



# Financial Investigation Unit Cross Border Crime

A Division of the Guernsey Border Agency

## FEEDBACK AND TYPOLOGIES 2008-2011

### Foreword

It gives me pleasure to publish the Feedback and Typologies report, which is the Financial Intelligence Service's (FIS) review of the STR regime from 1<sup>st</sup> January 2008 up until year end 2011.

To start 2012 off there has been a change of personnel within the FIS, with Martyn Waters moving on to pastures new and myself stepping in to the role left by him. As with all new roles it takes a little while to settle in but hopefully that has now happened and I look forward to the challenges that lay ahead during my term in the FIS.

As you are aware it has been some time since we last reported on the activity of the STR regime, and this has primarily been due to the implementation of the online reporting system which both the private sector as well as ourselves had to get used to. We also had the IMF inspection in May 2010, which required considerable input from both the private sector and law enforcement alike. These things are behind us now hence we are ready to put some overdue feedback to industry. The new FATF International standards on combating money laundering and the financing of terrorism and proliferation were also announced in February 2012, with some of the key changes being;

- Combating the financing of the proliferation of weapons of mass destruction through the consistent implementation of targeted financial sanctions when these are called for by the UN Security Council.
- Improved transparency to make it harder for criminals and terrorists to conceal their identities or hide their assets behind legal persons and arrangements.
- Stronger requirements when dealing with politically exposed persons (PEPs).
- Expanding the scope of money laundering predicate offences by including tax crimes.
- An enhanced risk-based approach which enables countries and the private sector to apply their resources more efficiently by focusing on higher risk areas.
- More effective international cooperation including exchange of information between relevant authorities, conduct of joint investigations, and tracing, freezing and confiscation of illegal assets.
- Better operational tools and a wider range of techniques and powers, both for the financial intelligence units, and for law enforcement to investigate and prosecute money laundering and terrorist financing.

These will undoubtedly bring about some changes but how widespread is yet to be seen.

As you will see from the data laid out in this report the online reporting system has thrown up some statistics which required further research but it can only report on that data that you, as Money Laundering Reporting Officers or nominated officers place into the system, therefore there are learning points for us all here, in that, the more detailed the report you place on the system the better the statistical data will be recorded for your future perusal and hopefully, benefit. In 2011 we received 1136 STRs. From 1<sup>st</sup> January to the end of July we had to manually input 164 paper based disclosures, which at the time equated to 21% of the total received. I am pleased to say that from 1<sup>st</sup> August 2011 until the end of 2011 we only manually input 6 disclosures received, which equated to 1.7%, and hopefully this year that figure will drop again.

All of these developments, especially with the online reporting system, would not be possible to achieve without the continuing support and engagement of the private sector. The STR regime is one of the most important public/private sector partnerships we have in the Bailiwick and exerts a powerful deterrent effect on criminals both here and across the globe. The landscape for fighting organised crime continues to develop and I am convinced that success will be achieved through extracting and exploiting the full worth and value of the regime and the data that it collects. With this in mind I hope that you find the latest report informative and fully reflecting the work we have all done.

**Simon Gaudion- Senior Investigation Officer, Financial Intelligence Service**

## Suspicious Transaction Reporting

### Introduction

The Financial Intelligence Service (FIS) last disseminated feedback in 2010 on suspicious transaction report (STR) information to industry either itself or in association with the Guernsey Financial Services Commission and others.

This report complements previous feedback and should help to assist all sectors of industry in undertaking their responsibilities by providing analysed STR data together with relevant typologies.

### Suspicious Transaction Reports

During the period 2008 – 2010 STR submissions to the FIS had maintained a consistent flow, However we saw a massive change in reporting for 2011 with an increase of 69% from 2010, which is reflected in the substantial increases seen in nearly all grounds categories. There was a 63% increase in the amount of fraud related disclosures which was as a result of the EU tax reporting directive which took place during 2011. The increase could also be attributed, in part (5%), to the way in which duplicate disclosures have been placed on the system for the same suspicion they reported on in the first place. This initially was a teething issue with the online reporting system and the MLRO's, but when it has been encountered has been dealt with.

Feedback received from the end users has acknowledged that the quality of the STR information is of a high level and that the reported information was of value to Law Enforcement.

