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## **Task Force on Tax Crimes and Other Crimes**

### **Typologies Note on Missing Trader Fraud in Goods**

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# Typologies Note on Missing Trader Fraud in Goods

## 1. Objective

1. The OECD Task Force on Tax Crime and Other Crimes (“TFTC”)’s Action Group on VAT Fraud has prepared this note to assist jurisdictions in identifying possible indicators/red flags for “missing trader” fraud (hereafter “MTF”) *in goods*. It also touches on some of the strategies adopted by jurisdictions to prevent and enforce this illegal conduct. In addition to outlining a basic MTF scheme involving goods, the Annex includes case studies of more complex schemes detected by different jurisdictions.
2. This document is based on inputs from Australia, Belgium, France, Japan, Singapore, and the United Kingdom (UK). **The document is intended as a snapshot of the indicators and strategies adopted by these jurisdictions and is not meant to be a comprehensive guide on combatting MTF in goods.**
3. This document is for internal use only (i.e. by TFTC Members, Participants, and Invitees) and is not intended for publication.

## 2. Background

4. Missing trader fraud (hereafter MTF) occurs when organised criminal groups exploit differences in jurisdictions’ treatment of Value Added Tax (VAT)<sup>1</sup> systems for illicit financial gain. In a typical scheme, criminals take advantage of legislation that allows cross-border trading to be VAT-free or taxed at different rates in the same jurisdiction. In a cross-border arrangement, products are imported VAT-free (“zero-rated” or “exempt with credit”) from a foreign jurisdiction and then sold through a series of domestic supply chains before being exported again for the purpose of generating fraudulent net refunds from the revenue authority. Typically, the first company in the domestic supply chain charges VAT to the customer and then disappears without paying this to the government, becoming the “missing trader”. The exporters then claim reimbursement on the VAT payments that did not take place.
5. MTF remains the most common type of VAT fraud and governments continue to face substantial losses to these organised criminal schemes each year.<sup>2</sup> A 2021 report of the European Parliament noted that while difficult to assess, MTF is estimated to cost EU states around EUR 60 billion annually.<sup>3</sup> This is money that could instead support critical infrastructure such as education or health systems. Moreover, criminals often take their illegal gains and funnel them into other illegal activities such as drugs or arms

<sup>1</sup> Otherwise known as Goods & Services Tax (“GST”)

<sup>2</sup> [OECD 2020 Consumption Tax Trends](#), Section 2.8, page 56

<sup>3</sup> [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/698731/IPOL\\_STU\(2021\)698731\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/698731/IPOL_STU(2021)698731_EN.pdf)

smuggling. It is therefore not surprising that in 2021, TFTC Members identified MTF as the preeminent tax crime risk affecting their jurisdictions.<sup>4</sup>

6. While MTF schemes frequently involve goods such as precious metals, cell phones, computer chips or other high-value, low-bulk items that are readily available and easily transported, they *can* occur with *any* type of product. In recent years, sophisticated organised criminal groups have expanded their illegal activities into the intangibles markets, for example, by exploiting the energy or environmental sectors. The damaging impact of this was clearly demonstrated by the fraud perpetrated through the EU's tradable emissions scheme, where jurisdictions suffered around EUR 5 billion in losses.<sup>5</sup> While MTF involving both the intangible markets and tangible goods can be highly damaging, a 2022 survey of VAT Fraud Action Group Members identified MTF *in goods* as top challenge and is therefore the focus of this current note.

### 3. Evolution of Missing Trader Fraud in Goods

7. Although MTF is not new, advances in technology have increased the risk for this type of fraud, for example, by making it easier for criminals to communicate across borders and create fictitious documents. The typologies employed by criminals to commit MTF in goods have also developed over time. For example, a 2007 FATF Report [Laundering the Proceeds of VAT Carousel Fraud](#) noted that most schemes involve a single financial institution to launder money.<sup>6</sup> By contrast, modern day schemes are increasingly sophisticated with members reporting complex legal arrangements that are increasingly difficult and time-consuming to investigate. Other factors affecting enforcement of MTF in goods include:

- Multi-jurisdiction financial flows involving secrecy jurisdictions and complex corporate structures;
- Simulation of transactions using fake invoicing;
- Abuse of international trade and customs regimes;
- Strawmen used as legal representatives to shield beneficial ownership;
- Fraud relating to subcontractor arrangements; and
- Various alternative payment and banking solutions.

### 4. Description of Basic Scheme Involving Missing Trader Fraud in Goods

8. In the below example from the Inland Revenue Authority of Singapore ("IRAS"), a GST-registered supplier ("missing trader") upstream in the supply chain would charge GST at 7% on the sale of goods to other GST registered entities downstream. Instead of reporting and paying the 7% GST collected to IRAS, the Missing Trader fails to report the GST in its GST return or fails to pay the GST collected. The goods sold downstream in the supply chain were eventually exported to overseas customers and the transactions are zero-rated (i.e. subjected to GST at 0%), resulting in a net GST refund position for the exporter entities. The same goods that were exported to overseas customers would then be re-imported by the syndicates within a short span of time and passed through the same supply chain again.

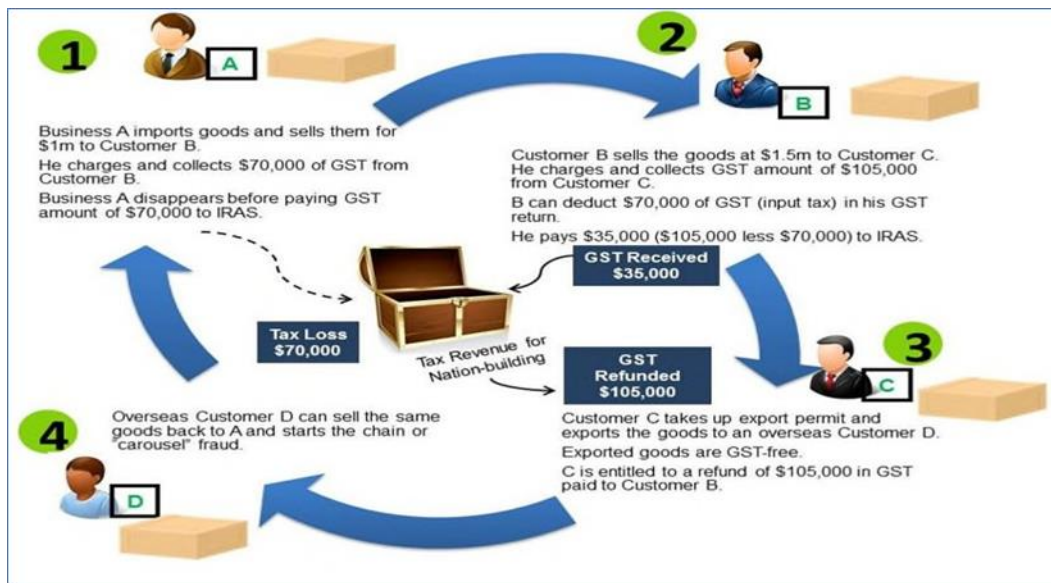
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<sup>4</sup> OECD TFTC "Risk Snapshot"

<sup>5</sup> <https://www.europol.europa.eu/newsroom/news/further-investigations-vat-fraud-linked-to-carbon-emissions-trading-system>

<sup>6</sup> <https://www.fatf-gafi.org/media/fatf/documents/reports>

Figure 1. Illustration of basic MTF scheme involving goods



## 5. Red flags/Indicators of Missing Trader Fraud Schemes Involving Goods

9. At the most basic level, goods based MTF schemes require syndicates to operationalise the following seven core elements: (i) Types of goods used; (ii) Missing traders; (iii) Buffer entities; (iv) Exporter entities/brokers/distributors; (v) Payment and monetary flows; (vi) Overseas customers (vii) Syndicate structure

10. The below sections outline (non-exhaustive) indicators or red flags of MTF in goods identified by different jurisdictions based on these seven core elements.

### 5.1. Types of goods used

11. In most MTF schemes, syndicates try to demonstrate the authenticity of goods purportedly being transacted along the supply chains. In order to reduce the initial outlay and transport costs associated with carrying out the fraud, syndicates often use lower cost substitutes or smaller easily shipped items of high value. The goods used by syndicates have been observed to exhibit some of the following traits:

- Counterfeit goods that do not function;
- Obsolete goods or goods that are lower in technical specifications but similar in weight and appearance, for example, use of lower-end iPhones masked as higher value phones;
- Goods that are small in size but high in value, for example, integrated circuit chips ("IC Chips"), micro-SD cards, mobile phones, computer tablets, circuit boards, etc.;
- Goods that are easy to transport, for example, a reel of vacuum-packed IC Chips (about 2 500 pieces) only weighs about 1.5 kg;
- Goods that are difficult to trace, for example, goods with no serial number like SD or Micro SD cards or commodities such as precious metals;
- Goods of unknown branding that are marked up to excessively high prices e.g. special plant based skin care facial masks; and

- Goods that are easily converted to produce arbitrage opportunities between type of supplies under the jurisdiction's laws<sup>7</sup> (see below case studies from Singapore and Australia).

12. Finally, it must be noted that in some schemes, the purported goods do not exist at all and are instead simply a “paper trail”, perhaps involving containers either empty or weighted down with non-descript material.

