

# Money laundering trends from a supervisory perspective

*Speech by Drs. A. G. Romero, Financial Economic Director, Bank van de Nederlandse Antillen at the workshop money laundering update, June 28, 2004*

## Introduction

Ladies and gentlemen: Good afternoon, and welcome to this workshop on money laundering and terrorism financing. It has been over two years since we organized a similar workshop to update the financial sector at large on the efforts of those involved in supervision and prosecution, and other public agencies on typologies with respect to the combating of Money Laundering and Terrorism Financing (ML & TF) activities in the Netherlands Antilles. Today we are here again to inform you of the progress we have made in this field and also to give you more insight into developments during the time that has elapsed. An important finding is that we have gradually moved away from the embryonic phase, where the legal infrastructure was formulated and the institutional conditions were laid down on ML & TF. We have now reached a stage where a more in-depth analysis of money flows in and from the Netherlands Antilles can be portrayed and managed by the reporting institutions under the supervision of the Bank.

Experiences around the world has shown that the integrity of institutions that provide financial services depends heavily on how the market participants, and particularly the world supervisory community, which includes the Financial Action Task Force (FATF), the International Monetary Fund (IMF), and the Basle Committee on Banking Supervision, International Association of Insurance Supervisors (IAIS), perceive the legal and regulatory framework in any jurisdiction. In essence, when evaluating a country, the topics of importance depend on how for example ethical and professional standards are developed and maintained in a jurisdiction, how supervisory authorities assess and control the risks involved with the flow of funds through the jurisdiction, the types and forms of cooperation between the law enforcement investigators, the public prosecutor's office, the court of justice, the supervisory authorities, and the financial institutions, and how these entities work together to achieve a common goal: the combating of illegal flows of money throughout the world.

Today I want to briefly discuss with you three important developments that we have experienced as a supervisor during the last decade. First, I will quickly review the process and structures on ML & TF that have emerged in the Netherlands Antilles during the 1990s. Second, I will share with you the difficulties we have encountered in the day-to-day exercising of our supervisory tasks, particularly as they relate to the ML & TF issues. Third, I want to shed some light on the way we need to move to identify and manage the various risks involved in ML & TF in the years to come.

## Developments during the decade of the 1990s

Of crucial importance for the Netherlands Antilles during the 90s was the design and development of the legal and institutional framework for the proper risk management control of the money-laundering processes in general. In 1993 legislation on the penalties for money-laundering was approved in parliament and subsequently adapted to clarify the issue that all goods-- not only money-- can be laundered.

Furthermore, on January 29, 1996 the parliament of the Netherlands Antilles approved the national ordinances on the 'Reporting of Unusual Transactions' (MOT) and 'Identification Financial Transaction' (LIF). With that action our country took a concrete step to convey to the world financial community that the Netherlands Antilles was serious about dealing with the problems associated with money laundering through the financial industry. The national ordinances on the MOT and LIF both aim to identify customers of financial institutions before services can be rendered. In addition, the financial services industry at large is obligated to report unusual transactions to a central reporting agency (meldpunt). In the meantime, the LIF and MOT ordinances were adapted to include, for instance, other sectors under the anti-money laundering legislation, including money-transfer services (2000), the gambling industry (2001), and fiduciary services (trust sector in 2002).

Concomitant with the enactment and amendments in the legal infrastructure, the Bank, together with the representative organizations of domestic and international commercial banks, developed a list of indicators that is now being used to identify and report unusual transactions to the MOT.

In 1991, the Bank developed and released the "Guidance Notes on the Detection and Deterrence of Money Laundering". This guidance notes was replaced by the 'Guideline on the Detection and Deterrence of Money Laundering' in 1993. In June of 2003, the Bank released a new version on the 'Provisions and Guidelines for the Detection and Deterrence of Money Laundering and Terrorist Financing' that is more in line with the changes that took place since the mid-90s when the first guideline was designed and adopted. A noticeable difference between the 'old' and 'new' guidelines is that in the 'new' guidelines on ML & TF, the Bank split the 'old' guidelines into three new separate guidelines to cover: (1) the banking and credit institutions, (2) insurance companies and (3) the money-

transfer companies. The main reason for issuing separate guidelines for each sector has to do with the differences in risk profiles and money-laundering techniques that we have noticed and that warrant a slightly different approach for dealing with and assessing ML & TF trends. It also has to do with observations made by international supervisory and advisory institutions on trends and typologies on ML & TF.

This brief overview of the more institutional and legal framework on ML & TF in the Netherlands Antilles suggests that during the 90s our country kept pace with international developments in the design and control of flows of funds within our country, and it also focused its attention on the cross-border transactions that may imply additional reputational risks.

### **Experiences with ML & TF actions from a supervisory point of view**

As you can appreciate from my remarks here, the Bank has been actively involved in the compliance monitoring of the LIF and MOT legislation and in the design of guidelines for the financial industry since 1991.

Banking sector: Our banking supervision staff continuously scrutinizes the entire process and procedures in place at an institutional level. In addition to this, during each and every examination conducted since 1993 internal guidelines and procedures within the financial sector are assessed. Our experience in this regard shows that the banking industry has worked diligently to enhance their control mechanisms, particularly in the area of software development and other equipment to combat ML & TF in the Antilles. Although the level of compliance per island differs, on average the sector is well prepared and able to produce regular reports for the Bank and MOT. Another important area of review during our examinations is the compliance check on the customer files for the entire industry. We take comfort now that overall, the identification problem of bank customers has been resolved with only a few exceptions. Another challenge we have successfully tackled is the prohibition of numbered accounts and close monitoring of accounts on Publicly Exposed Persons (PEP). The Ultimate Beneficiary Owners (UBOs) are on file and all accounts are linked to a specific name. This information can be readily provided to the Bank at all times. Based on our experiences, we can say that the procedures surrounding the opening and maintaining of accounts has reached a stage such that the risks on misuse of the banking industry can be managed; thereby contributing to a much greater transparency than before.

