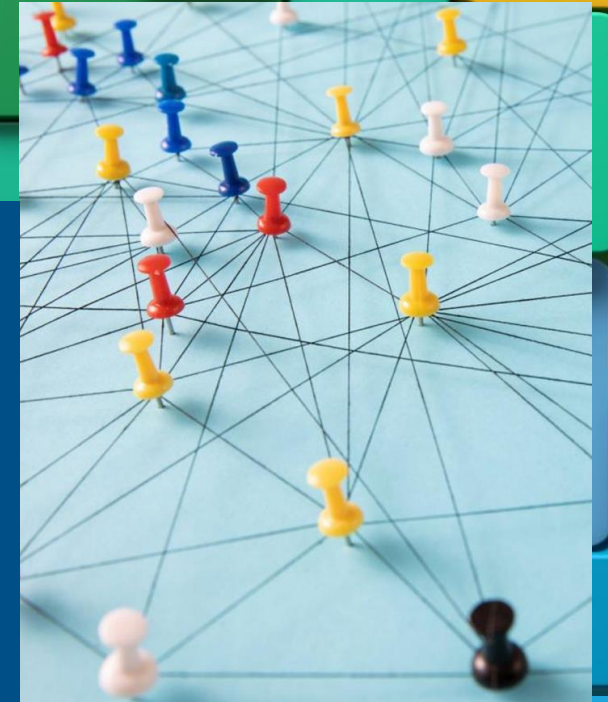


Trade Based Money- laundering Introduction



2025 OECD Academy for Tax and Financial Crime Investigation Africa Academy (Kenya) :
Managing Financial Crime Investigations (Intermediate) Programme

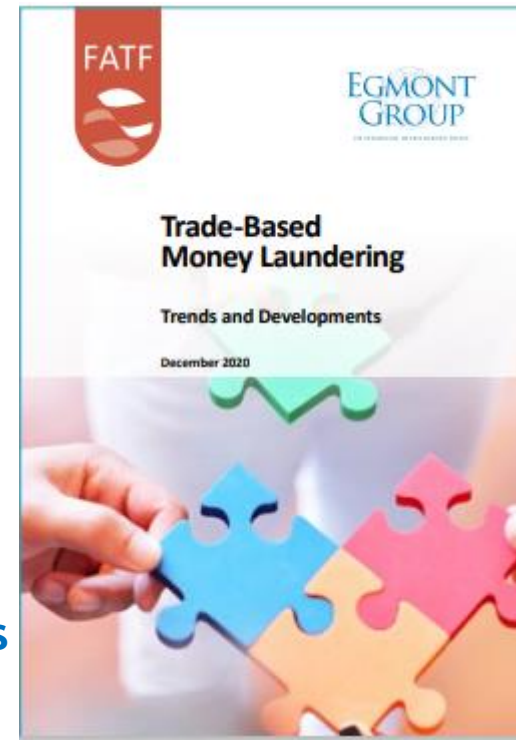
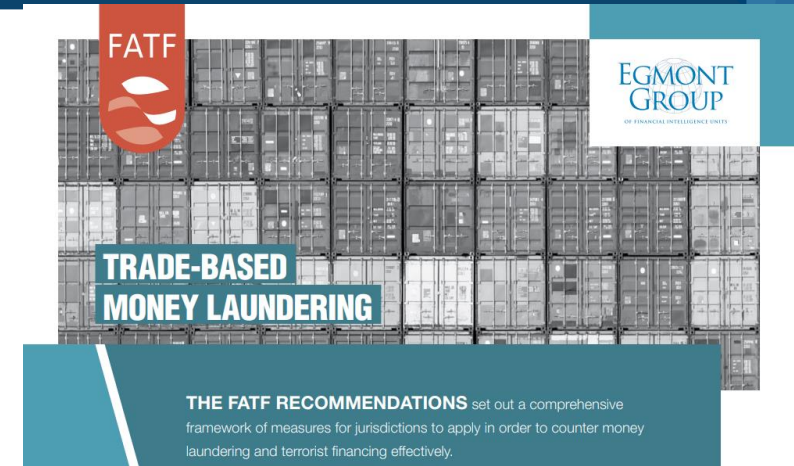
TRADE-BASED MONEY LAUNDERING

Trade-based money laundering is defined :

- as the process of **disguising**
- the proceeds of crime and
- **moving value** through the use of **trade transactions** in
- an attempt to
- legitimise their illicit origins.

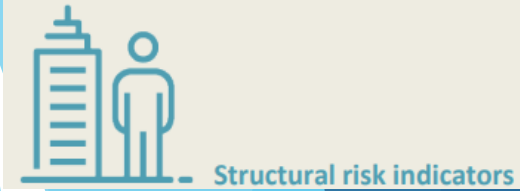
In practice, this can be achieved through the **misrepresentation** of the **price, quantity or quality of imports or exports**.

Moreover, trade-based money laundering techniques vary in complexity and are frequently used in combination with other money laundering techniques to further obscure the money trail.