## **5.2. Missing Traders**

13. Missing traders are entities that are usually positioned upstream within a supply chain, where goods are first supplied. The syndicates would typically find strawmen with poor financial profile or low income or who are unemployed to register these entities so as to make it harder to identify the actual syndicate leaders. These missing trader entities have been observed to have the following profiles:

- Newly incorporated or dormant VAT-registered private limited entities using the same few Corporate Service Providers that may be engaged by other missing trader entities or buffer entities;
- Newly established or “off the shelf” companies with no financial or trading history;
- Controlled by syndicates where strawmen are given instructions via syndicate members who use fake individual names and ID;
- Typically, missing trader entities have no or low internet presence (i.e. minimal visibility on www or normal commercial platforms) and would voluntarily register for VAT<sup>8</sup>;
- Exponential increase in revenue within a short span of time with sales and purchases typically occurring on the same day, i.e. back-to-back transactions with no apparent commercial driver or rationale to justify the scale of increased trading;
- High value trading from short-term lease premises or residential addresses – relying on the use of third-party warehousing facilities;
- No means (i.e. no employees, no premises, low capital, head office in a virtual office or even in a private residence or virtual)) and use of third-party warehousing facilities.
- Companies engaged in high value trading but with little or no credit rating themselves;
- Low profit margin, i.e. just enough to set-off operating cost (see also profile of buffers) or in some cases the MT may even purchases goods at a higher price higher than which it sells the goods to the next Buffer (a pricing policy that is illogical and without economic reason causing a red flag);
- Mostly cash transactions and at times, payments were received even before orders were dispatched;
- The format of documents for sales and purchase invoices were usually the same with those of other missing trader entities or buffer entities;
- VAT returns with high tax throughput but resulting in low net liability (small payment or repayment);
- In some cases, invoices of genuine third party entities were observed to have been forged by syndicates and used to start the purported supply chain without the knowledge of the third party entities; and
- No VAT returns are submitted. In cases where missing trader entities do file VAT returns, they would either declare output tax without any intention of paying said taxes or under- declare the output tax amounts in their VAT returns.

<sup>7</sup> Input tax can be claimed if attributable to subsequent sale of Scrap Gold which is a taxable supply.

<sup>8</sup> In Singapore, a person is liable to register for GST when the annual turnover exceeds or is expected to exceed SGD 1 million. Notwithstanding this, a person may apply for voluntary registration, as long as conditions under Paragraph 8 of the First Schedule to the GST Act is fulfilled.

- Absence of proper commercial contracts with terms and conditions to protect the seller's position. In addition, we would often see payment arrangements with unjustified levels of risk for the seller, e.g. goods released to customer but payment deferred until that customer receives payment from their customer, even though the parties concerned have little or no credit worthiness.

### **5.3. Buffer Entities**

14. Buffer entities are typically inter-posed between the missing trader entities and exporter entities (more details on exporter entities in section 5.4. below). Buffer entities would typically share some of the common profiles of missing traders that are listed in section 5.2. above and can make investigations more difficult as they act as a normal trader within the domestic market. In addition to this:

- Sometimes, buffer entities could also have other genuine businesses, but the directors of the buffer entities usually have no prior background in trading nor industry knowledge of the goods that the buffer entities were trading in.
- Buffer entities typically fulfil their tax obligations and has a low profit margin.
- In a number of cases, buffer entities were observed to subsequently change roles to that of missing traders and exporters.
- Most syndicates that are entrenched in MTF for the long haul are likely to utilise lengthier and more sophisticated supply chains utilising more buffer entities inter-posed to make tracing of their transactions difficult.

15. However, in recent years, some syndicates have emphasised speed rather than detection avoidance. Such syndicates seek to claim some refunds using one set of entities before quickly shifting to other sets of entities upon detection. In such an approach, countries may see shorter supply chains with only one or two buffer entities interposing between the missing trader and the exporter entities.

16. In some cases the transportation and handling of goods often happens without any control or intervention of the Missing Trader or 1st Buffer. For example, the Czech Republic observes that goods purchased from other EU member states (MS) or imported from non-EU countries often go directly to the warehouse of a second Buffer or Broker.

### **5.4. Exporter entities/brokers/distributors**

17. Exporter entities (otherwise known as brokers or distributors) typically export goods purchased from buffer entities to overseas customers. Customers of the exporter entities and prices are prearranged by the syndicate. Such exporter entities/brokers are typically entities that:

- Have other genuine businesses
- Are profit driven
- Are in the same country as the missing trader



### Box 1. Indicators/red flags for exporter entities in Singapore

IRAS reports that entities *with no knowledge* of their involvement in MTF schemes are typically remunerated with a lower mark-up (e.g. 1% to 1.5%) on goods purchased from buffer entities and the profit margin is typically pre-determined by the supplier and/or the overseas customers who are usually controlled by the syndicates.

For exporter entities that *have knowledge* of their involvement in MTF schemes, a higher mark-up is observed to be used (e.g. 2% to 3%) to compensate the exporter for the higher financial risks undertaken should their GST refunds be withheld by IRAS.

Exporter entities also leverage on freight forwarders to deliver goods to overseas customers via airfreight. The export documents prepared by freight forwarders (e.g. airway bills) are important for the exporter entities as it serves as evidence that the goods they have purchased from buffer entities, are ultimately exported to overseas customers and thus qualify for zero-rating (i.e. subjected to GST at 0%).

In some MTF schemes, the freight forwarders are also in cahoots with the syndicates. Such freight forwarders would prepare fake export documents for the exporter entities and re-circulate the goods back to the missing traders instead of exporting the goods to overseas customers.

### 5.5. Payment and Monetary Flows

18. Syndicates leverage on the banking system to create official payment trails from the overseas customers to the exporter entities and thereafter, the buffer entities. To do this, syndicates:

- Extract cash at the last buffer company to create the façade that cash is paid to the missing traders, but in fact, cash is deposited in separate conduit businesses or local payment agents for transfer back to the overseas customers.
- Reuse money transferred overseas as working capital to make payments to exporter entities in subsequent MTF transaction or extract it as profits for syndicate members.

19. In some cases, it has been observed that the interception of such working capital funds has been important for crippling the ability of syndicates to perpetuate MTF.

### 5.6. Overseas Customers

20. Overseas customers are usually controlled by the syndicates and situated in an overseas jurisdiction without VAT. As such, no VAT is imposed by the Customs Authorities on the high value goods upon importation into the overseas jurisdiction.

21. In some MTF schemes, syndicates would place overseas customers in jurisdictions from whom it is difficult to obtain EOIR assistance in relation VAT (for example jurisdictions that have made reservations against exchanging VAT information under the Multilateral Convention on Mutual Administrative Assistance on Tax Matters). This makes it more difficult for the investigating jurisdiction to obtain information from abroad to assist with the investigation.

### 5.7. Syndicate Structure

22. The below are common features of a syndicate structure:

- Organised crime groups that are transnational in nature;



- The masterminds in the syndicates could be based locally or offshore to facilitate the MTF scheme;
- These masterminds or their trusted lieutenants are usually in charge of recruiting strawmen to front missing trader entities or buffer entities. They would also recruit trusted lower-level runners to help with:
  - Importation of goods and inventory tracking;
  - Order tracking and delivery within the supply chain;
  - Preparation of invoices and payment paperwork; and
  - Profit computation, fund movement and allocation

### **5.8. Legal and policy framework manipulation**

23. Finally, a missing trader scheme relies on abuse of jurisdictions' underlying legal frameworks. To that end, certain legal and policy frameworks can create an enhanced risk of MTF and as such can themselves serve as an indicator/red flag for investigators. For example:

- Jurisdictions that have laws in place to produce arbitrage opportunities between different types of supplies under the jurisdiction's laws, for example, VAT treat of Precious Metals (see below case studies from Singapore and Australia).

## **6. Strategies for Combatting Missing Trader Fraud in Goods**

24. This section provides examples of different strategies or initiatives adopted by jurisdictions to combat MTF schemes involving goods. It is divided into three sections based on strategies designed to (i) prevent; (ii) detect; and (iii) deter MTF in goods.

### **6.1. Prevention Strategies**

25. *VAT Reverse Charge Mechanism/Customer accounting:* Reverse charge mechanisms are an effective strategy for combatting MTF. Under a reverse charge mechanism, the responsibility to account for VAT on sales of specific goods shifts from the VAT-registered supplier to the VAT-registered customer. A VAT registered supplier is not required charge VAT on the local sale of the specified goods made to a VAT registered customer. The VAT registered supplier is required to report (Ex VAT) the supply of the relevant goods in their VAT return. The VAT registered customer, on the other hand, is required to account for the output VAT on behalf of the supplier and claim the input tax in accordance with the normal rules for recovery of VAT credits.

26. The Council Directive 2006/112/EC Article 199a provides for the EU MS on an optional basis, the reverse charge mechanism (RCM) for payment of VAT on supplies of pre-defined goods and services that are particularly susceptible to MTF. Numerous MS have introduced domestic RCM to prevent VAT fraud in the first instance, particularly on supplies of mobile phones and other electronics frequently subjected to MTF. However, although RCM is beneficial to the MS to stop VAT fraud in specific risky sectors, it can lead to displacement of the fraud to other MS or into new markets.

27. Sweden reports that the country has in recent years experienced highly organised MTF involving trade in mobile phones which caused extensive VAT losses in only short period of time, organised by fraudsters previously known to be involved in VAT fraud in other countries. Consequently, Sweden introduced domestic RCM on the supply of electronics on April 1st 2021. The measure covers: computer chips, mobile phones, games consoles, laptops and computer tablets. The VAT fraud in this sector has thereafter rapidly decreased, however there are indications that the fraudsters are moving into trade with other tangibles not covered by the RCM, such as Airpods and similar goods, or moving the fraud schemes

to other countries. Sweden therefore notes that the RCM can be regarded as a temporary measure to efficiently combat and prevent VAT fraud in specific risky sectors, but not the solution to stop MTF.

28. Outside of the EU, Australia noticed a significant decline in refunds following the implementation of a reverse charge mechanism on business-to-business transactions of precious metals (along with other ATO strategies – see the case study in the Annex. The United Kingdom also reports that it has successfully eliminated MTF in several commodities by introducing reverse charges including mobile phones, computer microchip processors, electronic communication services (“airtime”), emission allowances, wholesale gas and electricity.

