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Weekly Newsletter

AML TOPIC: Combating Money Laundering, The Frontline Soldier Compliance Officer: Why Is PEP Important? Part 2

Why Is PEP Important? Part 2 is the fourth article, an extension of the previous article or the third article.

In the last article, I shared with you that the issue of the potentiality of corruption and bribery is the first element or ingredient of Article 52, UNCAC. FATF is concerned with the financing of terrorism; potentially, the PEP could involve carrying out an activity relating to terrorist financing after the Islamic extremist expanded in the Middle East.

I shall now discuss and share the second element or ingredient of Article 52, UNCAC. Here, Article 52 defines Foreign PEP, Domestic PEP, international Organisation PEP, Family Members related to a PEP and Close Associates of a PEP.

In the early days, using the term "Revolution" was common. History tells us that the French Revolution began in 1789, 1830, and 1848. The Chinese Xinhai Revolution started in 1911, and another revolution in 1949. The Irish Revolution occurred in 1919. The term "Terrorism" or "Terror" became popularly used after the 1983 Beirut barracks bombings, the September 11, 2001, attacks on New York City, Washington, D.C., and the October 12, 2012, Bali bombings.

From news media since 2013, we were informed that severe extremist in the struggle with terrorism wants to change the existing world through violence. Terrorism is not an ideology like capitalism, communism, or socialism; instead, it uses a strategic tactic to achieve a specific aim. Therefore, terrorists aimed to achieve their goals on the grounds of social, economic, and political unfairness or injustice, or taking inspiration from religious beliefs and spiritual principles. Terrorists struggle to achieve these goals by attempting to balance the elements of race, the rich and the poor, and of a political and social outcast.

In 2014, the emergence of the Islamic State ("IS") in Iraq and Syria ("ISIS") gave concern and brought about a significant challenge to the world. The al-Qaida, IS, ISIS, or ISIL claimed that their violent acts are justified as part of the crusade against non-believers and "Jihad." IS wants to establish an Islamic-ruled State. On the other hand, al-Qaida declared itself an Islamic "caliphate" on the territory they captured in Iraq and Syria and called on factions around the world to pledge their allegiance. There were extremist issues too in other countries such as Turkey, Yemen, Tanzania, Kenya, Pakistan, and

Nigeria. Lately, North Korea has also raised concerns about the nuclear threat. With all these extremist activities of terror, where do they get the money to finance their activities?

Reports from the Directorate-General for External Policies, European Parliament, International Centre for the Study of Radicalization and Political Violence ("ICSRI"), Centre for the Analysis of Terrorism ("CAT"), Conflict Armament Research ("CAR"), France's external intelligence agency, Rand Corporation, Congressional Research Services and Security Council committee identified the various ways and method of financing terrorism for IS. They are:

1. Own natural and economic resource management;

2. Receiving donations from outside the state or another country;

3. Illicit proceeds from the occupied territory;

4. Trading of black market oil for cash and barter trade (*Source*: The Boston Globe);

5. Sale of looted antiques and property (*Source*: Washington Post, June 8, 2015, by Loveday Morris); and

6. Kidnap for ransom (*Source*: Congressional Research Services).

In summary, some of the activities relating to terrorist financing are:

(a) Trading of oil with the IS;

(b) Trading of looted antiques and property;

(c) Participation or aiding in the kidnapping for ransom;

(d) Donating to foreign fighters to fight in IS (*Source*: a Report from the Brookings Institution in 2013); and

(e) Donating to charities aimed at supporting terrorism.

Therefore, FATF Recommendation 6 (for FATF members and Financial Institutions) and FATF Recommendation 12 (for DNFBPs) were introduced to combat money laundering and financing of terrorism. FATF Recommendation 12 shall include FATF Recommendation 22, which shares the same interpretation as PEP. These two FATF Recommendations are among the FATF 40 Recommendations.

As a Compliance Officer under the Financial institution category, you must adopt and apply the Risk-Based Approach ("RBA") under FATF Recommendation 1. When you assess a transaction deemed to be on a "high" risk, you need to exercise enhanced CDD measures. After you suspect the transaction, you must promptly report an ST to the senior compliance officer or management to decide whether to report an ST and file an STR. However, a specific transaction, such as a money transfer or money change, may require some attention and a threshold policy.

FATF is also concerned with using cash to make payments for goods and services, which is why many countries have introduced credit cards and debit cards, but these credit and debit cards may give rise to particular problems, too. Travellers carry cash, not just credit or debit cards, as they travel. Money transfer companies such as Western Union and MoneyGram provide wire transfer services, transferring money from one country to another (FATF Recommendations 10 and 16). Money changers exchange or trade currency with anyone who wants to sell or buy currency. Either money transfer or money change, the person in question may not be the real owner; they may be a third party or agent (*re* "Hawala" intermediaries).

As a Compliance Officer under the DNFBP category, you probably need to assess and take a position as to what type of services your firm or company is providing. The Company Services Providers ("CSPs") provide nominees to act as directors and company secretaries to form and register a company. Likewise, some CSPs provide services to register a company in a tax haven country. Some countries permit company law to allow a company or entity to become a shareholder. All these services are sensitive and call for enhanced CDD measures. To understand the potential risk, I suggest the Compliance Officer refer to or revisit my second article titled "Compliance Officer: What Is Beneficial Ownership? FATF Recommendation 12 requires the financial institution to determine the beneficiaries of a life insurance policy at the time of payout.

That is the final part of the topic "Compliance Officer.

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