TRADE BASED MONEY LAUNDERING – STRUCTURAL RISK INDICATORS

1. The **corporate structure** of a trade entity appears **unusually complex and illogical**, such as the involvement of **shell companies** or companies registered in high-risk jurisdictions.
2. A trade entity is registered or has offices in **a jurisdiction with weak AML/CFT compliance**.
3. A trade entity is **registered at an address** that is likely to be a **mass registration address**, e.g. high-density residential buildings, post-box addresses, commercial buildings or industrial complexes, especially when there is no reference to a specific unit.
4. The **business activity of a trade** entity does not appear to be appropriate for the stated address, e.g. a trade entity appears to use **residential properties**, without having a commercial or industrial space, with no reasonable explanation.
5. A trade entity **lacks an online presence** or the online presence suggests business **activity inconsistent** with the stated line of business, e.g. the website of a trade entity contains mainly boilerplate material taken from other websites or the website indicates a **lack of knowledge regarding the particular product or industry in which the entity is trading**.
6. A trade entity displays a notable lack of typical business activities, e.g. it **lacks regular payroll transactions** in line with the number of stated employees, transactions relating to **operating costs, tax remittances**.
7. **Owners or senior managers** of a trade entity appear to be **nominees acting to conceal** the *actual beneficial owners*, e.g. they lack experience in business management or **lack knowledge of transaction details**, or they manage multiple companies.
8. A trade entity, or its owners or senior managers, appear in **negative news**, e.g. past money laundering schemes, fraud, *tax evasion, other criminal activities, or ongoing or past investigations or convictions*.
9. A trade entity maintains a **minimal number of working staff**, inconsistent with its volume of traded commodities.
10. **The name of a trade entity appears to be a copy** of the name of a well-known corporation or is very similar to it, potentially in an effort to appear as part of the corporation, even though it is not actually connected to it.
11. A trade entity has **unexplained periods of dormancy**.
12. An entity is not compliant with regular business obligations, such as **filing VAT returns**.



TRADE BASED MONEY LAUNDERING – TRADE ACTIVITY INDICATORS

1. **Trade activity is inconsistent** with the stated **line of business** of the entities involved, e.g., a car dealer is exporting clothing or a precious metals dealer is importing seafood.
2. A trade entity engages in **complex trade deals involving numerous third-party intermediaries** in incongruent lines of business.
3. A trade entity engages in transactions and **shipping routes or methods that are inconsistent** with standard business practices.
4. A trade entity makes **unconventional or overly complex use of financial products**, e.g. use of letters of credit for unusually long or frequently extended periods without any apparent reason, intermingling of different types of trade finance products for different segments of trade transactions.
5. A trade entity consistently displays **unreasonably low profit margins** in its trade transactions, e.g. importing wholesale commodities at or above retail value, or reselling commodities at the same or below purchase price.
6. A trade entity purchases commodities, allegedly on its own account, but the **purchases clearly exceed the economic capabilities** of the entity, e.g. the transactions are financed through **sudden influxes of cash deposits or third-party transfers** to the entity's accounts.
7. **A newly formed or recently re-activated** trade entity engages in **high-volume and high value trade** activity, e.g. an unknown entity suddenly appears and engages in trade activities in sectors with high barriers to market entry.



TRADE BASED MONEY LAUNDERING – TRADE DOCUMENTS & COMMODITIES RISKS

1. Inconsistencies across contracts, invoices

or other trade documents, e.g. contradictions between the name of the exporting entity and the name of the recipient of the payment; differing prices on invoices and underlying contracts; or discrepancies between the quantity, quality, volume, or value of the actual commodities and their descriptions.

2. Contracts, invoices, or other trade documents **display fees or prices** that do not seem to be in line with commercial considerations, are **inconsistent with market value**, or significantly fluctuate from previous comparable transactions.
3. Contracts, invoices, or other trade documents have **vague descriptions** of the traded commodities, e.g. the subject of the contract is only described generically or non specifically.
4. Trade or customs **documents supporting the transaction are missing**, appear to be counterfeits, include false or misleading information, are a resubmission of previously rejected documents, or are frequently modified or amended.
5. Contracts supporting **complex or regular trade transactions** appear to be unusually simple, e.g. they follow a “sample contract” structure available on the Internet.
6. The **value of registered imports** of an entity displays significant **mismatches to the entity’s volume of foreign bank transfers for imports**. Conversely, the value of registered **exports shows** a significant mismatch with incoming foreign bank transfers.
7. Commodities imported into a **country within the framework of temporary importation** and inward processing regime are **subsequently exported with falsified documents**.
8. Shipments of commodities are routed through a **number of jurisdictions without economic or commercial justification**.