29. *Education and Communication:* Active education of members of the public and business communities on MTF arrangements and the consequences for partaking in such an arrangement, can help prevent them from being unknowingly drawn into such schemes. Communication strategies should aim to raise awareness of the government’s MTF counter measures within the business communities and the importance of businesses carrying out due diligence checks on suppliers and customers to safeguard their businesses.<sup>9</sup> For example, Australia’s Serious Financial Crime Taskforce (SFCT) released an intelligence bulletin announcing it is aware of artificial arrangements in the gold bullion and precious metals refining industry, which are established to obtain a benefit from the tax system of which there is no entitlement.<sup>10</sup>

30. *Denial of VAT repayment claims:* The UK reports that it will deny claims subject to obtaining the necessary evidence of connection with fraud and contrived features of trading to show that the trader “knew or should have known” that it was participating in transactions connected with fraud (the Kittel principle). HMRC notes that it commits extensive legal and investigative resources to ensure that appeals against such decisions are rigorously defended before the appeal tribunals and courts. Monetary penalties will also be assessed, with the capability to transfer the penalty liability from corporate entities to the individuals involved, where payment cannot be secured from the company due to insufficient assets.

31. *Introduction of split payment mechanisms:* A payment mechanism where suppliers do not receive VAT payments on goods and services from non-registered consumers, for example where purchasers of taxable residential property are required to collect the VAT and remit to the revenue rather than pay the builder/ property developer. Since suppliers do not receive VAT, this mechanism contributes to eliminating the opportunity for suppliers to disappear without declaring or paying VAT.

32. *Public Private Partnerships:* IRAS has collaborated with relevant agencies, including the Commercial Affairs Department of the Singapore Police Force (“CAD”) and the Monetary Authority of Singapore (“MAS”) to combat money laundering linked to MTF. One initiative includes the use of the AML/CFT Industry Partnership (“ACIP”), the public private partnership in Singapore co-chaired by CAD and MAS, to highlight the need for the financial sector to remain alert to MTF risks. We have enhanced the collective understanding of MTF by sharing relevant key indicators with reporting entities. This will allow them to better detect and report suspicious fund flows linked to MTF should they occur.

33. In another example of working with Financial Institutions to combat MTF, IRAS has reached out to a few banks to facilitate the immediate interception of monies once raids were conducted on the syndicate.

34. *Electronic invoicing:* This facilitates better monitoring of commercial transactions (and detection of missing traders)

<sup>9</sup> This information is published in the e-Tax Guide “[GST on Due Diligence Checks to Avoid Being Involved in Missing Trader Fraud](#)” on IRAS’ website.

<sup>10</sup> <https://www.afp.gov.au/sites/default/files/PDF/IntelligenceBulletinGoldBullion.pdf>

## 6.2. Detect/Investigate

35. *Data modelling and analytics:* Data modelling tools can be powerful for the detection of entities that exhibit possible risk indicative of MTF schemes. For example, with data modelling, IRAS has been better able to detect early signs of MTF schemes and prevent these schemes from proliferating. These risk indicators are compiled and gathered through various focus group discussions with different stakeholders. Examples of risk indicators would include characteristics and profiles highlighted section 5. above.

36. *Payment suspensions:* HMRC suspends the payment of VAT repayment claims made by suspect traders pending full verification of their supply chains and investigation into the circumstances of the transactions.

37. *Inter-agency co-operation:* The ability of tax administrations to co-operate with all other financial crime agencies is of course key to the effective enforcement of all financial crimes, including MTF. For example, Australia's, Serious Financial Crime Taskforce joins ten government agencies in the fight against tax crime. Japan's NTA also co-operates and exchanges information with Customs to ensure the appropriate imposition of taxes on gold. For further information on effective strategies for inter-agency co-operation see [Principle 8 of the OECD's Ten Global Principle's for Fighting Tax Crime](https://www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles-second-edition-006a6512-en.htm)<sup>11</sup>, the [Third Edition of the Rome Report on Inter-agency Co-operation](https://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.htm)<sup>12</sup>, and the joint OECD-World Bank publication on [Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption](https://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm)<sup>13</sup>.

38. *Ongoing monitoring:* HMRC reports ongoing monitoring of suspect traders based on intelligence received, trading history and patterns, and information obtained from checking goods and transactions taking place within freight forwarder warehouses known to be associated with MTF in goods.

## 6.3. Deter

39. Measures adopted by jurisdictions to help deter the proliferation of MTF schemes include:

- Introduction of new legislation to more effectively deal with the criminal acts of masterminds, co-conspirators and syndicate members like missing trader and buffer entities for the purposes of criminal prosecution;<sup>14</sup>
- Enhanced legislative amendments to deny input tax on purchases together with a corresponding 10% surcharge on the tax denied and powers to deny or cancel GST registration;
- Ensuring effective criminal sanctions for MTF (e.g. fines and/or imprisonment);<sup>15</sup>
- Ensuring effective powers of search and arrest for MTF schemes;<sup>16</sup>
- Pursuing money laundering offences where the MTF scheme is a tax predicate offence.<sup>17</sup>

<sup>11</sup> <https://www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles-second-edition-006a6512-en.htm>

<sup>12</sup> <https://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.htm>

<sup>13</sup> <https://www.oecd.org/tax/crime/improving-co-operation-between-tax-authorities-and-anti-corruption-authorities-in-combating-tax-crime-and-corruption.htm>

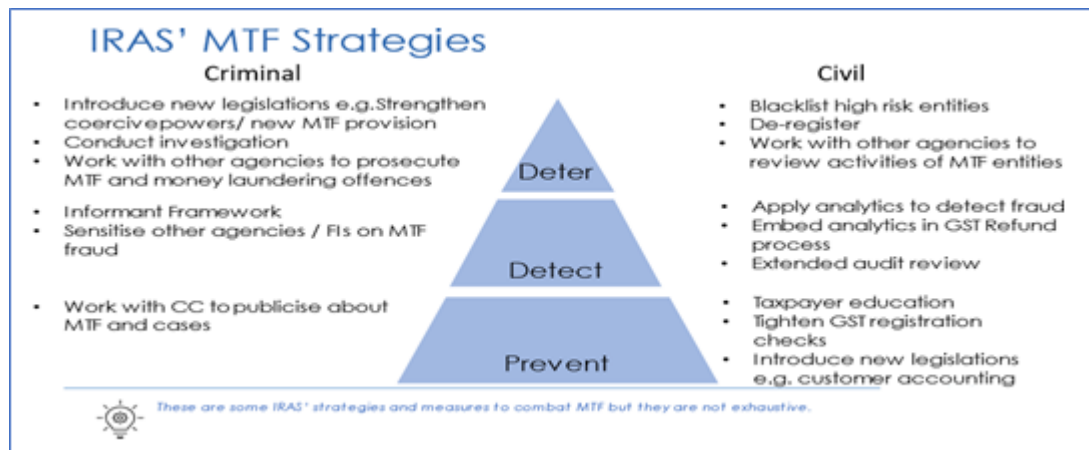
<sup>14</sup> See Principle 1 of the Ten Global Principles for Fighting Tax Crime.

<sup>15</sup> As above.

<sup>16</sup> See Principle 3 of the Ten Global Principles for Fighting Tax Crime.

<sup>17</sup> See Principle 7 of the Ten Global Principles for Fighting Tax Crime.

Figure 2. Singapore's strategy for combatting MTF



Note: CC refers to Corporate Communications Branch.

# Annex A. Case studies on Missing Trader Fraud in Goods

## Case Study 1: “Contra Trading Fraud” in the United Kingdom

### *Overview*

40. This case study illustrates a type of fraud that the United Kingdom (UK) refers to as “contra trading fraud” (noting that it may be recognised by other jurisdictions under a different name. This is a mutated form of Missing Trader Intra Community (MTIC) on the VAT supply chain fraud.