International banking sector: The reporting of the international banking sector to the MOT in comparison with the domestic banking sector is relatively small, but this has to do with the fact that international banks do not have large volumes of cash payment. The business concentrates mainly on processing transfers of funds. The supervision of the Bank also aims in the same direction thus focusing on close monitoring of the transfer of funds through the accounts and a close check on the adherence to the KYC-principles and the proper customer due diligence of the non-resident customers.

Insurance industry: We started and concluded last year a series of targeted examinations for the insurance sector. These examinations were aimed at assessing the compliance of the insurance industry with respect to ML & TF. We have already issued final examination reports for the various insurance companies with a series of recommendations to address the weaknesses, in particular in the area of customer identification when new contracts are issued and/or signed. We also have made recommendations on the reporting to the MOT when payments are effectuated on the expiration date of insurance contracts to third parties. More recently, the Bank together with the representative organization of the insurance industry (NAVV) and MOT have agreed to design and work on specialized training for those involved in the insurance industry in order to control and report all unusual transactions on ML & TF.

In the international arena we are seeing some promising actions being undertaken by the FATF. A task force of the FATF recently initiated a project to 'assess' and study the ML & TF vulnerabilities in the insurance sector. I quote from this FATF project document: (quote): "The insurance industry in the world is a multi-trillion dollar industry and is heterogeneous providing a number of financial products to a variety of customers. However, it is still unclear to what extent the insurance sector is exposed to misuse for money laundering. Certain parts of the insurance sector and certain insurance products are considered to be at a greater risk to such misuse.

While there are isolated case examples of insurance-related money laundering, the amount of Suspicious Transaction Reports (STR) reporting and detection of such cases is much lower than in most other parts of the financial sector" (end quote).

The FATF set a deadline of February 2005, to present the findings of their study to the FATF plenary session. We will follow this development closely so that we can use the findings of this investigation to re-assess and refine our guidelines with respect to the insurance industry.

In our efforts to promote and safeguard a sound and reputable financial sector for the Netherlands Antilles, we have participated actively in all international investigations that took place during the last three years by international

organizations such as the FATF and IMF. In February 2004, the IMF Offshore Financial Sector (OFC) assessment issued its final report, on the IMF assisted assessment program on compliance with international standards on banking and insurance supervision as well as on Anti Money Laundering and Terrorism Financing for the Netherlands Antilles. They concluded on page 7 of this report that (quote) "Overall the legal and institutional framework for financial supervision meets high standards. It is comprehensive, effective, and to a great extent in line with international standards. Bank of the Netherlands Antilles (BNA) staff is highly capable, well trained and dedicated, .....to perform its functions" (end quote). This IMF report is available on our website [www.centralbank.an/publications & reports](http://www.centralbank.an/publications & reports) .

In recent years, we have seen a growing interest on the part of money remitting businesses around the world to obtain licenses to conduct business here and elsewhere. The experience that we have had with this industry is that compliance and reporting are still in an embryonic stage.

Therefore, the Bank van de Nederlandse Antillen (BNA) made the decision some months ago to re-assess the licensing for this type of industry. We have decided not to grant and issue any new licenses for money-transfer businesses until we are assured that the risks associated with this type of industry can be safely controlled and managed. Apart from the (uncontrolled) risks involved in this type of business, the rationale for the Bank's decision is that the banking industry is completely able to provide these services through its network of branches under a more controllable environment. The fact that we have encountered difficulties with the various licenses we have issued related to their reporting obligations to the Bank justify this policy decision.

During the last two years, the Bank has revoked the licenses of two money-remitter companies, and today we have only one licensed money remitter company.

### **Challenges for the coming years**

Finally, what can you expect from us in the future? As I have already indicated to you here today, we are in the process of designing a new guideline for ML & TF for the financial services providers (trust sector) in the Netherlands Antilles. Important elements in this guideline deal with the filings and documentation process within the various financial services providers, the client identification process, and determination of the Ultimate Beneficiary Owners of institutions under the management of Trust institutions.

The 'know your customers' principle in financial institutions under our supervision will continue to be the focal point of our examination. In addition, more and more integrity issues for those persons and legal entities involved in the business of Trust services will be instrumental for us as supervisor of this sector in the near future.

The experiences around us indicate that only through solid and close cooperation between supervisors, prosecuting officers, investigators, and the MOT will we successfully win the fight against money laundering and organized crime. Therefore, the Bank will continue to intensify its efforts to promote proper and swift information flow from reporting institutions under the supervision of the Bank to the MOT as the first line of defense against ML & TF.

We are convinced that today you will learn in this workshop, more about the typologies of ML & TF, the closer cooperation between the MOT and the entire judicial chain in the presentations to follow. An important initiative that has evolved during the last few months is that of the "Hit and Run Money laundering" (HARM) investigation teams from the Netherlands and the Netherlands Antilles. They are here to give you more insight into their 'modus operandi' and also to share with you some classic cases that were brought to the court and successfully tried in the past.

In the end, all these efforts are geared toward controlling and managing all types of risks associated with the large flow of funds that daily moves quickly from one part of the world to the other parts. These flows of funds imply in a sense that each and every institution will have to design-- at a micro-level-- some type of control mechanism to prevent 'bad money' from passing through their institution.

If at a micro level, every institution works on reducing, or better yet eliminating, the operational and reputational risks of being misused by international criminal organizations, the entire financial sector will benefit from these exercises. In other words systemic risks will be easier to manage if the first line of defense functions properly and correctly.

I thank you very much for your attention.