Trade document and commodity risk indicators

TRADE BASED MONEY LAUNDERING – TRADE DOCUMENTS & COMMODITIES RISKS



Account and transaction activity risk indicators

1. A trade entity makes **very late changes to payment arrangements** for the transaction, e.g. the entity **redirects payment to a previously unknown entity** at the very last moment, or the entity requests changes to the scheduled payment date or payment amount.
2. An account displays an **unexpectedly high number or value of transactions** that are **inconsistent with the stated business activity of the client**.
3. An account of a trade entity appears to be a “pay-through” or “transit” account with a rapid movement of high-volume transactions and a small end-of-day balance without clear business reasons, including:
 - An account displays **frequent deposits** in cash which are subsequently transferred to persons or entities in **free trade zones** or offshore jurisdictions without a business relationship to the account holder.
 - Incoming **wire transfers** to a trade-related account are split and forwarded to **nonrelated multiple accounts** that have little or no connection to commercial activity.
4. Payment for imported commodities is made by an entity other than the consignee of the commodities with no clear economic reasons, e.g. by a **shell or front company not involved in the trade transaction**.
5. **Cash deposits or other transactions** of a trade entity are consistently just below relevant reporting thresholds.
6. Transaction activity associated with a trade entity increases in volume quickly and significantly, and then goes **dormant after a short period of time**.
7. Payments are sent or received **in large round amounts** for trade in sectors where this is deemed as unusual.
8. Payments are routed in **a circle – funds** are sent out from one country and **received back in the same country**, after passing **through another country or countries**.

CAN WE DO THIS ON MY/OUR OWN

High risk countries for Trade-based Money Laundering (TBML)

Free trade zones (FTZs) are listed as **more vulnerable** to TBML due to the minimum level of regulation applied in trade among those areas.

According to the 2010 report of FATF, there are almost **3 000 FTZs in 135 countries** and the **total amount of exports from FTZs = \$400 billion worth.**



How to detect commonly used
Trade-Based Money Laundering
(TBML) Techniques?

What do we have ? What can we prove ?

- **Departure point** use **Annual Financial Statements and Tax returns** (CIT and VAT) filed - reflecting **Negative** Gross Profit Margins
- SARS then added difference between closing stock in Accounting records (Pastel) vs. Point of Sale Software (POS) called REACT which equaled R 17 Million - which could not be explained by taxpayer
- **Script to extract back data for 7 months** - all other data and reports were deleted by taxpayer
- **Rebates, settlement discounts** and advertising allowances, which related to specific stock purchases should, according to the accounting standards, have been **allocated to reducing the cost of sales**, and should have been accounted for as income
- ACC has also admitted that there was a variance in sales in an amount of approximately R28 million, brought about by “**P-type adjustments**”
- **Extrapolate 7 months to 7 years - initial GP margin used 6% however subsequently reduced to 3.6% and then to 2.04%**

EVIDENCE : DOCUMENT RECORD OF FORENSIC PROCESS

Essential cornerstones of introducing data as evidence :

1. A **proper documented seizure of back-end data** (raw data unaltered) – **“mirror image”** not a **“copy”**
2. Preserving and documenting the **chain of evidence** in a forensically sound manner (this is usually the first legal challenge)
3. Obtaining the **exact same version** of the POS software program used (with a sale suppression functionality, usually custom designed) stored on a stand-alone hard drive/computer in the forensic lab
4. All functional access and passwords – **especially user, manager and super user functionalities** must be present in uploaded SAME version as that of taxpayer
5. Deploy **internal CAAT Electronic forensic experts** to assist in seizure of data, managed the chain of evidence, upload data into software program and test (initially SARS were presented with two software versions by designer, the one incomplete and another one without passwords)
6. Early appointment of **external Cyber forensic and data experts** to assist in court and testify as **expert witnesses**
7. Ensure **numbering of data lines and file structure** from outset to ensure data version produced later by taxpayer is not manipulated
8. Obtaining background **Stock tables and data** : **ALL the Standard REACT reports** are written in a manner to **exclude the manipulated data** – which is not included in any of the existing reports, these manipulated reports needed to be proven in court i.e. the **POS system works exactly as designed** = with purpose to *suppress sales and remove stock*

Sales				1 518 847 563.00
Cost of sales				1 464 916 582.55
Opening Stock			219 461 109.19	
Purchases			1 514 410 031.00	
Closing Stock			-268 954 557.63	
				53 930 980.45
GP%				3.6%

[illegible]

EVIDENCE : DOCUMENT RECORD OF FORENSIC PROCESS - CONTINUED

9. Recreate and **demonstrating the functionality live in court** – In this case SARS was able to obtain **7 months data only** (the rest was wiped) for 60 terminals, the adjustments were identified as **so called P-adjustments** (positive and negative,) it was then **isolated to two terminals numbers**.
10. Employing external Legal counsel upfront to meet challenges from seizure to court applications
11. Include **admissions** of the **initial Tax Inquiry transcripts as evidence** – enablers and beneficiaries conceded to the use of sales suppression software and explained the working
12. SARS also required the **software designer** and distributor to testify in Tax Inquiry – he then provided much needed detail to how the system software is designed – SARS **however** then **still needed to prove** such “**functionality**” **was actually utilised by the taxpayer**
13. Then the most important step : **The actual tax prejudice needed to be determined**, it takes time but if steps above is followed this can be proven beyond a reasonable doubt (even if just for a period) – **it must be matched to a tax return** which **was misrepresented** (this proved challenging)