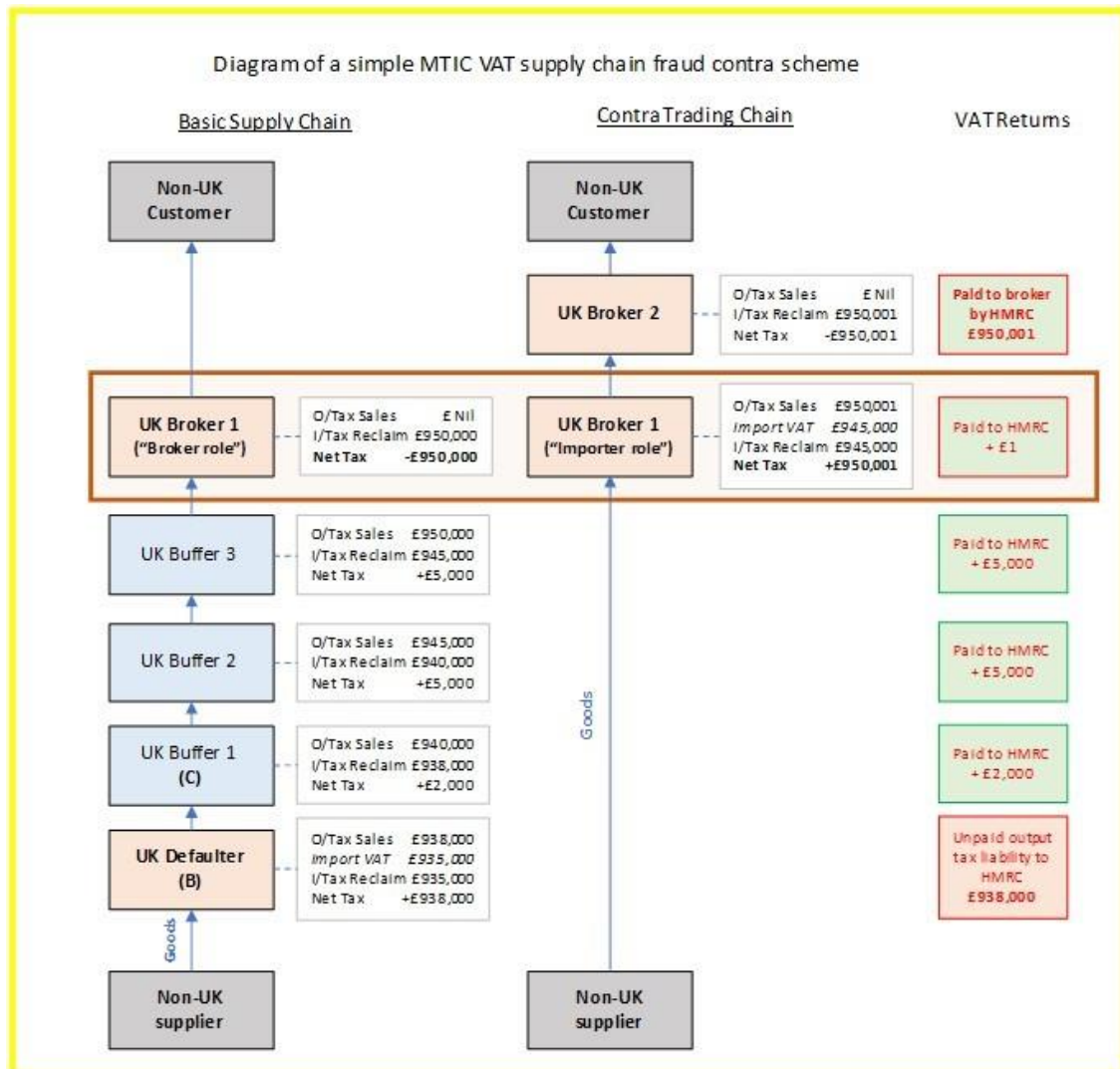
### *Drivers*

41. The driver behind this fraud was the UK’s success in tracking and challenging fraudulent VAT repayment claims. Once identified as suspicious, HMRC would suspend payment of such claims pending an extended verification process, which would include tracing the relevant supply chains back to an importer who had accrued a large VAT payment liability. Authorities would invariably find that the importer had defaulted on its VAT liability, with the company having gone missing.

42. By undertaking this tracing exercise, HMRC could prove that the repayment claims were connected with fraud, which was an essential requirement for being able to challenge the taxable person’s right to receive the repayment. The organisers of the frauds responded by devising the elaborate contra trading schemes set out in the diagram below.

## Description

Figure 3. United Kingdom contra-trading fraud scheme



- The make-up of the contra trader's VAT return is illustrated by the entries within the large orange box near the top of the diagram. Essentially, it shows a single business entity participating in two parallel supply chains within the same VAT accounting period.
- In the chain on the left-hand side, the company acts as an exporter, meaning of course that it has VAT to reclaim but no VAT to account for on its onward sale because that sale will be zero-rated.
- Simultaneously (i.e. during the same VAT accounting period) the company acts as an importer for a separate consignment of goods as illustrated in the middle column of the diagram
- The VAT outcome of this second transaction is a large output VAT liability because the UK sale is subject to VAT, whereas the purchase is VAT neutral (import VAT due but able to be offset against an equivalent amount recoverable).
- The overall result for the VAT return is that the VAT reclaim from the "basic supply chain" is offset by the VAT liability from the "contra trading chain" leaving a nil or very small net balance.

- In reality there will be a number of basic and contra trading supply chains occurring within the same VAT period, engineered to balance each other so that the overall result will be a nil or small payment or repayment liability – any repayment liability being too small to attract attention.
- Meanwhile, as illustrated above the orange box, the VAT repayment claim arising from the fraud has been shifted to the contra trader's customer. If and when authorities identify that repayment claim as suspicious, it is traced to the supply chain we find that it does not trace directly to a fraudulent VAT default and therefore, at least on the surface, it appears to be a "clean" transaction chain. In order to prove a connection with fraud we have to do a lot more work to trace the export supply chains back to their source, which will invariably be a missing trader/importer.

### **Indicators**

43. It is important to note that the above diagram illustrates just one basic supply chain and one contra trading chain – the real-life examples will be far more extensive and complicated, making the investigation and transaction tracing process extremely challenging. However, the UK finds that the schemes are often carelessly designed in the sense that the net result on the contra trader's VAT return appears obviously contrived. For example, large numbers of transactions within a quarterly VAT period may produce a VAT return that looks something like:

- VAT due on sales: GBP 5 000 010
- VAT claimed on purchases GBP 5 000 000
- Net VAT payable GBP 10

44. Such a close offset between the output and input VAT figures is often very strong piece of evidence in HMRC's favour when presenting its case before an appeal tribunal, simply because it provides such a stark illustration of the contrived nature of the scheme. It is not a plausible/credible outcome that would arise in the normal course of business where commercial pressures would give rise to variable trading patterns and margins. To that end, the make-up of the VAT return helps make a strong case that the overall scheme was fraudulent and that all participants in it must either have known or at least should have known that their transactions were connected with fraud. To strengthen that argument, HMRC would usually be able to point to a range of features that were contrary to normal commercial practice, including:

- Fixed and consistent margins;
- No evidence of any advertising, promotion, or negotiation over price;
- Deals always concluded on a back-to-back basis within a very short timeframe;
- Lengthy supply chains with additional participants adding no commercial value;
- Transparency within supply chains, with suppliers knowing who their customers were supplying, which normal commercial businesses would seek to avoid for fear of being cut out of future orders;
- Lack of any contractual conditions or proper insurance;
- Suppliers allowing unsecured credit to customers who would not be regarded as credit worthy because of their lack of trading history and substantive assets;
- Suppliers requesting payment to third parties and/or use of offshore bank accounts;
- Consumer goods being traded in high volumes but with no evidence of a retail business at any point in the supply chains.



***Enforcement measures***

45. While the above are fictitious examples, HMRC points to a [case from 2014](#) to demonstrate the very real consequences that arise from a conviction for this type of missing trader fraud.<sup>18</sup> In this example, the court ordered four men to repay GBP 35 million or face additional years in prison. They were part of a gang which claimed to have sold more than four million mobile phones but were caught after an investigation by HMRC revealed many of the phones were fictitious. Investigators reviewed VAT repayment claims submitted by companies linked to the conspiracy and stopped GBP 67 million being paid to them. In addition to the abovementioned fine, the four men were jailed for between 11-17 years, with a fifth offender still on the run having fled prior to his trial.

***Measures taken to prevent pattern of fraud***

46. The UK notes that while there have been no policy changes in respect to this type of fraud, as ultimately the fraud was to a large extent defeated by its own design in the sense that the arrangements contrived were often just too perfect, as alluded to in the earlier in the document. The balancing of input and output VAT was just too precise and the obvious inference to be drawn from such obvious contrivance was that all of the parties involved must have been directed and must have known the role they were expected to play. That said, the UK notes that investigation of this type of fraud did of course entail the deployment of significant resource and required effective co-ordination between different teams and investigators in order to piece together the full picture.

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<sup>18</sup> <https://www.mynewsdesk.com/uk/hm-revenue-customs-hmrc/pressreleases/phone-fraudsters-ordered-to-pay-back-ps35m-1006282>

## Case Study 2: Complex Schemes Involving MTF in Goods in Singapore

47. In recent years, IRAS has observed increasingly complex MTF schemes during its investigations – two of which are set out below. The names and jurisdictions in these diagrams have been redacted to provide anonymity.

### (a) Missing Trader Fraud in Investment of Precious Metals

#### Overview

48. This case relates to an MTF scheme involving Investment Precious Metals (“IPM”) gold bars and scrap gold bars. The Missing Trader bought IPM gold bars (exempt from GST<sup>19</sup>) and transformed it into scrap gold (standard rated supply is subject to GST at the prevailing GST rate in Singapore) and sold it to buffer entities. However, the Missing Trader did not account for the GST output tax on the sale of scrap gold to IRAS and went missing.

#### Drivers

49. The driver of this MTF case is that the syndicate is taking advantage of the GST exemption for IPM gold bars, which can be converted into scrap gold bars (which is a standard rated supply subjected to GST at the prevailing rate in Singapore) to produce arbitrage opportunities between the two types of supplies. As the Missing Trader had failed to account the GST output tax on the sale of scrap gold to IRAS, the Missing Trader could afford to use this unaccounted GST to sell scrap gold at a discount to the buffer entities, while retaining a cut of the profit for the syndicate. Without this arbitrage opportunity, it would not be profitable for the syndicate to melt the IPM gold bars into scrap gold bars for the purposes of exporting out of Singapore.

#### Description

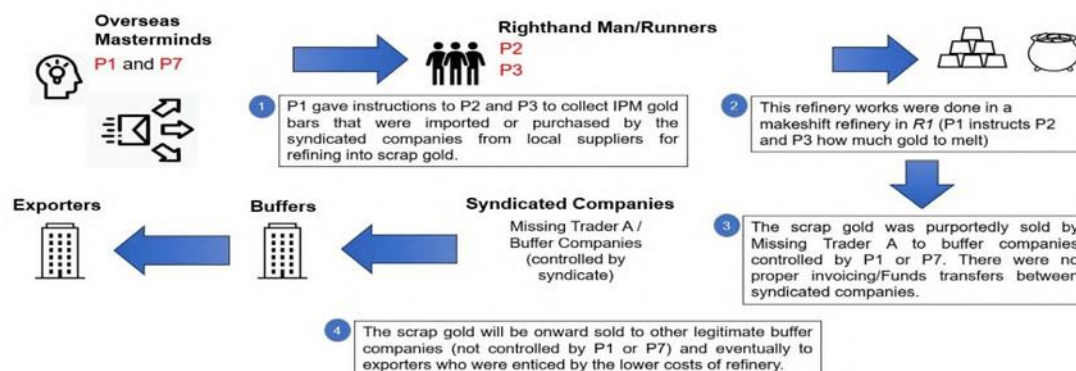
50. In this example, our case theory is that Missing Trader A and buffer entities are controlled by the syndicate. The buffer entities were intentionally added to lengthen the supply chain thereby making detection more difficult. Furthermore, there were also no genuine transactions among the buffer entities. IRAS is gathering evidence to prove that P2 and/or P3 have taken active steps in the MTF scheme to assist the masterminds P1 and/or P7 to evade tax.

