

White Paper

Client Wealth Verification Steps Up A Gear – UK’s ‘Unexplained Wealth Orders’ Are In-force



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The past three years within the Financial Crime compliance business, has seen dramatic changes. Sanctions have been imposed and revoked. Markets such as Iran, have opened for business following the lifting of sanctions. The Panama and Paradise Papers have come to light and new anti-money laundering directives have been introduced. Consequently, the financial world is being forced to evolve and learn how to cope with the ever-increasing pace of change and drive for tighter and ever encompassing regulations.

The United Kingdom, a dynamic market home to one of the world's biggest financial centres, has been central to this evolution. While the UK is a world leader with a commendable track record in fighting serious crime, it maintains a reputation as a 'safe-haven' for corrupt individuals and their wealth. Politicians and officials from around the world having made illegal fortunes in other countries, find the UK's doors remain open to their influence whilst providing a safe-haven and store of wealth for their ill-gotten or highly questionable assets. This damages the country's reputation and erodes people's belief in governments and the power of their agencies. According to the National Crime Agency, about £100 billion is laundered in the UK every year.

At a global level, the problem is even more severe. The US Department of Justice estimates that over £1 trillion of proceeds from criminal activity, including corruption, crosses international borders every year. Very few assets are ever questioned, not to mention seized, from this colossal sum. In fact, the United Nation Office on Drugs and Crime estimated in 2011, the global detection rate of illicit funds by law enforcement agencies is as low as one per cent for criminal proceeds. The probable seizure rate is about 0.2 per cent. It's far from enough to make a difference.

As an outcome, governments worldwide are implementing measures to fight corruption and money laundering. The Financial Action Task Force states that fortunes made through corrupt practices come from a relatively small set of activities: bribes, conflict of interest, kickbacks, embezzlement, extortion and insider dealing. However, the means to "clean" those fortunes are far more numerous, taking in shell companies, trusts, financial institutions in various jurisdictions, state assets, real estate, and many more. There is no one single tool to monitor all these techniques, so countries are finding various ways to tackle them - for example regulations requiring transparency of beneficial ownership, transactions and political activities.

The UK is taking steps to change its reputation as an international haven for money-laundering. Most recently, it has been paying more attention to sources of wealth, an area of great interest and challenge to the compliance industry.

Sources of wealth can tell us a great deal about an individual – from the jurisdictions in which they operate to suspicious ownership that cannot be justified. While transparent ownership is difficult to establish in locations such as the British Virgin Islands and Panama, research can uncover enough information for red flags to be raised. However, red flags are not enough in certain situations. Governments and international organisations are continuing to work together to improve law enforcement and compliance.

Moreover, regulated entities are obliged through 'enhanced due diligence' (EDD) procedures to determine if their client's wealth or funds are derived legitimately, or intended for legitimate use, or whether there are reasonable grounds to suspect it may be from the proceeds of crime. An example of which may be a foreign politician purchasing a multi-million-pound property, yet their stated public salary implies they lack the financial means, particularly if there's a family connection to state-owned organisations such as oil and gas companies.

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Overlay this against the inherent country risk of the fictitious politician and it should be obvious that a high risk of money-laundering may well be present.

However, verifying this information can prove problematic owing to a high degree of reliance on the customer being transparent and the business tensions of efficient and compliant on-boarding; or at review; processes and a said client's experience with the organisation. The use of Enhanced Due Diligence reports compiled by external specialists can significantly help this process to provide an additional level of objectivity, particularly when coupled with proprietary data providers that specialise in this information.

A recent measure introduced in the UK is the Unexplained Wealth Order (UWO) enforced January 2018. UWOs can be issued against Politically Exposed Persons (PEPs), including those from outside of the European Economic Area, who are suspected to be involved in serious crime or human rights abuse. Where these individuals own assets worth more than £50,000 that appear disproportionate to their income, the UWO requires them to explain ownership of the assets. Similar measures have already been introduced in Australia and the Republic of Ireland.

PEPs include individuals who are or have been appointed to national, local or international governmental positions, or who are related to or closely associated with people in these positions. In the UK, UWOs can be used by enforcement authorities such as the National Crime Agency, Her Majesty's Revenue and Customs, the Financial Conduct Authority, the Serious Fraud Office and the Crown Prosecution Service, as well as Scottish Ministers who act through the Crown Office.

UWOs give agencies the power to act on red flags when raised and to lead investigations through to enforcement. When a UWO is issued, it gives the individual a set timeframe to justify their ownership or co-ownership of the assets that have been questioned. If the justification is not forthcoming or is considered inadequate, the individual can face fines and possible imprisonment, depending on their crimes and the size of the illegal assets.

Despite scepticism about the effectiveness of UWOs, the first has already been issued by the National Crime Agency. The name of the perpetrator was not released. According to the Organized Crime and Corruption Reporting Project (OCCRP), The National Crime Agency has been granted the power to enforce a UWO worth £22m and freeze the owner's assets, two properties in London and the South-East of England.

Furthermore, while UWOs are just one part of an ongoing drive against corruption and money laundering, they are nonetheless a significant step in sending a clear message that corrupt billionaires are no longer welcome in the United Kingdom. Anti-corruption groups have campaigned hard for the orders and their introduction puts Britain alongside other companies at the forefront of best practice.

Sources:

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