Sales			1 518 847 563.00
Cost of sales			1 464 916 582.55
Opening Stock		219 461 109.19	
Purchases		1 514 410 031.00	
Closing Stock		-268 954 557.63	
			53 930 980.45
GP%			3.6%

stockitem integer	date	st value date	qty on hand	warehouse	qty on stock	sales value	gross profit value	qty on stock	qty adjusted	last historic	supplier price	di warehouse	qty on stock
1	2008-08-01	114.000000	54.950000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	54.950000	0.000000	0.000000	0.000000
2	2008-08-01	12.000000	22.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	22.000000	0.000000	0.000000	0.000000
3	2008-08-01	10.000000	13.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	13.000000	0.000000	0.000000	0.000000
4	2008-08-01	1278.000000	21.250000	2.000000	42.500000	0.000000	0.000000	0.000000	0.000000	21.250000	0.000000	0.000000	0.000000
5	2008-08-01	48.000000	16.850000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	16.850000	0.000000	0.000000	0.000000
6	2008-08-01	262.000000	22.770000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	22.770000	0.000000	0.000000	0.000000
7	2008-08-01	30.000000	11.680000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	11.680000	0.000000	0.000000	0.000000
8	2008-08-01	21.000000	11.680000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	11.680000	0.000000	0.000000	0.000000
9	2008-08-01	9.000000	11.680000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	11.680000	0.000000	0.000000	0.000000
10	2008-08-01	294.000000	14.750000	4.000000	77.960000	0.000000	0.000000	0.000000	0.000000	14.750000	0.000000	0.000000	0.000000
11	2008-08-01	386.000000	15.000000	9.000000	179.910000	0.000000	0.000000	0.000000	0.000000	15.000000	0.000000	0.000000	0.000000
12	2008-08-01	289.000000	14.000000	3.000000	59.850000	0.000000	0.000000	0.000000	0.000000	14.000000	0.000000	0.000000	0.000000
13	2008-08-01	111.000000	91.200000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	91.200000	0.000000	0.000000	0.000000
14	2008-08-01	227.000000	14.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	14.000000	0.000000	0.000000	0.000000
15	2008-08-01	-2.000000	91.200000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	91.200000	0.000000	0.000000	0.000000
16	2008-08-01	346.000000	14.000000	2.000000	39.860000	0.000000	0.000000	0.000000	0.000000	14.000000	0.000000	0.000000	0.000000
17	2008-08-01	712.000000	58.440000	1.000000	59.960000	0.000000	0.000000	0.000000	0.000000	58.440000	0.000000	0.000000	-4.00
18	2008-08-01	115.000000	30.394051	2.000000	39.860000	0.000000	0.000000	0.000000	0.000000	30.394051	0.000000	0.000000	-7.20
19	2008-08-01	51.000000	19.500000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	19.500000	0.000000	0.000000	0.000000
20	2008-08-01	176.000000	19.500000	4.000000	77.960000	0.000000	0.000000	0.000000	0.000000	19.500000	0.000000	0.000000	-10.0
21	2008-08-01	182.000000	48.840000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	48.840000	0.000000	0.000000	0.000000
22	2008-08-01	276.000000	14.000000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	14.000000	0.000000	0.000000	0.000000
23	2008-08-01	277.000000	13.660000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	13.660000	0.000000	0.000000	0.000000
24	2008-08-01	-17.000000	9.800000	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	9.800000	0.000000	0.000000	0.000000
25	2008-08-01	2985.000000	54.810000	5.000000	294.920000	0.000000	0.000000	0.000000	0.000000	54.810000	0.000000	0.000000	-79.0
26	2008-08-01	568.000000	29.220000	2.000000	64.980000	0.000000	0.000000	0.000000	0.000000	29.220000	0.000000	0.000000	0.000000
27	2008-08-01	494.000000	20.291289	0.000000	0.000000	0.000000	0.000000	0.000000	0.000000	20.291289	0.000000	0.000000	0.000000
28	2008-08-01	493.000000	20.199516	3.000000	59.970000	0.000000	0.000000	0.000000	0.000000	20.199516	0.000000	0.000000	-10.0
29	2008-08-01	349.000000	30.179526	3.000000	59.970000	0.000000	0.000000	0.000000	0.000000	30.179526	0.000000	0.000000	-10.0



CSARS VS AFRICA CASH AND CARRY – ITC 13251 AND VAT 1077

TAXPAYER's LEGAL DEFENCES RAISED IN TAX COURT

- **White collar argument** : The Incorrect assessments before court, 5 attempts to assessments, prescription applied and SARS materially “altered” the basis of its assessments and such therefore must be set aside
- **Blue collar argument** : **Unreasonable methodology** used by SARS to calculate remised turnover and tax 12/7 and then over 7 years
- **Grey collar argument** : evidence by the former CFO, Cassim Aysen to fraud is **not admissible** as he was the real architect of the tax fraud
- **ONLY Two expert witnesses on behalf of taxpayer** : focussed on reasonability and reliability of ACC's Annual Financial Statements and presented three potential alternative calculations of GP Margin and taxable income. Directors and/or employees did not testify
- SARS employees expertise and qualification were challenged

Initial main thrust of taxpayer defence :

