White Paper

The FinCEN Papers- Acuris Risk Intelligence's initial observations?

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The recent release of the FinCEN papers by the ICIJ which investigated around 2500 files, most of which were suspicious activity reports (SARs) sent by internal compliance officers from a number of global banks to FinCEN, totally around $2 trillion of transactions, clearly indicates that Banks need to do a lot more in the fight against financial crime and preventing bad actors from laundering their ill-gotten gains via the financial systems. We must stress though that the filling of SARs does not necessarily mean there is any actual wrong-doing and that the banks are not informed of the outcome of their SAR fillings, also these documents go back over 20 years and we know that a huge amount of work has been done to strengthen AML processes and controls at many of the major tier 1 financial institutions over the past 8 years or so.

Our observations from the findings are as follows:

1. SAR Filings in general. There has been a tendency over the years for banks to use this process as a 'get out of jail free' card by claiming that they have met their obligations through simply alerting the relevant authorities to the suspicion. No authority has the manpower to explore every filling, so the chances of investigating the accusations is slim at best. In our opinion MLROs should take a less risk adverse stance close accounts rather simply relying on a SAR filing response.

2. Banks are the gate keepers. More responsibility needs to be taken in preventing illicit funds being processed and moved around the world, particularly in high-risk and opaque jurisdictions as they are at the front line in the battle against corruption and criminality and be backed by respective governments. You have to ask yourself how is it possible in today's digital world where we can all be tracked via smartphones and enormous digital footprints that major criminals can still operate seemingly with impunity.

3. The sheer scale and reach of the problem. The documents leaked to the ICIJ represent a tiny portion of the overall quantum of SARs filed with FinCEN, let alone the hundred of thousands filed annually with other regulators such as the UK, Hong Kong and Singapore for example. Viewed through this lens you have to seriously question the effectiveness of AML programmes and whether they're actually making much of a difference.

4. The UK as a higher-risk country? In the leaked files, the intelligence division of FinCEN called the UK a "higher risk jurisdiction" and compared the country to Cyprus because of the number of UK registered companies that appear in SARs, according to the BBC. This is a serious issue given the steps the UK has taken publicly to strengthen its AML processes and controls, and interestingly has the highest number of companies named in the papers, more than 3,000. If Banks' risk models have to change to reflect this potential increase of risk then there will be material increase in cost of managing relationships as there will doubtless be far more higher risk scores.

5. Companies House. Often cited as being an enabler of criminality due to its lack of verification when companies are registered, it's interesting that on the 18th September 2020, the UK published "Reforms to Companies House to clamp down on fraud and give businesses greater confidence in transactions" with the following goals:
    a. Compulsory identity verification to be introduced to help trace people who are committing fraud or money laundering
    b. Companies House will be given greater powers to query, investigate and remove false information
    c. Changes will give businesses confidence in who they are doing business with, with greater accuracy of data on the register, without impacting the speed of service

This is very welcome and needed.

Clearly there's a lot more that could be said about this thorough investigation, but one aspect in the fight against financial crime is the use of enhanced due diligence reports (EDDs) on individuals and entities and we wonder how effectively they are being commissioned and acted upon, particularly at on-boarding of new business relationships or through periodic reviews. Yes there's a cost to their production and the skill sets required by analysts is highly specialised, but Banks need to do more here and use them to prevent the bad actors and not as a way to justify the business' risk tolerance of the relationship and corresponding fees and profits.