51. Missing Trader A used their makeshift refinery (“R1”) to fraudulently melt the IPM gold bars into scrap gold and onward supply these scrap gold to the buffer entities controlled by the syndicate. These buffer entities would onward sell the scrap gold to other non-complicit buffer entities and in turn, supply the scrap gold bars to exporters. There were also no proper invoicing/fund transfers between Missing Trader A and the buffer entities. Based on preliminary findings, the goods (i.e. scrap gold) were delivered directly from R1 to the other genuine buffer entities, without passing physically through the buffer entities controlled by the syndicate.

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<sup>19</sup> IPM are exempt from GST as they are essentially financial assets like other actively traded financial instruments such as stocks and bonds, the supply of which are exempt from GST as well.

Figure 4. MTF scheme involving investment of precious metals in Singapore



### Indicators

52. Information from informants, financial intelligence, audit queries and government records revealed the following red flags:

- Three companies of interest (“COIs”) exhibited red flags of an IPM gold MTF controlled by the syndicate. The indicator in this case was that the Missing Trader only purchased IPM gold bars but had sold scrap gold bar to an entity controlled by the syndicate. Supplier’s and customer’s confirmation also validated this observation.
- The three COIs engaged in a form of barter trade among themselves, trading IPM gold bars for scrap gold, and vice versa. However, there were no proper documentations among these three COIs to track the inter-company sales and purchases and therefore the payments for these transactions were also not settled promptly.
- One of the ex-directors of the Missing Trader is the effective controller of the Missing Trader even though he is not in Singapore for quite a few years.

### Enforcement Measures

53. IRAS has conducted a simultaneous raid on several locations and arrested a few persons of interest (“POIs”) on raid day. Physical gold bars found at the illegal refinery had been seized. To protect revenue to IRAS, additional assessments were raised on raid day and banks had been appointed as agents to collect the monies owed from the assessments raised.

54. The POIs who are foreigners also had their passports impounded to ensure that they remain in Singapore to assist with the ongoing investigations.

### Measures taken to prevent pattern of fraud in the future

55. Following the detection of this case and the raid, IRAS staff such as tax auditors have been sensitised to this MTF typology and prompted to be alert to such fraud during their audits of cases. In addition, IRAS has also tightened the GST registration process by implementing more stringent checks on potential GST registrants, such as security deposit payment and fulfilment of follow-up requirements after GST registration. For some individuals that are the directors of many entities involved in MTF, IRAS will blacklist these individuals by rejecting their requests for GST registration.

## (b) Missing Trader Fraud involving importation of counterfeit IC Chips

### Overview

56. This case relates to a MTF involving counterfeit IC Chips that were round-tripped from a non-GST jurisdiction to Singapore and back with the intention to defraud IRAS.

### Drivers

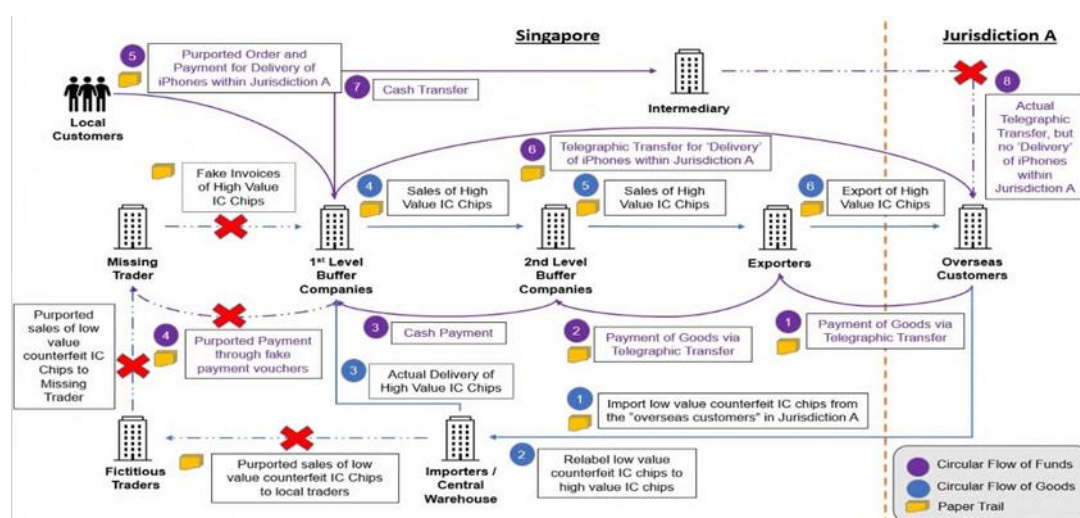
57. With IRAS' swift intervention and disruption on past MTF schemes, perpetrators have evolved, adapted and learnt to devise a more complex MTF scheme using new products that are difficult to detect and easy to transport, with actual movement of goods and funds to make the transactions look legitimate.

### Description

58. The MTF revolved around the importing low-value counterfeit IC chips into Singapore from Jurisdiction A and paying import GST on the low-value counterfeit IC chips, costing SGD 0.005 (Singapore Dollar) per chip. The importer then relabelled these counterfeit IC Chips as high-value IC Chips costing around SGD 10 per chip and exported these chips back to overseas customers in Jurisdiction A via a series of back-to-back transactions that originated from a missing trader. As a result, the exporter entities were able to claim input GST on higher value IC chips from IRAS while the Missing Trader did not account for the output GST on the sale of those high value IC Chips.

59. Investigations also found circulatory movement of funds between Jurisdiction A and Singapore, first via transfers to the exporters in Singapore, and then back to Jurisdiction A by means of fictitious Out-of-Scope Supply<sup>20</sup> transactions using 1st or 2nd level buffer entities along with two suspected conduits within the supply chain in Singapore.

Figure 5. MTF scheme involving importation of counterfeit IC Chips



<sup>20</sup> Sale of goods that are delivered from a place outside Singapore to another place outside Singapore. Such supplies are considered to be out-of-scope supplies; they are not subject to GST and need not be reported in the GST return.

## **Indicators**

60. The entities involved in this MTF scheme exhibited the following red flags:

- Newly registered importer entities with no financial means and trading history, were importing large quantities of IC chips on credit from the same jurisdiction where the Exporters were seen exporting. This possibly indicated round-tripping of goods;
- IC chips traded were purportedly sourced from reputable brand manufacturers. However, these reputable brand manufacturers have raised doubts as to the functionality and authenticity of these IC chips, i.e. the IC chips were counterfeit;
- Directors of the Buffer entities, had no prior experience and financial means to carry out the trading business of IC chips;
- Upstream suppliers (Buffer entities) to the Exporters were either newly incorporated entities or entities with no prior history or experience trading in IC chips;
- Funds received by the Buffer entities were round-tripped back to the Jurisdiction of the overseas customer by means of Out-of-Scope supply transactions either carried out by them or via the Intermediary entities. Out-of-scope supply transactions were also used to infuse fake cash movements of funds in the supply chain to make it look legitimate.
- Sudden increase in GST refund claims by Exporters in Singapore, who had no prior history of trading in IC chips;
- Exporters received payment in advance from the overseas customers, with no prior business history.

## **Enforcement Measures**

61. Some of the Enforcement Measures taken by Singapore to tackle this MTF scheme include:

- Withholding GST refund claims by the Exporters to prevent any further loss of revenue, pending further audit or investigation;
- Disrupting supply chain through goods seizure. At the same time, raising protective assessments and appointing banks<sup>21</sup> to remit the monies to IRAS, and thereafter imposing travel restrictions on suspected individuals as well as blacklisting companies and individuals from further GST registration, etc.;
- Conducting civil intervention measures to disallow and recoup current and past GST refund claims from the Exporters, Missing Traders and Buffer entities;
- Investigating syndicate members (masterminds and lieutenants), including missing traders, Buffer entities, Importers and Intermediary entities for GST related criminal offences and under the Corruption, Drug, Trafficking and other serious crimes (Confiscation of Benefits) Act for Money Laundering offences.<sup>11</sup>

## **Measures taken to prevent pattern of fraud**

62. IRAS enacted a new legislative amendment, known as the “Knowledge Principle”, that requires GST-registered businesses to take reasonable steps to assess that their transactions are not part of a MTF arrangement. This new legislation came into effect on 1 January 2021. Besides allowing the Comptroller

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<sup>21</sup> Prior to our raids, we had worked with the banks to monitor the funds in the bank accounts of the entities that we are targeting.

to deny input tax claims, the legislation also empowers the Comptroller to impose a 10% surcharge if transactions are assessed to be part of MTF arrangement. This would raise awareness and act as deterrence for Buffer and Exporter entities who maybe be roped in as part of MTF arrangement.

63. Besides legislation, IRAS leverages on data analytic models with “red flags” indicators built from past MTF cases to identify unusual patterns for early detection of high-risk entities and potential MTF arrangement. In addition, IRAS has tightened GST registration process by implementing more stringent checks on potential GST registrants, such as security deposit payment and fulfilment of follow-up requirements after GST registration. For some individuals that are the directors of many entities involved in MTF, IRAS will blacklist these individuals by rejecting their requests for GST registration.

## Case Study 3: Gold Bullion Smuggling Schemes in Japan

### Overview

64. Since 2014, Japan has seen a rapid increase in gold bullion (carousel like) smuggling schemes where criminals exploit the difference in VAT (consumption tax) systems between Japan and other countries. The gold bullion is purchased in other countries, smuggled (without paying VAT on the import) and sold in Japan. The selling price includes VAT allowing criminals to make a profit equal to the amount of VAT. The cash obtained from the sale of gold bullion is then laundered to other jurisdictions, and the same process is repeated.