1. Claims that SARS case was **only to sales suppression** and **not to manipulation of Gross profit or Cost of Sales** or general accounting records
2. There was an **alternative (reasonable) calculation** to take 7 months to 12 months and thereafter to 7 years
3. There is **availability of alternative information** in taxpayer records
4. The assessments before Tax Court was based on SARS original estimated of GP Margin of **3.6%** and have **not been revised to 2.04%** in Sept 2015

Triumph card - attempted by taxpayer to Restart Assessment and Dispute process afresh

- If SARS relies on sec.95 of the TAA then SARS **MUST FIRST adjust their assessments** from 3.6% and the assessments before court is the **incorrect assessments**.
- SARS then corrected ACC that the applicable **substantive legislation at time of assessment was the sec.78 of the Income tax act and VAT** act not sec.95 of TAA.
- Taxpayer will request the **Tax Court to confirm the lower assessments** in terms of **sec.129 (2)(b) read with sec. 107 of TAA**. SARS further noted that the **assessments are not to be WITHDRAWN or REFFERED back for re-assessment** but SARS request the Tax Court to make an order on the amount should the Tax Court find SARS assessments to be reasonable

Tax Court Judgement : <https://www.sars.gov.za/lapd-drj-tc-2018-04-tcit-13251-and-vat-1077-jhb-16-may-2018>

Supreme Court of Appeals Judgment : <http://www.saflii.org/za/cases/ZASCA/2019/148.html>

FURTHER TRADE BASED MONEY-LAUNDERING SCHEMES

SCHEME 1 : CASH CHEQUE SYSTEM

Cash takings was removed on instruction (“Stickit” note, destroyed) and replaced by a “Cash” cheque issued by the Cash and Carry. Cash counted and removed - given to owners or family member. Round amounts (Cheque IN and OUT on bank statement)

SCHEME 2 : QUOTATION SYSTEM

The Cash and Carry generates “Quotations” to **selected Ooplang (“OP) customers** whereby VAT is charged at a discount of 7% (later 9%) however neither the full cash received amount nor VAT amount is declared or paid over to SARS.

Or

specific linked vendors/taxpayers, the net amount of “7% VAT discount” would be balanced by a cash Cheque which is cashed and OP is used for personal purposes.

“Selected customers” participating in this scheme are usually “trusted” business partners whom are family members, linked to family members or conduct operations in their personal name or via other registered entities outside the tax net.

SCHEME 3 : FICTITIOUS CREDITORS

Fictitious Creditors - creating fraudulent invoices from fictitious creditors which were processed for VAT (Input Tax) and Income Tax as a valid expense. Three step benefit : the creditors were “paid” by uncrossed cheques however : 1.) the cheque was cashed (show as paid on bank statement), 2.) stock also removed and then sold in cash (unrecorded) and 3.) expense and VAT was claimed for tax purposes. Second set of manual books

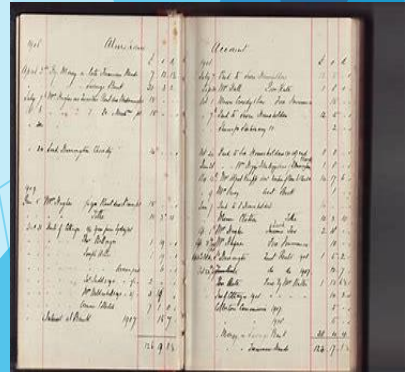
SCHEME 4 : DISCOUNT ON VAT (Profit shifting)

A scheme is in practice whereby on sale transaction “discounts” VAT at 7% (14%) on invoice generated to an ultimately linked company via an intermediary company. The Cash and Carry will invoice the intermediary company (B) at 114% for “stock”, same time B will issue an invoice to the Cash and Carry linked company at 107% with same stock items thus creating a 7% “profit” in B.

SCHEME 5 : BUYING ON ANOTHER VAT VENDOR'S ACCOUNT

This scheme relies on **abuse foreigners** located in South Africa **without bank accounts**

- ✓ Creating an creditor trade account in books of Cash and Carry where cash can be deposited in lieu of “future purchases” - indicated large **debit** creditors or
- ✓ facilities to purchase stock in cash via facilitation of a **registered VAT vendor** and client of the Cash and Carry. The foreigner pays for his purchase **in full however the invoice is in the name of the SA registered VAT vendor**. The SA vendor on production of Cash and Carry invoice charged at 14% pays the foreigner 7% back of the VAT amount reflected as a “commission”.



FURTHER TRADE BASED MONEY-LAUNDERING SCHEMES (CONTINUED)

SCHEME 6 : ZERO RATING OF NON-EXPORTS / GHOST EXPORTS/ CAROUSEL FRAUD

Due to the continued cash syphoning of the business cash flow was required to acquire stock, Cash and Carry claims per VAT201 returns that large totals of Sales represent “exports” which is submitted as zero-rated supplies in order to “generate” cash flow in its operations.

SCHEME 7 : NEGATIVE SALES INVOICES AND CREDIT NOTES

“Selected stock” was sold to “selected customers” in cash however **credit notes were subsequently passed to another debtors account** : “Hawkers” to which no debtor’s invoices or statements were issued. These sales of stock items were then deleted of REACT stock system. The credit note (credit) on this account was subsequently cleared by a cash Cheque. Once Cheque was cashed this cash received was used for personal purposes and expatriation.