STRs are submitted under the authority of The Disclosure (Bailiwick of Guernsey) Law, 2007 and The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002. The following Key Statistics illustrate the amount of STRs received by the FIS during this period. The reported figures are compiled from new identified suspicions and do not include any continued suspicion concerning ongoing consent requests or updates, as these instances are treated in a different manner as of May 2011.

Year	2008	2009	2010	2011
No submitted under Disclosure Law	513	623	669	1136
No submitted under Terrorism and Crime Law	6	4	4*	0**
Total submitted	519	627	673	1136

\*There were 5 disclosures made under the Terrorism and Crime Law but 1 disclosure had no links to FT

\*\*There were 11 disclosures made under the Terrorism and Crime Law but had no links to FT and were incorrectly input into the online reporting system.

There has also been an increase with regards to certain regions concerning the civil unrest in North Africa and the Middle East.

## STRs by Reporting Sector

To assist in this analysis, the following table has been produced to show the volume of reporting from each industry sector.

<b>Sector/entity</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<i>Community banking</i>	86	95	89	190
<i>Fiduciary</i>	112	151	141	243
<i>Private banking</i>	133	168	176	261
<i>Deposit gatherers</i>	75	53	86	205
<i>Insurance</i>	9	20	7	12
<i>Post office</i>	27	31	10	10
<i>Investments &amp; securities</i>	37	42	37	110
<i>Other</i>	3	2	17	10
<i>Regulator</i>	9	9	10	10
<i>Accountants</i>	5	14	20	19
<i>Bureaux de change</i>	0	0	0	0
<i>Legal professionals</i>	9	21	16	27
<i>High value goods dealers</i>	0	0	0	1
<i>Stockbrokers</i>	0	0	0	0
<i>Estate agents</i>	2	2	0	0
<i>e-gambling sector</i>	9	18	64	37
<i>Financial advisors</i>	0	0	0	0
<i>Company registry</i>	3	1	0	1
<b>Total no STR's</b>	<b>519</b>	<b>627</b>	<b>673</b>	<b>1136</b>

There have been increases across most sectors in 2011. The highest increase is that of Investments and Securities which has shown a 197% increase, deposit gatherers (138%), and community banking (113%). Of note there has been a significant decrease in the e-gambling sector. The Bailiwick's growth in the banking industry, coupled with the fact that we are in the middle of a global financial crisis, is consistent with the higher levels of reporting experienced within these sectors which is to be expected.

Significant increases in reporting can be observed from legal professionals (69% increase). It is suggested that the 2008 AML/CFT regulations for prescribed businesses (which cover legal professionals, accountants and estate agents) and the publication of an AML/CFT handbook by the Guernsey Financial Services Commission, together with AML/CFT regulation by the Commission, has created an increase in submissions due to risk based assessments, due diligence, better awareness and up-skilling in knowledge in the regulated sectors. This trend has clearly continued since we last reported, with MLRO's being ever more vigilant in light of the global recession and opportunists looking to engage in criminal activity by using financial service businesses for fraud, theft, and money laundering.

## STRs by Grounds

From this assessment, further analysis of the STR data was undertaken and the following categories of relevant grounds of suspicion of criminal offences were extracted and are reported in the table below:

<b>Grounds</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>4 year Av %</b>
<i>Tax fraud</i>	192	263	268	549	43
<i>Fraud/false accounting/forgery</i>	86	130	156	64	14.8
<i>Cash transaction</i>	68	63	24	62	7.3
<i>Unexplained lifestyle</i>	25	16	9	42	3.1
<i>Due diligence issues</i>	41	44	63	208	12
<i>Layering</i>	3	0	2	5	0.5
<i>Internet/media etc</i>	7	13	1	23	1.5
<i>Corruption</i>	13	16	16	6	1.8
<i>Early redemption of product</i>	2	1	2	1	0.2
<i>Third party referral</i>	0	4	3	10	0.5
<i>Unusual foreign exchange</i>	0	0	0	0	0
<i>High risk business activity/area</i>	1	2	6	5	0.5
<i>Service of order</i>	12	11	8	1	1
<i>Other</i>	69	64	115	160	13.8
<b>Total no STRS</b>	<b>519</b>	<b>627</b>	<b>673</b>	<b>1136</b>	
<b>Total 2008-2011</b>	<b>2955</b>				

A review of the grounds of suspicion for STRs has indicated that the highest current trends for reporting over the 4 year period has again been in relation to tax fraud at 43%. However, this is largely explained through the impact of the EU tax directive facility and tax amnesties in other jurisdictions in 2011. When considering the size of the Guernsey Finance sector, the fact that there were only 549 suspicious transactions regarding tax fraud related issues highlights that it is not a significant problem for Guernsey. Fraud, false accounting and forgery at 14.8% are the second largest grounds for STRs followed by due diligence issues at 12% and a category named 'other', which includes defensive, reactive, group reference material or transactional support at 13.8% of the overall total of submissions.

