



OECD International Academy for Tax Crime Investigation

Investigative Techniques for the Effective Use of Banking Information



PRODUCTION ORDERS/SUBPOENAS PREPARED FOR BANKS & OTHER FINANCIAL INSTITUTIONS

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Discussion Topics

- Subpoenas from the bankers' perspective.
- Working in collaboration with overseas law enforcement and banks
- Advantages and disadvantages of subpoenas
- Working with the Bankers
- What to add in your subpoena and how to phrase info requests



Subpoenas from the Bankers Perspective

- The issuance of a subpoena (a.k.a production order) varies depending on the jurisdiction. The best advice for writing and issuing subpoenas is often from seasoned prosecutors.
- However, the perspective of the banker, who receives subpoenas is also important to understand in order to maximize the scope, breadth and depth of information you want to receive (information to use as evidence or information to expand the investigation).



Law Enforcement & Bank Collaboration

- Who to Serve & with What (MLATs; Subpoenas; Egmont; Interpol)
 - Which Government? (what info do you want?)
 - Who in the US? (Fed, CHiPs, Money Center Banks)
- Each bank is different
- Negotiating scope, date ranges, and timing of production delivery
- Serving subpoenas and bank SAR filing
- Using bank connections to obtain information overseas (pros and cons)
- Asset Seizure Orders
- Working in collaboration with overseas law enforcement and banks
- “Keep Open” letters
- Supporting undercover operations (e.g. stings)
- Law Enforcement working together



Practical Advantages and Disadvantages of Production Orders/Subpoenas

- Timing is critical.
- Source of information and collaboration has demonstrated numerous instances of success.
- Type of information exchanged, including efficiency and effectiveness absent legal parameters, protocols, dissemination of sensitive information, decision-making considerations.
- The retreat from collaboration increases the need for production orders.
- Inability to use SAR information in courts
- Common Money Laundering Techniques



Working with the Bankers

- Banks are increasingly nervous about the prospect of proactively working with law enforcement on criminal investigations, in large part due to:
 - Additional Regulatory scrutiny
 - Losing correspondent relationships
 - Leaks arising from government and other sources
 - Media articles that possess factual inaccuracies or omissions as well as sensationalism that can damage reputation, lead to further regulatory scrutiny, destroy business relationships (e.g. correspondent banking lines), and/or invite separate criminal investigations against them.



Working with the Bankers

- Keep Open letters because of account closure
- Confidentiality of investigations.
- Find a guy
- Find a good lawyer (on both sides) to work with.
- Take note on level and extent of cooperation (including those specific individuals most helpful and those who are not).
- Make sure to identify and remain aware of all persons in a bank and law firm with knowledge of case.



What to add in your subpoena and how to phrase it (from the banker's perspective)....

- Names and name variations
- Separate names from account numbers
- Date ranges
- Ask for completed due diligence files (current and past)
- Ask for all relevant banking information, including products and services offered (current and past), signature cards, etc.
- Ask for all current and previous owners; control persons, nominees, administrators, lawyers.
- Ask for risk ratings, approvals and sign offs
- If account was closed, when was it closed, how proceeds were distributed, and to what other entity assets were transferred to.



What to add in your subpoena and how to phrase it (from the banker's perspective)....

- Ask for any copies of contracts, invoices, and other agreements between the target and any other person or entity.
- Ask for names of all current and previous relationship managers and their previous contact persons.
- Ask for emails and telephone records related to the names, name variations, and account numbers
- Copies of all monitoring alerts, internal investigations, dispositions, internal reports, etc.
- Copies of all internal reports, management information reports, memos, notes, and names associated and involved in all such meetings and communication.
- Any and all communication pertaining to the names, name variations, account numbers, and persons associated with such communication.



If you are interested in exploring the possibilities for collaboration and strengthening your abilities...

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