### Drivers

65. Japan has identified a number of drivers for these types of schemes, including:

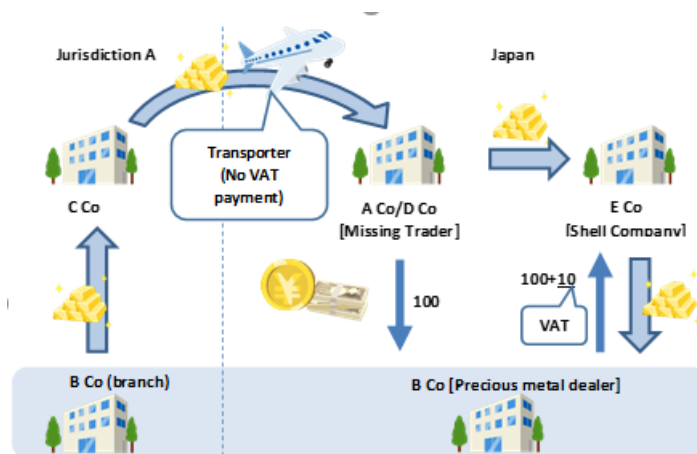
- An increase in the VAT tax rate on gold bullion from 5 to 8% (the current rate is 10%) while it is an exempted good in EU countries;
- Gold bullion is a small, easily concealed and expensive article (also an indicator);
- Exchange for cash at domestic gold dealers is relatively easy;
- The international standard price for gold bullion makes it easy to predict the price and the price has remained high in recent years;
- Japan did not have an invoicing system meaning that gold could be sold to buyers including VAT even if they were not a registered business.

### Description

- Mr. X (individual person) established Company A, a shell company and a missing trader for this case
- Company A (Missing Trader) entered into a contract with Company B, a precious metals dealer, and purchased gold bullion from Company B.
- Gold bullion purchased by Company A (Missing Trader) was to be received by Company C, located in Jurisdiction A as per the contract made between Company A and C, from a branch of Company B also located in Jurisdiction A.
- After Company A (Missing Trader)'s trading volume was restricted by Company B, Mr. X began to engage in similar transactions using Company D (Missing Trader).
- Gold bullion received by Company C was brought to Japan via a third jurisdiction, and passed through several associates to "Cashiers"
- Gold bullion was brought to Company B (Precious metal dealer) located in Japan by "Cashiers" and sold in the name of Company E (Buffer), a shell company.
- The above scheme allows gold bullion to be smuggled into Japan, avoiding the payment of VAT, and then exchanged for cash in Japan at a sales amount plus VAT, and the proceeds to be used to buy new gold bullion, which can then be repeatedly smuggled in.
- The commodities and other products used in smuggling schemes are not necessarily limited to gold bullion, but also include luxury goods like luxury watches.



Figure 6. MTF scheme involving gold in Japan



### Indicators

66. Japan identified the following as red flags for detection of this type of scheme:

- The extremely high volume of exports relative to the size of the business of gold bullion exporters.
- The sellers of the gold are unnaturally diverse.
- Certain individuals (or legal entities) bring gold to gold buyers frequently and/or in a large volume.
- High frequency of cash settlements by gold buyers.

### Enforcement

67. The scheme was systematically structured and one of those in a position to oversee it was sentenced to two years and six months in prison and fined JPY 2 million (Japanese yen; approximately EUR 14k).

68. Gold smuggling violates three Japanese laws: (i) Consumption Tax Act (evasion of consumption tax); (ii) Local Tax Act (evasion of local consumption tax); and (iii) Custom Law (unauthorized export and import). The current statutory penalty is prescribed as imprisonment for not more than 10 years and a fine of not more than JPY 10 million. However, the fine can increase to up to ten times the amount of tax evaded if ten times the amount of evasion exceeds JPY 10 million or for a violation of the Consumption Tax Act and the Local Tax Act. Under the Customs Law, an offender can receive a term of imprisonment for not more than five years and a fine of not more than JPY 10 million (or up to five times the value of the cargo if five times the value of cargo exceeds JPY 10 million).<sup>22</sup>

### Prevention

69. Japan has introduced a number of successful measures set out below to help prevent/deter criminals engaging in such MTF schemes in the future. Japan reports the substantial impact of these preventive measures noting that since their introduction, the number of gold bullion smuggling cases detected has fell more than 90% and the amount of gold bullion seized fell by more than 80%. The measures include:

<sup>22</sup> JPY 10 million is approximately EUR 70k.

*(a) “Stop Gold Smuggling” Emergency Measures*

70. In 2017, Japan’s Customs and Tariff Bureau of the Ministry of Finance introduced emergency measures to stop gold smuggling based on three pillars:

*(i) Strengthening inspections:* Japan has introduced metal detector gates at customs inspection areas of airports and seaports to strengthen inspections of all passengers, as there are many cases of passengers and crew members of aircraft and cruise ships being involved in smuggling as “couriers”. In addition to this, Japan has also introduced the use of X-ray machines, which can be used to detect gold smuggling. Increased use of the X-ray machines, countermeasures against cash couriers, strengthening inspections of commercial cargo and international mail, etc., strengthening inspection of the inside of aircraft, including private jets, and using customs boats for surveillance to deal with offshore trade, etc. are effective countermeasures too.

*(ii) Tightening penalties:* Japan has introduced stricter implementation of notified disciplinary measures, increased prosecution, and enhanced its confiscation of smuggled gold bullion. In 2018, the maximum fine for smugglers was significantly increased to five times the value of the cargo (available in addition to a penalty of up to 10 years’ imprisonment).

*(iii) Enhancing the collection and analysis of information:* This includes collecting information from relevant parties, exchanging information and strengthening cooperation with relevant domestic and foreign agencies (tax authorities in other countries, the Coast Guard and the Immigration Bureau), strengthening information analysis capabilities and ensuring compliance in domestic distribution.

*(b) Introduction of stricter requirements for tax credits for purchases gold.*

71. When a business operator makes a taxable purchase of gold or platinum bullion from counterparties and fails to preserve identification documents of the counterparties, the business operator is no longer allowed tax credit for VAT on the purchases.

*(c) Limitations on tax credits for purchases*

72. The 2019 Tax Reform also provides that if a taxpayer knows the goods were contraband at the time of purchase, no tax credit is permitted. It is noted that this applies to all types of contraband goods, not just gold.

## Case Study 4: Missing Trader Scheme Involving Different Types of Taxes in France

### Overview

73. The case at issue focuses on the activity of missing traders buying goods from suppliers located in other EU member states. These buyers are shell companies that make many intra-community acquisitions in a short period of time. The type of goods involved in this type of scheme are versatile (electronic goods, perfumes, food, etc.) but this fraud scheme was first spotted with prepaid phone cards and beverages (alcohol or soft drinks). The fraud scheme is based on a compensation logic.

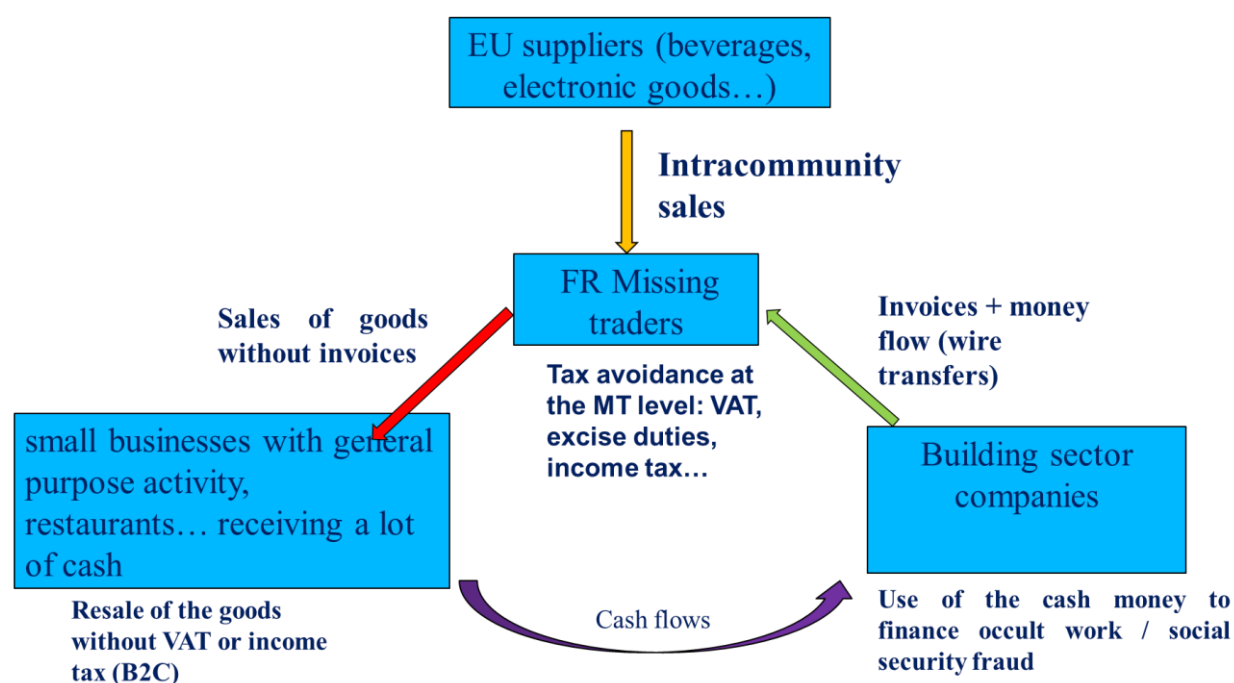
### Drivers

74. France identifies the following as drivers of this type of missing trader scheme:

- VAT taxation of intra-community transactions of customers located in another EU Member State
- Sector of activities using a lot of cash money (catering, retail shops, etc.)
- Avoidance of surveillance measures regarding money flows and use of cash money (i.e. B2B threshold for cash payment is max. EUR 1 000)
- Fraud scheme very easy to replicate with any kind of goods sold in retail shops and with sectors in need of cash money to finance illicit activities

### Description

Figure 7. MTF Scheme involving different types of taxes in France



- In this example, missing traders in France buy large amounts of goods from EU suppliers (conduit companies). While the goods are versatile, products such as beverages, electronic devices, or perfumes are often involved

- The French tax administration detects wire transfers from building companies on the bank accounts of the missing traders. If asked, the missing trader would provide invoices for building works to justify the financial flows.
- The goods are then resold without invoices to businesses transacting largely in cash (e.g. restaurants, catering services, retail shops, etc.). This facilitates resale without invoices in order to collect large quantities of and transactions conducted in cash that will not be submitted for taxation. As the goods are bought without invoices, it is difficult for the tax administration to determine the business real turnover in case of a tax audit.
- This cash revenue from the small business is then remitted to the building companies in exchange for a wire transfer to the missing traders. A person acts as a “collector” of cash money for the whole network. The cash will be used to finance undeclared employment in the building sector and avoid paying social contributions.
- This scheme results in loss on several fronts:
  - VAT loss at the level of the missing traders;
  - VAT loss and corporate tax at the level of the retailers
  - Corporate tax and social levies at the level of the building companies

75. It is worth noting that this same type of scheme can also be used for money laundering. In this situation, the money would come from criminal activities like drug trafficking and the wire transfers would be performed from building companies to buffer companies then transferred to companies located inside or outside EU, using fake invoicing of services or goods, etc.