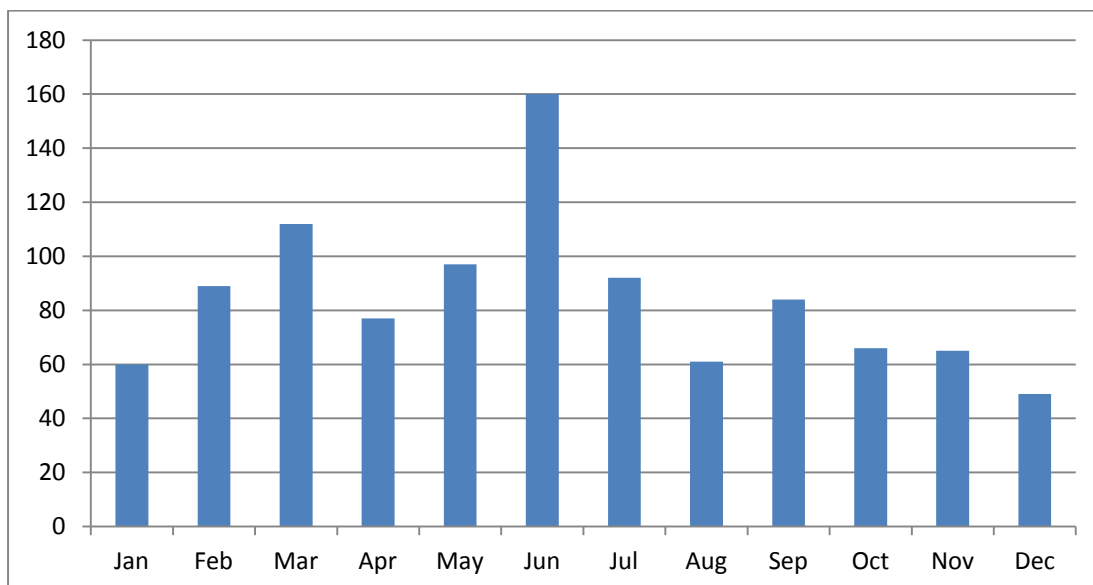
With the introduction of the new online reporting system it has produced some statistics that required further research, as certain sectors showed a marked increase on reporting. With some minor alterations on how this data was recorded when submitted, we should in future see a trend set similar to the reported data for 2011. For instance, as already stated, in 2011 the securities and investments sector saw a 197% increase but which can only be attributed to better due diligence by this sector and the fact that we are in the middle of a global financial crisis. The category of fraud/false accounting/forgery has risen only slightly since last reporting with 15% of all STRs made over a four year period.

Cash transactions, and unexplained lifestyle are categories that have maintained a consistent level of reporting over this period and it is not foreseen that this level will change as it is believed to be proportionate in respect of new business and growth within industry. Detailed analysis of STRs relating to cash transactions identifies that the majority relate to earnings being sent home by itinerant workers. It was last reported, and the FIS notes; following the introduction of the enhanced AML/CFT regulations in 2007 industry has been undertaking indepth reviews of their business which appears to have contributed to this rise in levels of reporting across the majority of sectors and this situation remains, which indicates that all sectors are being more vigilant than before.

### Consents

With 2011 being the first full year with the online reporting system an analysis of the consent regime has been undertaken. In total there were 1012 requests for consent in 2011. Of the consent requests made 18 resulted with consent being refused and of these 15 were refused on the basis that they did not amount to a request for consent in the first place. Of the remaining 3 consents that were refused 2 of these were for the same individual but different institutions. This clearly shows that the FIS uses the refusal of consent sparingly, and only in circumstances where the FIS has grounds for considering that the funds are the proceeds of criminal conduct either here or elsewhere in the world, based not just on the STR submitted but intelligence held.

Now that we have a sound basis to work from with electronic reporting, and with the changes that were made to the consent regime in May 2011, we will continue to provide industry with a statistical analysis of consent year by year.