SCHEME 8 : INPUT TAX CLAIMED ON ACCOUNTING ENTRIES

Input tax was claimed to transactions with no commercial substance **via journal between various loan accounts** in order to substantiate expense and subsequently Input Tax, but more importantly to limit the gross profit margin. (various methods are used, this requires scrutiny of each and every line item contained in the loan account)

SCHEME 9 : “REGULARISING” OOPLANG PURCHASES OF CELLPHONE AIRTIME

Although the purchase and sale of Cell phone airtime from Ooplang cash transactions in itself offers an convenient alternative source of laundering cash - profit of R1 per card sold

The sale of **Cell phone airtime** however was later regularised by use of **company loan accounts** thereby now allowing for **claiming of the full invoice (expense purposes Income Tax) and 14% Input Tax on airtime suppliers** invoices purchased with Ooplang cash.

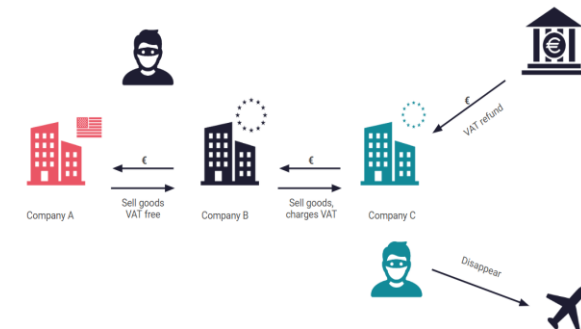
These schemes were all described by several witnesses during the Tax Court appeal - The judgement concludes :

*In all these respects, the **Taxpayer has remained silent** and failed to offer any explanation for the absence of documentation or the failure to cooperate with SARS or the use of the **P type** adjustment functionality or the **discrepancies between the REACT data and the AFS** or the **under declaration of sales when the REACT data** and the AFS are compared. It is **not only the absence of an explanation** which is so noticeable. It is also the **absence of any challenge to this evidence**.*

*“What is clear is that **ooplang** was a **parallel system** to the supposedly open and above board one captured on REACT software. It was monitored on small pieces of paper which enabled the Taxpayer to track it's undisclosed revenues and profits.”*



The carousel scheme for VAT fraud



SUCCESSSES AND LESSONS LEARNT

- ❑ Preservation order was obtained on 11 July 2014
- ❑ Only Sales Suppression Case ever proceeding to Tax Court in South Africa and first ever civil tax judgements in SA history
- ❑ Repeated tax evasion stopped dating back to 1982 – Assessment capital but more importantly 200% additional tax and interest was confirmed US\$ 100 Million (2003 – 2009) whilst US\$ 109.7 Million (2010 - 2014) was conceded
- ❑ Fraudulent VAT refunds stopped – US\$ 8 Million and further US\$ 2.9 Million and US\$ 1.5 Million in fraudulent refunds
- ❑ Linked Carousel fraud uncovered - US\$ 77.2 Million and arrest of internal employees
- ❑ Uncovered a further 2 x Carousel VAT fraud rings – collectively SARS managed to claw back US\$ 4.2 Million + US\$ 9.33 Million + US\$ 21.24 Million = US\$ 34.77 Million however US\$ 134.28 Million was paid out
- ❑ With regards to 23 taxpayers under audit : 65 Annual Financial Statements (2013 – 2020) were submitted, 53 Income tax returns and taxes paid
- ❑ Punitive Costs orders against taxpayer - Payment of SARS Legal Costs – US\$ 2.35 Million
- ❑ Uncovered and identified undisclosed offshore assets amounting to at least : US\$ 106 Million in Guernsey, Jersey, BVI registered companies, UK properties at least US\$ 90 Million, Dubai at least US\$ 20 Million, Switzerland US\$ 6 Million and India

fin24

SARS wins R1bn tax evasion case against Africa Cash & Carry

Nov 28 2019 19:22

The South African Revenue Service welcomed the judgement of the Supreme Court of Appeal that brought to an end a protracted dispute with Africa Cash & Carry, it said in a statement on Thursday.

The judgment – issued on November 21 – followed an investigation by SARS into the use of sale suppression systems and the manual manipulation of accounting books, the revenue agency said. The Tax Court altered its assessments to include some 200% additional tax, according to the statement.

Africa Cash & Carry disputed the results of the investigation and ultimately approached the Supreme Court of Appeal.

The Supreme Court, however, upheld the Tax Court order.

"SARS is committed to combat intentional tax evasion. SARS is concerned with the compliance levels within the Cash & Carry industry with a particular focus on 'Ooplang' schemes involving 'Ghost Exports', non-recording of the sale of cell-phone airtime, manipulation of loan accounts, claiming fraudulent invoices for VAT and Income Tax purposes, utilisation of intermediary shell companies to create invoices and sales suppression systems," SARS said.

Business Times

Bribe tycoon Hathurani hit with R1.2bn tax bill

by Loni Primrose, 13 July 2014, 08:27



THE SA Revenue Service (SARS) has swooped on Edrees Hathurani, the controversial cash-and-carry tycoon at the centre of a bribery scandal involving the regulator, the Financial Services Board (FSB).