### **Indicators**

76. The entities involved in this MTF scheme exhibited the following red flags:

- Frequency of the intracommunity deliveries in a short period of time;
- Aspect of the company performing the ICA. The risk analysis allows to detect companies having certain features (e.g. absence of means, low capital, recently created companies, etc.);
- Illogical money flows (building companies>companies buying mobile phones). The examination of the bank accounts of the missing traders revealed wire transfers from companies active in the building sector, completely unrelated to the products bought in bulk by the missing traders. The invoices collected from the construction companies also showed only building services;
- Signals sent through cooperation networks (i.e. Eurofisc).

### **Enforcement Measures**

77. The French tax administration will transmit the case to a Prosecutor for a criminal enquiry as early as possible, however, the prosecution often uses the results of a tax control to assess the importance of the tax fraud. The company can be put through an audit prior or in parallel to any criminal proceedings.

78. Recovery measures will be taken as soon as possible in the scope of the administrative or judicial procedure.

79. Civil penalties imposed by the tax administration in missing trader schemes during an audit vary from case to case, but a 100% civil fine can be added in addition to repayment of any defrauded money (opposition to the audit). The criminal sanctions can be a EUR 500 000 fine and five years of imprisonment. The penalties shall be increased in certain conditions such as proceedings in organised groups, use of false identity or documents (or any other falsification), etc. Then, the sanctions are EUR 3 000 000 fine and seven years' of imprisonment.

## ***Prevention Measures***

80. As part of its tax control strategy, France aims to stop missing traders as quickly as possible through deregistration of their VAT numbers. This cuts the supply line by preventing the missing traders from buying goods from “bona fide” companies located in other MS. The VRN deregistration is a common tool used whenever a fraud scheme involving missing traders is detected (absence of VAT returns combined with a risk analysis, cf. 5.2. Missing Traders).

## **Case Study 5: Missing Trader Fraud involving Precious Metals in Australia**

### ***Overview***

81. This case study illustrates a type of MTF observed in Australia which involves artificial arrangements in the gold bullion and precious metals refining industry. These arrangements attempt to obscure transactions of recycled “investment form” precious metals and enable participants to obtain a tax benefit from the tax system for which there is no entitlement.

### ***Drivers***

82. MTF schemes are particularly effective where goods can have different tax treatments. Precious metals including gold, silver and platinum can be taxable at 10%, GST-free or exempt (input- taxed) in Australia, depending on their form and the nature of the transaction.

83. After its first refining, the precious metal becomes GST-free. Then, if a supply of gold, silver or platinum is in an “investment form” and has a fineness of at least 99.5%, it is considered to be a precious metal and will be input taxed. The phrase “investment form” means that the gold, silver and platinum:

- Is capable of being traded in the international bullion market, that is, it must be a bar, wafer or coin;
- Bear a mark or characteristic accepted as identifying and guaranteeing its fineness and quality (hallmark); and
- Is usually traded at a price that is determined by the reference to the spot price of the metal it contains.

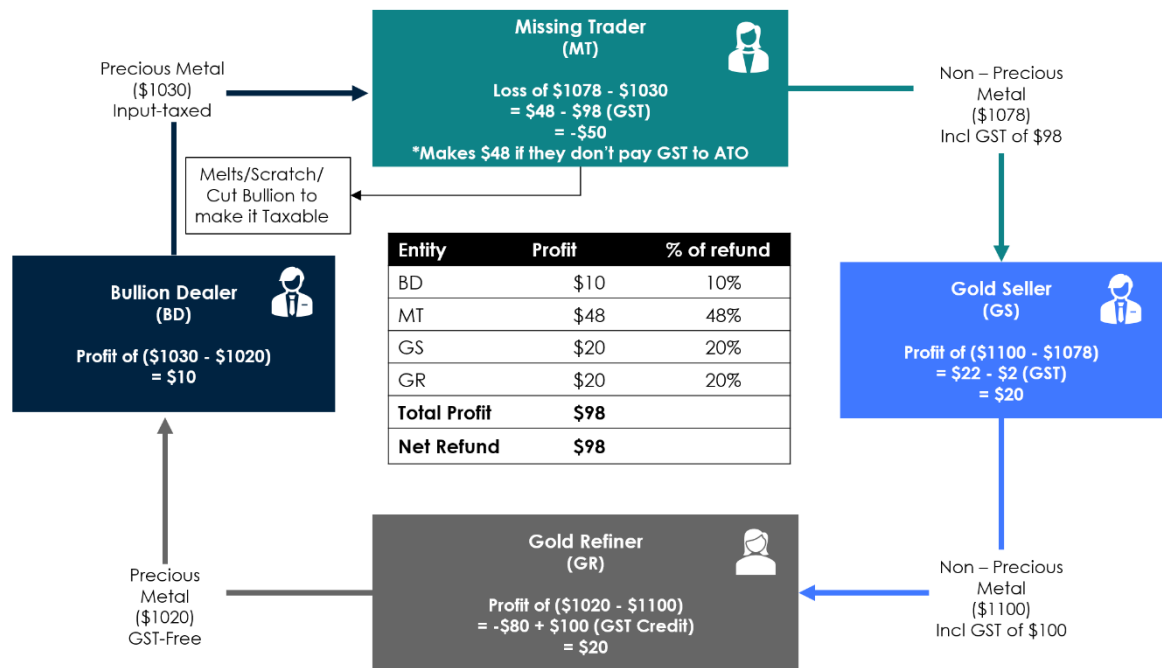
84. The risk in relation to precious metals, therefore, is that established syndicates apply various methods to alter the form of precious metal. These schemes are enabled as there is no sophisticated process required to change, alter or deface investment form precious metal. In order to deface the bullion, and change the GST character, one can simply melt (with or without the addition of alloys), granulate, remove the hallmarks, cut or chop the product, in order for the “investment form” characteristics to be absent. Additionally, it can be difficult to distinguish between legitimate operators and potential fraudsters as:

- Mid-tier bullion dealers sell 3 to 5 kilograms of gold on a regular day;
- There is no licence required to trade bullion which has allowed individuals to infiltrate the industry; and
- No identification needs to be presented when buying or selling less than AUD 5 000 (Australian Dollars) worth of bullion.

### ***Description***

85. The following diagram provides an example of how the fraud works in some more detail:

Figure 8. MTF scheme involving precious metals in Australia



- **Stage 1:** The Missing Trader purchases gold bullion from a Bullion Dealer for AUD 1 030. It is treated as an exempt supply of precious metal or is GST-free as it is the first supply following its refinement.
- **Stage 2:** The Missing Trader melts, scratches or cuts the bullion to make it taxable as scrap gold (as bullion must be pristine in order to retain its status as financial gold) and sells it to a Gold Seller for AUD 1 078. GST attached to the transaction is AUD 98. The mischief arises where the Missing Trader does not lodge its GST return nor remits the GST and, therefore, makes a profit of AUD 48. If the Missing Trader had lodged its GST return and remitted the GST, they would have made a loss of AUD 50.
- **Stage 3:** The Gold Seller sells the scrap gold to a Gold Refiner for AUD 1 100. The sale has AUD 100 GST attached to it which the Gold Seller remits. The Gold Seller is also entitled to a credit of AUD 98 (for the GST paid in Stage 2) and, therefore, remits a net amount of AUD 2, making a profit of AUD 20.
- **Stage 4:** The Gold Refiner refines the scrap gold and sells it as bullion for AUD 1 020 to the Bullion Dealer. This transaction is treated as first supply of bullion after refinement which is GST-free. The Gold Refiner is not required to remit any GST but is entitled to claim a credit of AUD 100 (for the GST paid in Stage 3). The credit offsets the loss of AUD 80 that would otherwise have been made and the Gold Refiner makes a profit of AUD 20.
- The total loss of GST revenue to the ATO from the above hypothetical transactions is AUD 98, which represents the AUD 100 refund received by the Gold Refiner (Stage 4) and the net GST of AUD 2 remitted by the Gold Seller (Stage 3). The cycle then commences again with the Bullion Dealer and Missing Trader transactions at Stage 1.

**Indicators**

86. Many of the transactions observed within the carousel fraud between the various businesses in the arrangement would appear to be transactions that would typically occur within the precious metal

industry. However, there is significant evidence that the intermediaries involved in many of these arrangements could not produce granules and that the suppliers do not have the access to legitimate scrap material, the ability to fund the transactions or skills to commence trading. In fact, many of the business entities are registered at a residential premises in a suburban area. These entities are interposed to conceal the true origin or source of precious metal.

### ***Enforcement***

87. In recent years, there have been several cases involving GST fraud which have resulted in a conviction. For example, in January 2022 a man who pretended to be running a business to get his hands on fraudulent GST refunds was sentenced to three years jail. He said his business had made more than AUD 300 000 in sales, and he claimed AUD 256 955 in fake GST credits.