## Proceeds of Crime

Although there is information on what is meant by the proceeds of crime available on the websites of the Guernsey Financial Services Commission and the Alderney Gambling Control Commission, institutions are reminded that under section 1(1) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 all offences that are indictable under the law of the Bailiwick are considered to be predicate offences and therefore funds obtained by committing a predicate offence are considered to be the proceeds of crime. Under Bailiwick law all offences are indictable except for some minor offences, which mainly concern public order and road traffic. Therefore, the range of predicate offences is extremely wide and includes the following:

- participation in an organised criminal group and racketeering;
- terrorism, including terrorist financing;
- trafficking in human beings and migrant smuggling;
- sexual exploitation, including sexual exploitation of children;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit arms trafficking;
- illicit trafficking in stolen and other goods;
- corruption and bribery;
- fraud and tax evasion;
- counterfeiting and piracy of products;
- environmental crime;
- murder, grievous bodily injury;
- kidnapping, illegal restraint and hostage taking;
- robbery or theft;
- smuggling;
- extortion;
- forgery;
- piracy; and
- insider trading and market manipulation.

## Terrorist Financing STRs

Contained within the reported figures by sector are reports made under the Terrorism and Crime (Bailiwick of Guernsey) Law. The low figures of submitted STRs in relation to terrorist financing have restricted any trend or activity from being identified. The following tables indicate the extracted details for reporting sector and grounds of suspicion with regard to the Bailiwick's STR submissions.

### By Reporting Sector

<b>Sector/entity</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Community banking</b>			<b>2</b>	
<b>Fiduciary</b>		<b>2</b>	<b>2</b>	
<b>Private banking</b>	<b>1</b>	<b>1</b>		
<b>Deposit gatherers</b>				
<b>Investments &amp; securities</b>	<b>3</b>			
<b>Regulator</b>	<b>1</b>			
<b>Other</b>	<b>1</b>	<b>1</b>		
<b>Totals</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>0</b>

### By Grounds

<b>Grounds</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Due diligence issues</b>	<b>1</b>		<b>3</b>	
<b>Corruption</b>	<b>1</b>			
<b>Regulator</b>		<b>1</b>		
<b>Highly Transactional</b>			<b>1</b>	
<b>Other (internet/media)</b>	<b>4</b>	<b>3</b>		
<b>Total</b>	<b>5</b>	<b>4</b>		<b>0</b>

### Law Enforcement Actions

A key strategic imperative of the Bailiwick of Guernsey Financial Crime Strategy is to continue to collaborate with international partners to ensure that together we effectively prosecute those responsible for financial crimes and/or recover the proceeds using criminal or civil law. To highlight this the FIU has a civil forfeiture team which focuses on funds held on account where a criminal case has fallen but the funds are still believed to be the proceeds of, or for the use in unlawful conduct. This team had started in 2008 after the enactment of The Forfeiture of Money, etc in Civil Proceedings (Bailiwick of Guernsey) Law, 2007.

The FIS has further reviewed and evaluated the STRs submitted to the Service from Financial and Non-Financial Services Businesses during the period 1<sup>st</sup> January 2008 to 31<sup>st</sup> December 2011, to establish if the STR regime adheres to the requirements of the Bailiwick Financial Crime Strategy and to measure the impact and effectiveness of the disclosure regime.

The FIS disseminates sanitised financial intelligence to other competent law enforcement agencies within the Bailiwick of Guernsey and to International Financial Intelligence Units via secure methods. This evaluation centres on STRs that have effectively assisted other agencies in developing financial crime investigations and recover the proceeds of crime through local or international confiscation and the conviction of those individuals involved.

A total of 2586 STRs were submitted to the FIS between 1<sup>st</sup> January 2007 and the 31<sup>st</sup> December 2010<sup>1</sup>. Evaluation established that where feedback has been received from the receiving agency or international FIU a total of 307STRs have been identified where the subject(s) or linked entity (trust,

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<sup>1</sup> Note: the year groupings have changed from 2007 to year end 2010 as 2011 figures are still not available but will be reflected next year.



company etc.) were being investigated by competent law enforcement agencies with regard to financial crime, criminal conduct, drug trafficking or other illegal activity.

The following summary has been compiled where feedback has been received concerning the 269 STRs and where the dissemination of intelligence by the FIS has contributed towards the amount of convictions and sentences for those individuals involved, together with amounts of funds recovered through local and international confiscation.

