



**OECD International Academy for Tax Crime Investigation**

*Asset Recovery: Freezing and Seizing Assets*



# MANAGING FINANCIAL INVESTIGATIONS

## NOVEMBER 2021 – DAY 1

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# Presentation Day 1

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- Financial Investigation Definitions
- Case Selection
- Opportunities and Mile Stones in the Investigation
- Investigation & Financial Investigation Strategy
- A few “Golden” Rules
- Financial Investigation - Intelligence Checks



# What is a Financial Investigation

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**FATF** - The term *financial investigation* means an enquiry into the financial affairs related to criminal conduct. The major goal of a financial investigation is to identify and document the movement of money during the course of criminal activity. The link between the origins of the money, beneficiaries, when the money is received and where it is stored or deposited can provide information about and **proof of criminal activity.**



## Case Selection – What Cases are Adopted for Financial Investigation?

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- What part does Criminal Finances (criminal benefit or the availability of assets) play in the decision making process for the adoption of a case for investigation?
- Are Financial Investigators part of this decision making process
- At what stage of the investigation does a Financial Investigator become involved in a case?
- Do Financial Investigators form part of investigation teams, are they assigned to cases, do they “sit” in their own teams?



# When does the Financial Investigation Start?

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- While there must be a criminal conviction for a confiscation order to be made, it is important that, as soon as we start to investigate a crime where the offender has benefitted financially, action is taken to ensure that the proceeds are protected from being hidden or dissipated.
- Too often this is not the case and the recovery of criminal benefit is rarely part of the early stages of a criminal investigation.
- The investigation often focussed solely on securing a conviction for the crime—usually at the expense of investigating the financial element of recovering the proceeds of the crime.



## When does an Investigation Start?

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- The two elements should be investigated concurrently.
- Financial Investigators should be working alongside the Criminal Investigators and they should be using the powers that they have to discover the whereabouts of assets and taking action at an early stage to secure these.



# When does the Financial Investigation Start Your Role

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- Understanding (and Performance) of Financial Investigations could be improved through better training at an investigation level.
- Often investigators do not know that they could and should seize or restrain criminal assets, or what process to follow if they suspect financial gain from the crime being investigated.



# What do we mean by financial Investigation

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- Detained Cash – Stand alone e.g. Airport
- Detained Cash – Part of an investigation
- Civil Investigation – Non Conviction Based
- Money Laundering – Stand alone
- Money Laundering – Part of Predicate Offence
- Confiscation Investigation
- Restraint/Freezing
- Asset Recovery



# Financial Investigation Strategy

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- This Strategy must form part of the overall investigation strategy.
- It must be communicated
- It must be flexible
- It should be reviewed and updated as necessary
- Template with some key headings



# Financial Investigation

## A Few Opportunities and Milestones

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- The FI is assigned to a investigation
- Office based investigation – what you can do
- Surveillance
- Cash Seizures
- Identification of Significant Assets
- Arrest of Suspects
- Search (Person and Property)
- Interview/Questioning
- Court Orders



## Cash Investigation Strategy

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- If there is the potential for the interdiction of cash as part of the investigation how these will be treated should form part of the strategy.
- Other opportunities such as house searches should be considered



## Detained Cash Investigation

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To seize the cash in the UK an officer only needs to have reasonable grounds for suspecting that the cash is either:

- Is recoverable property (the proceeds of any crime) or
- intended for use in any unlawful conduct



# Cash - Photography





## Cash - Forensics

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- You may want to fingerprint the cash - This is often difficult as many people handle it
- Examine the wrappings closely - often the forensic opportunities are better there
- If there is a paper wrap or thick elastic band less people will have handled that.
- Often the fingerprints / DNA traces on the inside of a thick elastic band will be good, as they are made when the band is stretched and then protected from contact



# Mobile Telephones

|                                   |                 |              |                            |
|-----------------------------------|-----------------|--------------|----------------------------|
| <b>07802 -<br/>9781\$\$</b>       | <b>10/10/19</b> | <b>16:01</b> | <b>Any work today ?</b>    |
| <b>07854 -<br/>7105&amp;&amp;</b> | <b>10/10/19</b> | <b>16:01</b> | <b>Asif wants 100 Rani</b> |
| <b>07802 -<br/>9781\$\$</b>       | <b>10/10/19</b> | <b>16:02</b> | <b>Where</b>               |
| <b>07854 -<br/>7105&amp;&amp;</b> | <b>10/10/19</b> | <b>16:03</b> | <b>NG2 6DX</b>             |
| <b>07802 -<br/>9781\$\$</b>       | <b>10/10/19</b> | <b>16:04</b> | <b>What is Tk ?</b>        |
| <b>07854 -<br/>7105&amp;&amp;</b> | <b>10/10/19</b> | <b>16:05</b> | <b>JB 50883431</b>         |