On Friday morning, SARS officials served a court order on Hathurani's Africa Cash 'n' Carry, a warehouse-style business in southern Johannesburg which sells 15 000 products from cosmetics to electronics, effectively freezing its assets. The court order confirms that SARS believes Hathurani and his companies owe a tax debt of R1.25 billion.

This comes weeks after the 63-year-old Hathurani claimed emotionally that he had paid R12-million in bribes to former FSB finance boss Dawood Seedat to make his tax problems "vanish". Hathurani's admissions cast a cloud over both the FSB and SARS, suggesting officials at both state institutions could be misled.

In affidavits submitted to the court, SARS investigators said it was necessary to freeze Africa Cash 'n' Carry's assets to stop it "divesting its business and assets to a connected entity, Africa Cash & Carry Crews".

The SARS affidavits paint a damning picture of how Hathurani went out of his way over many years to cheat on tax, even going so far as to have a system designed to hide sales from the authorities.

For example, under one company he used to own called Jumbo Cash & Carry, SARS says Hathurani under-declared sales by "manipulating the point-of-sale system".

Jumbo did this by issuing a quote to a customer, rather than an invoice – which made it appear that no sale had taken place. It found similar accounting problems at Africa Cash 'n' Carry. The court order was served on the company on Friday morning.

fin24

Hawks nab ex-SARS auditors for tax fraud worth over R320 million

Sibongile Khumalo

11 May 2021

The Hawks in Johannesburg have arrested two former SARS auditors for alleged tax crimes worth some R321 million, the unit announced on Tuesday.

- The Hawks said that SARS investigators had uncovered a syndicate of more than 20 individuals who were involved in "extensive VAT fraud" and operated over a three-year period. The accused worked in collaboration with small and medium enterprise owners who claimed undue VAT refunds from SARS for their entities.
- The Hawks said R44 million of the defrauded R277 million had already been recovered through an investigation process it conducted with SARS.
- According to the investigating unit, taxpayers, runners, current and former employees of SARS, as well as bank employees, were also caught up in this "web of deceit" which took place between 2013 and 2016.

The auditors, Corah Madepolito Kooko and Noluthando Sipokazi Munga, as well as a third suspect, Mondolofu Mscube – who has been described as a "turner" – have been charged with tax fraud that led to a loss of over R277 million to SARS.

The Hawks said that SARS investigators had uncovered a syndicate of more than 20 individuals who were involved in "extensive VAT fraud" and operated over a three-year period. The accused worked in collaboration with small and medium enterprise owners who claimed undue VAT refunds from SARS for their entities.

"Most of the fraudulent invoices were uploaded from the SARS branch in Randfontein, where some of the implicated suspects were based," the Hawks said in a statement.

City Press

How cash & carry roundtripped tax goods

MOYAGABO MAAKE@City_Press

13 July 2014 15:00

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Africa Cash and Carry in Crown Mines, Joburg.

Despite allegedly paying millions to former Financial Services Board finance boss Dawood Seedat to quash a tax audit, Edrees Ahmed Hathurani's assets have been provisionally placed under curatorship until his debt to the taxman has been repaid.

At the North Gauteng High Court on Thursday, Judge Eberhard Beletseman appointed Cloete Murray of Sechaba Trust as curator of the Africa Cash and Carry boss' companies, family trust, property and vehicles.

Hathurani was joined by two of his family members – who are also co-owners of Africa Cash and Carry – and a business partner.

Together, they owe the SA Revenue Service (Sars) just more than R1.2 billion in income tax and VAT, which the taxman says they evaded over the seven years to 2020.

The order was sought to prevent the possible dissipation of assets held by Africa Cash and Carry and 18 other respondents," said Marka Muller, the deputy spokesperson for the tax collector.

"It was served on all the respondents on Friday morning."

Muller said the respondents were disputing the R1.2 billion tax assessment before the tax court.

"Sars sought the order to preserve to prevent a dissipation of assets whilst the outstanding tax debt is in dispute. Importantly, under the authority of the curator, the business entities will be allowed to continue with commercial trade."

FOLLOW THE MONEY – CONTINUED TAX INVESTIGATIONS

England and Wales High Court (Chancery Division) Decisions Gangat & Anor v Jassat [2021] EWHC 2644 (Ch) (01 October 2021)

"SOMETHING OUT OF A MOVIE : an off-book business, money secreted offshore, a falling out between business partners, Swiss bank accounts"

R200m earned from an "off-book business", which ran alongside the legitimate dealings of the Jumbo group of companies **for a decade**