<b>Year</b>	<b>Convictions</b>	<b>Sentence (Years)</b>	<b>Criminal Confiscation</b>	<b>Description</b>	<b>Other Funds Recovered</b>
2007	18	46.3	£341,928		£284,712,705
2008	10	28.4		Community Service Fines	240 hours £3,551,726
2009	16	102	£1,227,373	Directorship Ban Fines Restrained Community Service	5 years £204,427,151 £1,863,060 240 hours
2010	10	45.5	£505,000	Pending Community Service Restrained Disqualified Director Fine	£1,634,431 100 hours £1,568,980 1 500 Million US\$
<b>TOTALS</b>	<b>54</b>	<b>222.2 Years</b>	<b>£2,074,301</b>		<b>£497,758,054</b> <b>US\$500m</b>

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## **Case Studies**

The following examples of STR successes are illustrated by case studies that have been extracted from the evaluated data.

### **Typology 1**

A local investigation into a drug syndicate revealed that visits were being paid to a local bank and funds were being paid into a Guernsey account but being immediately withdrawn in the UK. In total

it was identified that there had been five deposits made which followed a pattern on when intelligence was being received regarding the importations of controlled drugs into Guernsey. The local institution made a disclosure and production orders and account monitoring orders were served on the bank, to enable the Financial Criminal Team to retrieve evidential data of the transactions made and to cover future transactions for a 90 day period. It also enabled the Criminal Team to obtain CCTV footage of the suspects preparing their money and paying in slips in the banking hall. This was vital evidence for the investigation into drug trafficking and money laundering.

When the defendant was interviewed under caution they confirmed that they had made five cash deposits into a bank account held by the UK based Guernsey suspect.

The defendant confirmed that all the money that they had paid into this account, had been given to them by a family member, who was also under investigation, whom had asked them to pay the money into the bank account on their behalf. Both family members were claiming benefit locally and did not have income to support the levels of money being paid in to the account.

They admitted that they knew at the time the family member was on benefits and was suspicious that the money may have originated from criminal conduct, such as burglary. They confirmed that despite their suspicions they had accepted the cash and subsequently paid the cash as detailed above, on five separate occasions into a third party account.

The nature in which they came into possession of the funds and what they then did with them is an offence under Section 40 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law 1999, as amended.

In April 2011 the defendant was found guilty on two counts of money laundering and received a two month suspended sentence. The family member was convicted for the importation of controlled drugs at a later court hearing and sentenced to 2 years imprisonment.

The assistance provided by the local institution was invaluable in this criminal investigation, not only for a successful conclusion to occur but for the greater good of the Guernsey public, by helping to stop the flow of illicit substances coming on to the streets of Guernsey.

## Typology 2

A UK individual arrived and took up residence in Guernsey in late 2009 and commenced work in a non FSB. After a short time there as accountant he was suspected by his employers of fraud, false accounting and theft after a number of irregularities were discovered in the company accounts.

This instigated a fraud enquiry locally and led to disclosures being made from a local car dealer and estate agency concerning high value vehicles and the potential purchase of a multi million pound local market property without any sufficient means to support the purchase.

The story given by this man at the outset in February 2010 was inconceivable in that he wanted to purchase the property inclusive of all furniture. The further conversations included stating that he had in excess of £14 million in two high street banks that he could not get access to and the fact he had been the subject of a £100million fraud against him in the UK. He went on to say that he had also leased a 737 aircraft to Iran and was accused of arms dealing.

A further disclosure was made by a local car dealer when high value vehicles were being purchased on company cheques, albeit accepted at that time by the car dealer but later disclosed upon.

Once the criminal investigation was underway he was arrested very quickly and his theft of funds and frauds were soon unravelled as they were not sophisticated in nature. Local industry assisted the local authorities accordingly and the defendant appeared in court on multi accounts of false accounting and was sentenced to three years custodial sentence.

The FIS provided the intelligence gathered by way of disclosure to the Guernsey Police fraud department to enable them to conduct their investigation into the defendant.

### Typology 3

On Mr X was charged by UK Police with offences of Fraud by False Representation. He was subsequently remanded in custody.

The UK Police received information in April 2009 that Mr X, trading as Company Y, sought to have circa £450,000 transferred from a UK solicitor client account, to a local Guernsey account. The funds were deposited with the solicitor acting for Mr X. They sought to use the solicitor to facilitate a Bridging Finance arrangement, using private investors' funds, on behalf of a registered charity.