# Ledgers

| 27/04/15       |                 |                  |
|----------------|-----------------|------------------|
| 357            | 1000            | TSB              |
| <del>362</del> | <del>2000</del> | <del>China</del> |
| 392            | 10000           | Bar              |
| 398            | 5300            | Bar              |
| 399            | 131640          | RBS              |
| 400            | 1650            | Net              |
| 395            | 5000            | Hand             |
| 401            | 3000            | China            |
| 402            | 50,000          | Ahsan FSH        |
| * 348          | 12,000          | Horse            |
| * 246          | 8,000           | China            |
| * 378          | 7,000           | China            |
| * 403          | 1000            | China            |
| 404            | 1000            | China            |

## OP Katowice : Ledger for 27/04/15

|           |                      |                   |
|-----------|----------------------|-------------------|
| TSB       | Trustee Savings Bank | Deposit -£1,000   |
| China     | HSBC                 | Deposit - £8,000  |
| Bar       | Barclays             | Deposit - £10,000 |
| Bar       | Barclays             | Deposit - £5300   |
| RBS       | Royal Bank of Scot'd | Deposit- £13,640  |
| Net       | NatWest              | Deposit- £3,000   |
| Hand      | Cash Handover        | £5,000            |
| Ahsan FSH | Handover to Ahsan    | £50,000           |
| Horse     | Lloyds               | Deposit £12,000   |
| China     | HSBC                 | Deposit £12,000   |
| China     | HSBC                 | Deposit £8,000    |
| China     | HSBC                 | Deposit £7,000    |



# Ledgers – Cross Referenced to Mobile Phone Text Analysis

|     |        |      |
|-----|--------|------|
| 364 | 50,000 | Hand |
| 365 | 10,000 | Hand |
| 366 | 5,000  | Hand |
| 367 | 2,000  | Hand |

Reference 365 states “£10,000 Hand” the text message below, taken from an uplifted burner shows this was for “Shazad” and gives just his mobile and the “token” number. The dialling code (+92) shows the instruction came from Pakistan.

|               |     |                      |              |      |       |   |
|---------------|-----|----------------------|--------------|------|-------|---|
| +923212XXX009 | N/A | 24/04/15<br>10:39:27 | +447XXX00111 | Read | Inbox | Msg#365 amt 10000 Shazad<br>Note# Mc 19378753<br>Ph#00447XXX43131 |
|---------------|-----|----------------------|--------------|------|-------|---|



## Interviewing Cash

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- We want an audit trail for the cash
- Invoices or receipts or takings records.
- Copy accounts
- Copy bank statements.
- Contact details for relevant third parties.
- An explanation for their actions
- Consider preparing an Aide Memoire
- Consider arrest for Money Laundering?



## Civil Investigation – Unexplained Wealth Orders

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- Unexplained Wealth Orders require the respondent to explain how an asset was acquired.
- If the respondent does not provide an adequate explanation, or provides unsatisfactory evidence, the asset will be considered “recoverable property”



## Civil Investigation - Account Freezing Orders

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- Account Freezing Orders and Account Forfeiture Orders.
- Power created to freeze the contents of bank and building society accounts so that, just as with cash, they can be forfeited in the same way – with a forfeiture order.



## Money Laundering Investigation - Offences

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- **Concealing criminal property:** a person commits an offence if he conceals, disguises, converts or transfers criminal property; or removes criminal property from England and Wales or from Scotland or from Northern Ireland. 'Concealing or disguising' criminal property includes concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it. [POCA s.327]



# Money Laundering Investigations

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- **Arrangements:** a person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person. [POCA s.328]
- **Acquisition, use and possession:** a person commits an offence if he acquires, uses or has possession of criminal property. POCA s.329]



# Money Laundering Investigation

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- The **investigation of money laundering** should go hand in hand with the **investigation** of the original crime generating the proceeds.
- A Money Laundering Investigations should identify the origins, flows and whereabouts of illicit income and unmask the networks involved
- The investigation may uncover enablers, assets held overseas and professional enablers



# How do we Investigate Money Laundering?

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1/ Prosecute for the offence giving rise to the criminal property – known as the predicate offence PLUS Money Laundering. Prove the criminal property came directly from an identified **acquisitive crime** (i.e. Prove the predicate offence and the association to proceeds). This is the preferred option of most Prosecutors.