- ❑ The four SA businessmen expatriated **untaxed cash business profits** in breach of SA Exchange control regulations
- ❑ In his ruling, Rajah noted that *Hathurani was the "dominant figure"* among the four, organised the expatriated funds to be paid into Swiss bank accounts via use of **a number of middlemen in SA** and payment of **commission of between 2% and 5%** on the amounts transferred.
- ❑ **Names changed to Swiss bank accounts to disguise the true account holders** - Gangat and Bhawan's share was called "Camelot". Accounts names were changed regularly.
- ❑ Over the years, **many accounts were opened and closed at several banks** to hold the expatriated money.
- ❑ **Funds were repeatedly moved from one account to another, split between a number of accounts**, put into accounts that were later closed, put into a Family Trust of whose existence Gangat and Bhawan were unaware.
- ❑ **London-based Yusuf Jassat** used the funds from the **Swiss bank account to invest in UK real estate. Assets were then transferred into a Jassat family trust. This was a breach of fiduciary duty by Jassat, and if the assets have been lost, he will be personally liable for the consequences, the court said.**
- ❑ On 21 November 2011, HMRC Specialist Investigations Office in London. opened an investigation into Jassat, Jassat instructed Grant Thornton to **make a disclosure** to HMRC's it indicated : **Jassat acquired about 53 commercial and residential properties 1998 - 2005, the offshore structures were in operation**, offshore bank accounts and all the properties purchased by the offshore entities.
- ❑ The UK Court order
 - an account of the funds and
 - all necessary and consequential inquiries,
 - plus judgment for the sums found due when the account is taken.

Financial Mail

When friends fall out

A recent UK court case sounds like **something out of a movie: an off-book business, money secreted offshore**, a falling out between business partners, Swiss bank accounts — even the **SA Revenue Service** makes an appearance.

14 OCTOBER 2021 - 05:00



A new judgment from the UK's courts will put at rest the minds of two SA businesspeople, by finding that funds in several Swiss bank accounts belong to them and must be accounted for.

The funds were part of **about R200m earned from an "off-book business", which ran alongside the legitimate dealings of the Jumbo group of companies for a decade.** The court decision throws light on what happened to that money and the impact of a falling out between the four major shareholders of Jumbo. It also highlights the role of an "agent" in the UK who was supposed to use part of the funds for the benefit of the two SA businesspeople, but under whose watch the funds might have disappeared.

Anwar Gangat and Surendra Bhawan are both resident in SA. Together with Edrees Hathurani and Dinesh Seetha, they were the major shareholders in what the UK court described as "that part of the Jumbo group of companies which carried on a legitimate cash and carry business in SA from the mid-1980s until the sale of the business in 1998".

England and Wales High Court (Chancery Division) Decisions

You are here: [RAJAH](#) >> [Decisions](#) >> [England and Wales High Court \(Chancery Division\) Decisions](#) >> Gangat & Anor v Jassat [2021] EWHC 2644 (Ch) (01 October 2021)
URL: <http://www.bailii.org/eng/cases/EWHC/Ch/2021/2644.html>
Cite as: [2021] EWHC 2644 (Ch)

Neutral Citation Number: [2021] EWHC 2644 (Ch)
Case No: HC-2017-001058

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
CHANCERY DIVISION
BUSINESS LIST (Chd)

Royal Courts of Justice
Rols Building, Peter Lane, London, EC4A 3DL
01 6002021

Before:

EASON RAJAH QC
Sitting as a Judge of the Chancery Division

Between:

(1) ANWAR GANGAT (2) SURENDRA BHAWAN - and - YUSUF JASSAT	Claimants Defendant
--	------------------------------------

Arfan Khan (instructed by Pandya Arbitration Global) for the Claimants
David Peters (instructed by Edwin Coe LLP) for the Defendant

Hearing dates: 16, 17, 18, 21, 22, 23 and 29 June 2021

HTML VERSION OF JUDGMENT APPROVED

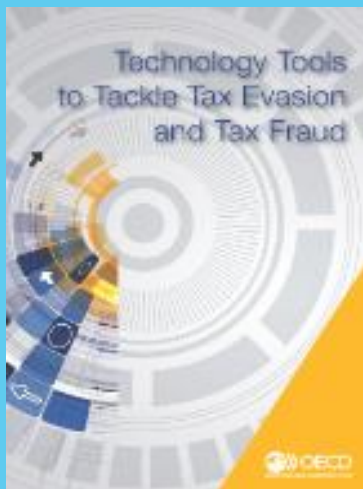


Electronic Sales Suppression: A threat to tax revenues

Published on 18 February 2013

Download the report (PDF):

- **English** This report describes the functions of point of sales systems and the specific areas of risk to tax administrations. It sets out in detail the electronic sales suppression techniques that have been uncovered, in particular “**Phantomware**” and “**Zappers**”, and **shows how such methods can be detected by tax auditors and investigators**. The report also
- **French**
- **German**
- **Russian**
- **Spanish** considers a **number of strategies** adopted in different countries to tackle electronic sales suppression and highlights best practices. In particular, it makes a number of recommendations to countries for addressing this important area of risk.



Technology Tools to Tackle Tax Evasion and Tax Fraud

Published on 31 March 2017

Download the report (PDF):

- **English** This report provides an overview of some of the **technology tools** that tax authorities have **implemented** to address tax evasion and tax fraud, **focusing on electronic sales suppression and false invoicing**. The report also includes a more **technical catalogue of these technology solutions**, with a view to encouraging other tax authorities that are facing the same types of risks to draw on that experience. The report also discusses complementary work that tax authorities are undertaking to address the cash economy and sharing economy, which, although not types of tax evasion and fraud themselves, can facilitate it.
- **German**