As a result of enquiries made by UK Police, it was determined that the charity had never used Company Y for any business arrangements and Mr X does not and has never represented any business interests for the Charity.

Mr X was not licensed with the UK Financial Services Authority to trade as any form of finance broker.

Between February 2008 and the end of April 2009, an individual invested £600,000 with Mr X and Company Y. Mr X convinced them that the funds would be held in an account and thereafter, generous interest payments would be made on funds deposited. Mr X provided them with periodic statements purporting to be bank statements, demonstrating generous interest payments. After initial investments Mr X persuaded them to use the balance as reflected in the statements, to invest in various bridging finance arrangements with the Charity, to facilitate property purchases. Checks conducted revealed that the statements created were in fact false and the individual had no such investments with any bank.

Mr X was arrested at in April 2009 on suspicion of Fraud by False Representation. Officers conducted various premises searches the same day and recovered documentation regarding the Guernsey account and it appears that Mr X had obtained funds from numerous investors, specifically for the purpose of investment for the Charity bridging finance deals to facilitate the purchase of numerous properties.

It is suspected that Mr X was laundering the proceeds of fraud offences by crediting the Guernsey account and transferring the funds thereafter, to use as small interest payments to previous investors and to finance an extravagant lifestyle, the purchase of numerous properties for his own benefit and expensive holidays, travel and vehicle purchase in the UK and overseas.

Further similar offences alleged to have been carried out against other victims are also under investigation by UK Police. An urgent Letter of Request was sent to the Guernsey authorities once

Mr X had been arrested to place a formal restraint on the Guernsey account, as this was believed to represent his proceeds of his criminal conduct. The local institution were placed on notice as such and refrained from moving any funds whilst the application was processed.

This resulted in the evidence obtained under court orders being transmitted to the UK Police Force to assist in their investigation, and eventually approximately £2million being paid back to the UK Receivers account to compensate the many victims of this 'ponzi' style fraud by Mr X. To enable this to happen the Guernsey Restraint Order had to be discharged after an application from an Officer of the FIU by way of an affidavit, and then this being transmitted to HM Procureur for formal representation in Court.

The scheduled losses totalled some £3,957,259. There are further victims who are estimated to have suffered losses estimated at £6,690,500.

#### Typology 4

In 2008, Her Majesty's Procureur received a request for assistance from the Crown Prosecution Service. The request concerned an investigation being carried out by the officers of the Metropolitan Specialist Crime Directorate and officers of the overseas FIU with regards to bribery, corruption, money laundering and theft on a grand scale.

Further Letters of Request were received locally which detailed more closely the involvement of other individuals in the alleged criminal acts committed by Mr X, including his lawyer and investment advisor ("advisor") plus family members.

Documentation obtained as a result of Royal Court Production Orders served on a local fiduciary, Investment Company and a local bank revealed that one of the co-accused had been providing investment management services for Mr X and that these investments formed part of a large portfolio here in Guernsey. These investments were held in trust within three companies.

The Guernsey trustee accepted Mr X as a client in 2001 and records revealed that the advisor had known them since the mid 1990's. The trustee further introduced Mr X to a local securities and investment company, based upon their own due diligence and that of the 'well known' advisor. This advisor was also receiving fees from the local fiduciary for managing the investments within the structure set up locally.

In order to act as an investment advisor/manager to the aforementioned entities, they held themselves out as a UK Financial Services Authority authorised signatory for a UK management investment company, with a registered office in the UK.

Investigations established that the advisor was never an authorised signatory for this UK company and that he had dishonestly misrepresented his relationship with them, in order to act as an investment advisor/manager. The allegation is that the reason why they misrepresented their position (as an authorised signatory) was due to the fact that they knew that their clients' business activities would not bear close scrutiny in terms of "due diligence" and "know your customer" requirements of the regulated financial sector in the United Kingdom in respect of anti-money laundering legislation.

The investigation locally revealed that both the investment advisor and the local fiduciary knew of the ongoing investigation for corruption, but the local fiduciary looked on the advisor as a trusted intermediary/introducer of business to them and others alike.

It is believed that the advisor laundered the proceeds of Mr X's criminal conduct by providing investment management advice to Mr X's trust structure as another part of the over-arching laundering processes being carried on by Mr X's associates and advisors. The fees that the advisor earned represent his own suspected benefit for assisting Mr X in the laundering process.

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