2/ Stand Alone Money Laundering Offences, just prosecute for money laundering. There is no requirement in POCA to prove a predicate offence. Prove the criminal property is being handled in such away as to create an irresistible inference that it must be derived from criminal conduct (i.e. a stand alone money laundering offence).



## IRRESISTABLE INFERENCE EXAMPLES

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- Circumstances of laundering, methodology.
- Observations / surveillance / anti-surveillance.
- Previous seizures of cash or goods.
- Conduct at interception - Lying / resisting arrest.
- Concealment of cash (hides / body packing / internal).
- Nature of cash (currency / large notes etc.).
- Digital - text or phone evidence.
- Forensics (fingerprints/ DNA).
- Economic viability / usual business.
- Inexplicable travel patterns.
- Expert Opinion.



# Confiscation Investigation

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Section 341(1) of POCA defines a **confiscation investigation** as an investigation into

- whether a person has benefited from criminal conduct, or
- the extent or whereabouts of that benefit, or
- the extent or whereabouts of realisable property available for satisfying a confiscation order made in respect of that person

Part 8 investigation powers are available for use in the UK in any confiscation investigation regardless of when the criminal conduct occurred, what type of criminal conduct it was or when a conviction was obtained.



# Confiscation and Asset Recovery

## A few golden rules

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- Start your investigation as **early** as possible,
- Set a recovery strategy, include milestones, identify what you want to achieve, what you need to achieve and when,
- Know your legislation, the burden of proof required and engage with your lawyer
- Collaborate with your colleagues- “Know, Talk, Share”
- Understand your suspect, their finances and business interests
- Be prepared for the unexpected



# When to seek the order

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- Proper planning required to decide when order should be sought.
- Engage with investigation team, know their plans, criminal strategy.
- Is the order to be used as part of a day of action – arrests and searches etc?
- Is the order being used to seek evidence of the predicate offence and does legislation allow the use in “Financial Investigation”
- Is the order being sought in response to asset dissipation, change of ownership etc?



# The Asset Recovery Cycle

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# What is an asset?



# SEIZED ASSET AUCTION

**TUES., JULY 11**  
Bidding starts to close at 1 p.m. CDT



**DB3987**  
'10 Ford F150 XLT  
SuperCrew pickup truck



**K5961** '05 Ford F150 SuperCrew pickup truck



**K5962** '07 Dodge Ram  
1500 Quad Cab pickup



**DB3984** '02 Chevrolet  
Blazer LS SUV



**K5943** '03 Honda  
CR-V SUV



**K5960** '05 Infiniti  
QX56 SUV



**K5983** '03 GMC  
Yukon SUV



**DB3991** '08 Dodge  
Charger



**DB3985** '02 Honda Civic



**DB3988** '05 Ford Crown  
Victoria Police Interceptor



**K5982** '06 Cadillac STS



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## www.purplewave.com





# What is an asset?



- Any property or right that is owned by a person or entity or in which an interest exists and has monetary value attached.
- Assets may be real or personal property, which may be used for payment of debts.
- Assets may also include intangibles, such as business good will, trademarks, and rights to market a product.

Some legislation allows you to include “tainted gifts” and disposals to family and third parties



# Building Financial Profiles

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- A financial investigation involves the collection, collation and analysis of all available information with a view towards assisting in the prosecution of crime and in the deprivation of the proceeds and instrumentalities of crime.
- Criminals usually like to maintain some degree of control over their assets, and as a result there is usually a “paper trail” that will lead back to the offender.



# Financial Profiles - Template

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To establish a consistent approach across your organisation intelligence and investigation teams should complete a Financial Profile.

- Using an agreed Financial Profile template.
- The Financial Profile should be completed as fully as possible.

The use of this template will:

- Embed Criminal Finances Intelligence Requirements into all operational work,
- Collect and share CF intelligence against key areas of risk.
- Encourage officers to use the full range of financial investigative tools and techniques, including the consideration of money laundering offences.