88. In total, he obtained AUD 189 270 in fraudulent GST refunds. He also attempted to obtain an additional AUD 39 778, but this was stopped by ATO officers. When the matter was heard in court, he pleaded guilty to 13 counts of obtaining a financial advantage by deception and one count of attempting to obtain a financial advantage by deception. Further case studies relating to GST fraud are outlined on the ATO website and can be accessed using the following link: [GST fraud case studies | Australian Taxation Office \(ato.gov.au\)](https://www.ato.gov.au/General/Our-focus/Refund-fraud/GST-refund-fraud-attempts/GST-fraud-case-studies/).<sup>23</sup>

### ***Prevention Measures***

#### *(a) Intelligence Bulletins*

89. In 2016, the ATO's Serious Financial Crime Taskforce (SFCT) released an intelligence bulletin announcing it is aware of artificial arrangements in the gold bullion and precious metals refining industry, which are established to obtain a benefit from the tax system of which there is no entitlement. See AFP website for further details: [Intelligence Bulletin Gold Bullion | Australian Federal Police \(afp.gov.au\)](https://www.afp.gov.au/sites/default/files/PDF/IntelligenceBulletinGoldBullion.pdf).<sup>24</sup>

#### *(b) Introduction of Reverse Charges*

90. From 1 April 2017, a mandatory reverse charge applies on business-to-business transactions of precious metals in Australia. This applies to sales between GST-registered suppliers and GST-registered purchasers to all taxable supplies of gold, silver or platinum. A reverse charge transaction makes the purchaser responsible for remitting GST, rather than the supplier. This combines the purchaser's right to claim GST credits, which results in the transaction being neutral for GST purposes. In other words, the purchaser is now responsible for paying the GST component which would set off the GST credit they would otherwise be entitled to receive.

91. The reverse charge provides a level playing field for businesses and makes it easier for businesses in the precious metals industry to meet their GST obligations. A significant decline in refunds coincided with the implementation of the reverse charge mechanism and other ATO strategies including the implementation of the refund retention strategy. See ATO website for further details: [Reverse charge in the valuable metals industry | Australian Taxation Office \(ato.gov.au\)](https://www.ato.gov.au/Business/GST/In-detail/Rules-for-specific-transactions/Reverse-charge-in-the-valuable-metals-industry/).<sup>25</sup>

<sup>23</sup> <https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Refund-fraud/GST-refund-fraud-attempts/GST-fraud-case-studies/>

<sup>24</sup> <https://www.afp.gov.au/sites/default/files/PDF/IntelligenceBulletinGoldBullion.pdf>

<sup>25</sup> <https://www.ato.gov.au/Business/GST/In-detail/Rules-for-specific-transactions/Reverse-charge-in-the-valuable-metals-industry/>



*(c) Code of Compliance*

92. The scrap metal industry code of compliance (the code of compliance) makes it easier for scrap metal dealers to account for goods and services tax (GST) when buying and selling scrap metal. It primarily focuses on scrap metal buyers, but is also relevant to scrap metal sellers.

93. The code of compliance provides instructions for buyers of scrap metal on:

- when an Australian business number (ABN) must be quoted by the seller
- when to withhold 47% (from 1 July 2017) from a payment
- records to keep when an ABN is quoted or required to be quoted
- records to keep when an ABN is not required to be quoted.

94. See ATO website link below for further details: [GST and scrap metal: code of compliance | Australian Taxation Office \(ato.gov.au\)](https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Scrap-metal/GST-and-scrap-metal--code-of-compliance/).<sup>26</sup>

## Case Study 6: MTIC fraud in the construction sector in Belgium

### Overview

95. This case study illustrates a specific type of fraud that Belgium sees in its construction sector in particular. The scheme is essentially a social fraud that allows the release of cash in order to pay undeclared workers, as well as the scheme's organisers. Due to undeclared work, VAT is evaded as well as social security contributions and other taxes.

### Drivers

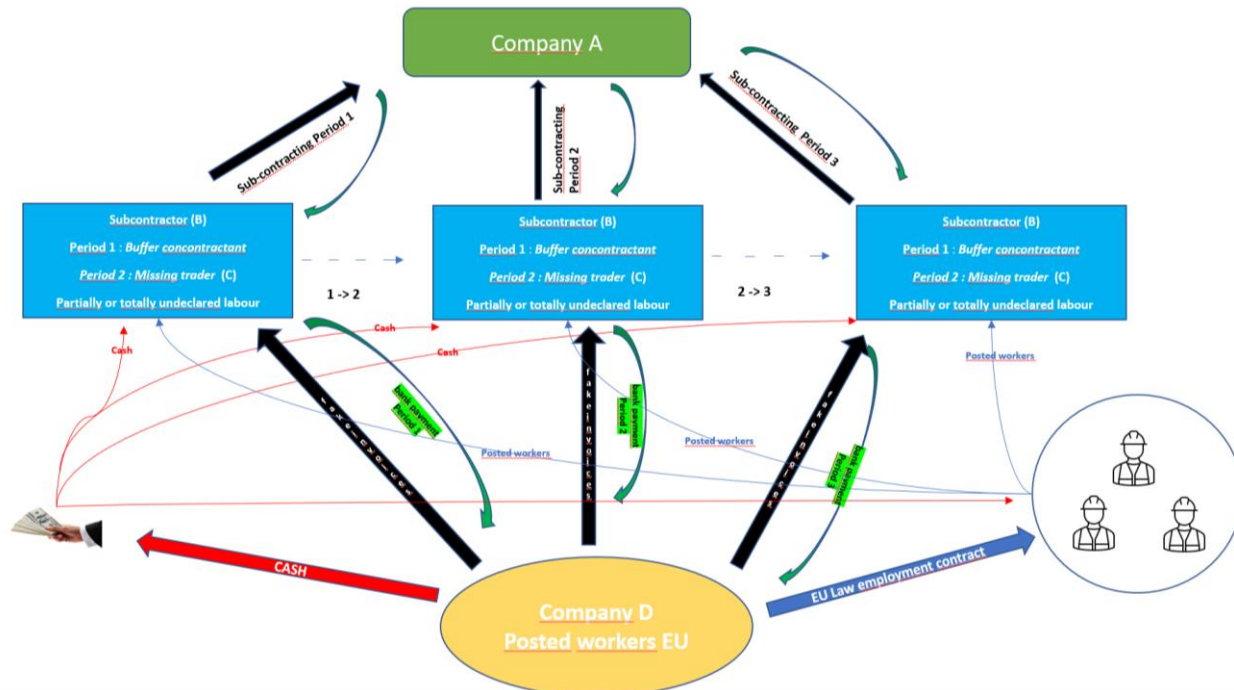
96. Belgium attributes the rise in this type of serious and organised fraud scheme to a combination of factors including: the increasing number of incoming (foreign) workers, large number of individuals that do not have access to the regular labour market, as well as criminal's need to launder money from illicit activities such as (drug trafficking, tobacco).

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<sup>26</sup> <https://www.ato.gov.au/Business/GST/In-detail/Your-industry/Scrap-metal/GST-and-scrap-metal--code-of-compliance/>

## Description

Figure 9. MTIC fraud in the construction sector in Belgium



- A company active (A) in the construction sector with “storefront” uses successive subcontractors to carry out real estate type work or similar.
- This subcontractor (B) which we call the *Buffer cocontractant* employs workers by resorting in one way or another to social fraud.
- These subcontractors fulfil their VAT reporting obligations for one or two quarters before becoming defaulting operators. So they switch from *Buffer Cocon* to *Missing trader* after a certain time. The distinguishing sign of this scheme is that all these successive companies have allegedly received seconded personnel from the same foreign company. The latter, although often operating from summary installations, remains active for a relatively long time because he submits plausible VAT returns and intra-Community statements on *time*, not arousing suspicion in their country of establishment.
- In the case of intra-Community transactions, all transactions are declared exempt from VAT.
- This ballet is well synchronized because during their few months of activity as Buffer, companies (B) also file and declare the receipt of intra-Community services thus avoiding that the *cross-checking* of intra-Community transactions reveals a discrepancy that would be likely to trigger a VAT signal.
- To pay the undeclared workers, cash must be generated, so a set-up made by means of *clearing companies* (C).
- The principle of clearing companies is as follows: “empty shell” companies will issue – on request – fictitious invoices to type (B) companies, having a real economic activity. The objective is to enable type (B) society to clandestinely recover cash in order to partially or fully remunerate the workers it employs “under the table”.

***Enforcement measures***

97. Belgium notes that this type of MTIC scheme is primarily detected through FIU notifications and the denunciations from the Public Prosecutor's Office to the FPS Finance. Those notifications are transmitted to tax inspectors for investigations. Investigators also detect cases by monitoring strawmen, business centers, and fictitious addresses, and by cross checking tax data from the VAT Information Exchange System (VIES) against VAT declarations or VAT declarations versus client or supplier listings.

98. When conducting investigations, investigators use wide-ranging sources including:

- FPS Finance's databases (e.g. Sitran (a cross-sectional database that manages personal data identity, addresses and mandates) tax returns, and VIES information);
- Requests for information from other domestic and international authorities, including EU administrations (SCACS)
- The visits to premises of businesses under investigation: head office, accountants, etc.
- The hearings of managers (mostly straw men)
- Analysis of bank accounts, which allows investigators to identify all of the customers and suppliers (declared and undeclared), all of the cash withdrawals (including date, time, and place); and all of the payments related to individuals (clients and customers) in Belgium and the EU for the purposes of detecting fraud patterns.

***Measures taken to prevent pattern of fraud***

- The deregistration of VAT numbers due to:
  - non-submission of VAT returns not filed;
  - non-declaration of intra-community acquisitions;
  - the deletion of the business address;
  - the removal of the manager from the national register of Belgium;
- Cases involving cash payments in excess of EUR 3 000 are transmitted from FPS; Finance to FPS Economy for investigations purpose;
- Notification to FIU of the cases related to money laundering or the financing of terrorism; and
- Collaboration between the Federal Public Services (FPS) Finance, FPS Justice, and the FIU to block bank accounts of clearing companies and to seize funds from active bank accounts.