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Anti-money Laundering in the APAC region

By Dennis Miralis

Money laundering not only threatens a country's system of governance, but also its economy. Illicit funds are drawn out of the legitimate economy and away from public resources, straining already scarce resources and threatening economic prosperity and stability. In this article, we look at three of the most significant money laundering trends currently threatening the stability of the Asia-Pacific Region.

Cyber laundering

Not only does the internet allow malicious cyber actors to conduct cybercrimes such as financial fraud, but it also allows them to launder the proceeds of crime, continuing and expanding their operations.

The anonymity and convenience of the internet and other Information and communications technologies (ICT) allow cybercriminals to target victims in the Asia-Pacific region from anywhere in the world, raising cross-

jurisdictional considerations and complicating investigations.

Internet-facilitated ML/TF poses a number of challenges for Asia-Pacific countries as well as globally, including:

- Poor domestic coordination between authorities responsible for investigating cybercrime and ML/TF.
- Lack of legislation to combat cybercrime or elements of related technology changes.
- The need for increasing international law enforcement cooperation, as well as private sector cooperation, to ensure successful investigations.

Money Laundering through real estate

In Transparency International's recent Doors Wide Open report, it highlights the increasing problem of money being laundered through real estate, especially in attractive markets such as Australia where there are insufficient

rules and enforcement practices in place. Criminals may be drawn to money laundering through real estate due to the fact that it is relatively uncomplicated and requires little expertise. Furthermore, real estate can be bought using cash, true ownership can be disguised, and property is a secure investment with good potential to increase in value.

AUSTRAC also produces an annual typologies and case studies report, and has identified a number of common methods of laundering money through real estate, including: use of third parties; use of loans and mortgages; manipulation of property values; structuring of cash deposits to buy real estate; rental income to legitimise illicit funds; purchase of real estate to facilitate other criminal activity; renovations and improvements to property; use of front companies, shell companies, trust and company structures; and the use of professional facilitators such as lawyers, accountants, real estate agents and financial advisers.

Money Laundering through foreign bribery

Foreign officials can be seen to present a 'golden opportunity' for money launderers. Not only does their prominent public position deflect suspicion about their financial dealings, but one also assumes that their dealings are legitimate. Their unique position of influence, trust and responsibility

also places them in a position of singular corruptibility. There are five main methods of laundering money through foreign officials: funneling funds through a shell company or trust; through third parties; through professional facilitators; through international fund transfers; and through companies linked to the foreign official.

Cases of money laundering through foreign bribery by companies or individuals in the Asia-Pacific region mean that not only will the specific country's laws apply, but international criminal law will come into play, for example crimes such as those found in the OECD Anti Bribery Convention will very likely be applicable.

Challenges that arise in such cases include the use of the mutual legal assistance to conduct international criminal investigations; the exchange of data across borders that poses a risk to an accused's privacy; the use of Interpol Red Notices to immobilise a person under investigation; and an accused's exposure to multiple investigations.

In these kinds of cases it is essential that a comprehensive multipolar legal strategy is in place that ensures that a person's human rights and legal interests are properly recognised across each of the jurisdictions where they may be exposed to severe penalties including prison and asset forfeiture.