## Building Profiles - Assets/ Worth

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- Reveal all identified assets (houses, land, cars, bank accounts, investments etc),
- Provide balances, valuations or suggested market values for assets,
- Identify 3<sup>rd</sup> party interests, family involvement with assets,
- Identify all liabilities, court orders, current/ ongoing proceedings that may undermine asset value or availability,
- Identify and quantify legitimate income and receipts



# Building Profiles - Some Sources of Financial Information and Intelligence

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- Case Team investigation material (pre and post arrest),
- Sensitive sources, CHIS, Prisons & telephone intercept
- Search material (person/premises),
- Government information systems (tax databases, land ownership, vehicle ownership etc.),
- Open-source information systems especially social media,
- Suspects own explanations/testimony,
- Finance and banking records,
- Business records
- Land registry - registry of real estate and Property alerts
- Suspicious Transaction/Activity Reports



# Where does Open Source Intelligence OSINT come from?

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- We tend to associate the term “open source” with digital information, but it can also be **physical**. Investigators used to have to go to libraries and government offices to get hold of public records and articles.
- Now, a lot of this information is available on the internet and investigators spend more time behind their desks. But there’s still a lot of open-source information on paper in the world, especially in countries with less developed IT systems.
- Freely available doesn’t mean free. Lots of journals and media articles are behind paywalls. Paying for this information is a bit of a grey question and often a headache for Financial/Intelligence teams without a lot of resources.



# Open Source Information Desk Top Investigation

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- Google and other web browsers can throw up a wide variety of information including news articles, Facebook profiles, Linked In profiles, Address data, Bankruptcy filings, and corporate positions or holdings.
- Basic Facebook profiles usually provide recent pictures of the account holder some of their personal contacts and indications of their whereabouts
- As people live increasingly in the virtual world, they expose themselves to more lines of enquiry



# Is information power?

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- The fast expansion of the internet and search tools over the last couple of decades has made masses of information more easily available to the public.
- There is the issue of fake news – i.e. deliberately misleading articles or social media postings with no factual basis.
- Investigators have to go through extensive procedures to verify the reliability of open-source information, both when initially collecting it and again during the integration and processing stages.



## Is information power?

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- Too much information can easily infoxicate us and cloud the decision-making process. Being able to gather relevant data and extract useful patterns is power, not information alone.



# Open Source Information Desk Top Investigation

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Basic data obtained can be further researched using openly available engines , some will require a subscription:

- PIPL – a people tracing search engine
- Open Corporates – a Global Company search engine operated by the World Bank

Even small scraps of data may be useful if you use them properly



# Open Source Information Desk Top Investigation - Property

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- May identify property owner and registered charges by banks and lenders or others
- Can also identify the solicitor who handled the conveyance.
- Property may be “freehold” owned outright or “leasehold” leased to the proprietor whilst owned by someone else.



# Open Source Information Desk Top Investigation – UK Property

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- **Land Registry** - HM Land Registry created in 1862 to register the ownership of land and property in England and Wales
- <https://www.gov.uk/government/organisations/land-registry>



# Open Source Information

## Desk Top Investigation – UK Company Registrations

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**Companies House** - Companies House is the United Kingdom's registrar of companies

- <https://www.gov.uk/government/organisations/companies-house>

Searches can be conducted on the above sites for a small administration fee.



# What other Sources are available to you International bank account numbers (IBAN)

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- The numbers can be checked on the following website
- [www.ibancalculator.com](http://www.ibancalculator.com)
- A PDF document can be printed with the results



# Use of Expert Witnesses

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- In some countries expert evidence can be given in money laundering cases
- They can also be used in cash forfeiture proceedings in some cases
- An expert witness, unlike an ordinary witness can give **opinion evidence**
- They will describe common methods of money laundering
- Compare known typologies of laundering to the facts of the case
- Give the Court an opinion as to whether the facts of the case are consistent with money laundering or not



# Managing expert advisers

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- Arrange the appropriate Security Clearance for the EA if they are involved in a sensitive investigation
- Agree terms of reference and a contract with the EA before they start work
- Provide the EA with the necessary material or information needed for them to perform their role
- Respect the objectivity and independence of the EA and not pressurise them to give a particular answer
- ensure that the EA gives opinions on facts and hypotheses for which they are properly prepared
- Ensure that the EA understands their responsibility to assist the investigation and comply with Disclosure obligations



## OECD International Academy for Tax Crime Investigation

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# ANY QUESTIONS?

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