profits that they produce can be left where they are and not declared to the tax authorities. The portfolio management company did not ascertain the identity of the main settlors of the hedge funds (either the persons responsible for managing the funds or the beneficial owners of the funds with whom it was investing) and did not ascertain the origin of the funds under management in the hedge funds, even though the funds may be receiving money transferred primarily from tax havens.

The portfolio management company's lack of due diligence meant that it was unable to find out that the hedge funds used the company's investment to finance VAT fraud.

- Use of a portfolio management company for huge investments of off-shore capital

A subscriber buying up more than 80% of a collective investment scheme offered by a portfolio management company was a trust fund registered offshore. The portfolio management company had doubts about the identity of the beneficial owner and the origin of the beneficial owner's wealth was unknown despite its efforts to seek explanations. The company filed a suspicious transaction report. The investigation following the report revealed that the money was from commissions collected on international arms trafficking.

- Subscription and redemption of collective investment scheme shares or units in rapid succession

  A person spends a large sum buying collective investment scheme shares from a portfolio investment company. The depository bank for the scheme receives payment for the subscription in the form of transfers and cheques from other countries. Shortly after the subscription, the customer asks to redeem his shares very rapidly and transfers the proceeds of the redemption to his account with another bank. The portfolio management company deems that these transactions are unusual and inexplicable, but it has no direct relationship with the subscriber, who is an occasional customer, and it does not know why he chose to invest in that particular collective investment scheme, since none of the distributors that the portfolio management company uses to market the scheme had ever heard of him. The portfolio management company filed a suspicious transaction report.

- Transactions that are inconsistent with market practices

  A financial investment adviser was approached by an outfit offering to use it as an intermediary to market structured products with a commitment to buy them back at a price that would generate an unusually high return. The explanations as to how the product works are incoherent. Nevertheless, the outfit is an approved agent of an "investment adviser" listed on the American Securities Exchange Commission's website.

  The financial investment adviser files a suspicious transaction report. It turns out that the product was a financial scam and that French investors were cheated out of several tens of millions of euros.

- Transactions that are not consistent with the customer's profile

  The asset-management customer is a non-profit association that arranges for troubled teenagers to visit Africa. It has a portfolio worth more than 10 million euros, which seems a lot in view of the association's limited activities. Subsequent investigations revealed that the customer was involved in terrorist financing.

- Transactions in unlisted assets

  A portfolio management company specialising in risk capital invests in X Inc., an unlisted foreign company specialising in a cutting edge industry. The portfolio management company is about to acquire a larger stake when another company Y incorporated in a different foreign country than X Inc. acquires a 75% equity stake in X Inc. The portfolio management company's manager looks into Y, which is listed on a foreign stock exchange recognised by France. Y specialises in the same cutting edge industry and has only one production unit located in Europe. Y's turnover given in its annual report corresponds to about 20% of the world market in the industry in question. Its statutory auditor is not an international firm. It is a very small firm located in the same country as Y. The value of Y, which is tracked by the investment analysis staff of two banks who rate it a buy, has increased substantially in seven months. The portfolio management company's manager is surprised, since he is very familiar with the cutting edge industry's market and has never heard the name Y before. He wonders how he could be unaware of a company with a 20% market share. He reports his suspicions to Tracfin.

- Real-estate investment

  A portfolio management company manages a collective real-estate investment scheme specialising in historical monuments puts a seventeenth century château located in France up for sale. Shortly afterwards, an undertaking to sell is signed with a businessman from a European company who accepts the asking price. When the sale is to be closed at the notary's office, the businessman produces a power of attorney and substitutes the name of a citizen of a country X, which is a country where lax laws and practices are obstacles to the prevention of money laundering, for his own name on the deed of sale. Subsequent information reveals that the buyer is a government minister in X.

- Pressure on "vulnerable" persons

For more than 15 years, a financial investment adviser has been providing asset management advice to an 81-year-old widow who inherited a large fortune from her late husband. The last three times he met her, she was in the company of a lady companion who seemed to have a strong influence over her. The adviser noted that in the last six months the customer's portfolio statements show several sales of assets followed by large withdrawals of cash, representing nearly 20% of her capital. At today's meeting, the widow asks the adviser about the procedures for opening an account in the name of the lady companion. When his customer stumbles in her explanations, the lady companion steps in and corrects what she is saying. The adviser is concerned. He sees that his customer seems increasing lost and vague and that her appearance is much more neglected than before. He suspects the lady companion of manipulating the widow and files a suspicious transaction report.