



## PROXIMAL CONSULTING

One The Parade Mews Marlborough Wiltshire SN8 1NE  
Place du Bourg-de-Four 25 1204 Genève Switzerland  
Tel: +44 (0) 1672 516725  
Fax: +44 (0) 1672 516759  
e-mail:proximal@bluemail.ch website:www.proximalconsulting.com

*THE MONEY LAUNDERING MITIGATION FIRM*

---

### **MONEY LAUNDERING & BUSINESS CRIME NEWSLETTER ISSUE 5 FEBRUARY 2001**

---

This newsletter is published monthly and delivered to clients and contacts of Proximal Consulting by e-mail  
IF YOU HAVE RECEIVED A HARD COPY OF THIS NEWSLETTER IT IS BECAUSE WE DO NOT HAVE YOUR  
E-MAIL ADDRESS: PLEASE SEND IT TO US AT proximal@bluemail.ch

#### CONTENTS

- NEW MONEY GUIDELINES ISSUED BY US GOVERNMENT FOR TRANSACTIONS THAT MAY INVOLVE THE PROCEEDS OF FOREIGN OFFICIAL CORRUPTION
- THE MINORITY STAFF OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS REPORT ON CORRESPONDENT BANKING: A GATEWAY TO MONEY LAUNDERING
- NO RELAXATION OF FATF "BLACKLIST"
- THE RETURN OF PROMISSORY NOTE FRAUD (HAS IT EVER BEEN AWAY?)
- ORGANIZED CRIME BIGGER THREAT THAN WAR
- GLOBAL NEWS ROUND UP
- THE FINAL WORD

---

#### US GOVERNMENT "GUIDANCE ON ENHANCED SCRUTINY FOR TRANSACTIONS THAT MAY INVOLVE THE PROCEEDS OF FOREIGN OFFICIAL CORRUPTION"

The final days of the Clinton administration not only produced a large number of questionable presidential pardons but also a new set of guidance notes to assist US financial institutions avoid transactions that may involve the proceeds of foreign official corruption.

The guidance, which is voluntary, is specifically aimed at private banks and similar institutions "where accounts may involve the proceeds of corruption by senior foreign political figures, their immediate family or close associates"

The basic guidelines that the report promotes revolve around defining a "covered person". This is where an individual is a "senior foreign political figure", "any member of a senior foreign political figure's immediate family" and any "close associate" of a senior foreign political figure. In respect of these "Covered Persons" the following enhanced guidelines are recommended:

- Ascertain the identity of the account holder and the account's beneficial owner
- Obtain adequate documentation regarding the Covered Person – including assessing his or her business reputation
- Understand the Covered Person's anticipated account activity - the report suggests that "reasonable steps should be taken to determine whether the Covered Person has any legitimate business or investment activity in the United States that would make having an account in the United States a natural occurrence"
- Determine the Covered Person's Source of Wealth and Funds – the report suggests that financial institutions should take reasonable steps to determine the official salary and compensation of the Covered Person as well as the individual's known legitimate sources of wealth apart from his or her official position
- Apply additional oversight to the Covered Person's account – recommendations include the decision to open (or reject) an account application from a Covered Person should be taken by a more senior level of management than is typically involved in account opening and annual reviews should be undertaken

The report also identifies questionable or suspicious activities that may warrant enhanced scrutiny of transactions involving Covered Persons. Such activities include:

- A request to do business with a financial institution that is unused to doing business with foreign persons
- A request by the covered person to associate any form of secrecy with a transaction (such as booking the transaction in the name of another person)
- The use by a Covered Person of accounts at a nation's central bank or other government owned bank, or of government accounts, as the source of funds in a transaction
- Unexplained rapid increases(or decreases) in funds or asset value in the Covered Person's account
- Large currency or bearer instrument transactions either in and out of the account
- Multiple simultaneous transactions that are each below the relevant suspicious transaction reporting thresholds

A FULL COPY OF THE REPORT CAN BE DOWNLOADED BY FOLLOWING THE RELEVANT LINK  
ON OUR HOME PAGE AT [www.proximalconsulting.com](http://www.proximalconsulting.com)

THE MINORITY STAFF OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS REPORT ON  
CORRESPONDENT BANKING:A GATEWAY TO MONEY LAUNDERING

The sheer size of this report – 380 pages – that was issued on 5 February 2001 rather makes providing a short summary of it difficult. However the yearlong investigation has had a variety of immediate side effects (see below). In our view, the important points made are:

- Many banks in the United States have established correspondent relationships with high risk foreign banks

- Such foreign banks are Shell banks, Offshore banks with licenses limited to doing business with persons solely located outside the licensing jurisdiction or banks licensed by weak jurisdictions
- Because many of these foreign banks complete virtually all of their transactions in correspondent banks the US financial system has become a gateway to money laundering
- Many US banks rely on the fact that a foreign bank is “licensed” and are ignorant of the true status, lack of controls, and activities of the foreign bank
- US banks’ ongoing anti-money laundering checks on their correspondent accounts are “often weak or ineffective”. In particular US banks are not enquiring into what correspondent facilities are being offered by direct correspondents – thus in one example an offshore bank was allowing at least six offshore shell banks to use its US accounts
- One critical failure of US banks is the difference they make in due diligence procedures enacted where a foreign bank seeks credit as opposed to establishing a correspondent relationship. The report concludes that “under current practice in the United States, high risk foreign banks in non-credit relationships seem to fly under the radar screen of most US banks’ anti-money laundering programs”
- Ten case histories are examined in the report. These examples include instances of:
  - Ø Laundering funds that the high risk foreign bank knew or should have known were associated with drug trafficking, financial fraud or other wrongdoing
  - Ø High yield investment scams
  - Ø Advance fee fraud
  - Ø Facilitating Internet gambling (which is illegal under US law)

The High Risk Foreign Banks examined in the report are:

- q American international Bank (Licensed by Antigua)
- q British Bank of Latin America (Licensed by Bahamas)
- q British Trade and Commerce Bank (Licensed by Dominica)
- q Caribbean American Bank (Licensed by Antigua & Barbuda)
- q European Bank (Licensed by Vanuatu)
- q Federal Bank (Licensed by Bahamas)
- q Guardian Bank and Trust (Cayman) Ltd (Licensed by Cayman Islands)
- q Hanover Bank (Licensed by Antigua & Barbuda)
- q MA Bank (Licensed by Cayman Islands)
- q Overseas Development Bank and Trust (Licensed by Dominica)
- q Swiss American Bank (Licensed by Antigua & Barbuda)
- q Swiss American National Bank (Licensed by Antigua & Barbuda)

The shockwaves generated by the report have already reached Argentina and the Caribbean. In Argentina serious concerns have been voiced about Federal Bank (licensed in Bahamas) that served Argentinian clients and MA Bank that was licensed in the Cayman Islands but operated in Argentina. The incipient scandal escalated when it was rumoured that US investigators had found that as much as \$9 billion had been laundered in Argentina between 1992 and 1999. The crisis then proceeded to escalate further when the Central Bank Chief of Argentina was accused of withholding information from the country’s lawmakers on cases that had been reported in the Senate report.

In the Bahamas on 13 February, as a result of the report, the Central Bank Governor froze the accounts of Federal Bank and the British Bank of Latin America together with ordering their liquidation. The Bahamas also suspended licences held by five International Business Companies that operate investments such as offshore mutual funds. The five are:

- q Chase Bank of Texas National association
- q The Bank of Virginia Bahamas Ltd
- q Apax Banks and Trust Company Bahamas Ltd
- q United Overseas Bank and Trust Companies Bahamas Ltd
- q Bank One Oklahoma NA

In Dominica the licence held by British Trade and Commerce Bank was revoked on 15 February due to "poor financial status". And in Antigua & Barbuda the license of Hanover Bank has also been revoked.

A FULL COPY OF THE SUMMARY OF THIS REPORT CAN BE DOWNLOADED BY FOLLOWING THE RELEVANT LINK ON OUR HOME PAGE AT [www.proximalconsulting.com](http://www.proximalconsulting.com). IF YOU WOULD LIKE A COPY OF THE ENTIRE REPORT (380 pages) PLEASE E-MAIL US ([proximal@bluemail.ch](mailto:proximal@bluemail.ch)).

#### THE RETURN OF PROMISSORY NOTE FRAUD (HAS IT EVER BEEN AWAY?)

*promissory note (definition): written promise to pay, frequently used in instalment and commercial loans. A promissory note is the legal evidence of a debt and can be transferred to a third party as a negotiable instrument*

Reports from the United States highlight (once again) that promissory note fraud remains prevalent. Although a fraud type in itself, promissory note fraud is also typically part of other scams such as Nigerian fraud and "prime bank instrument" frauds. Red flags that indicate fraudulent promissory notes are:

- Ø The terms of the investments are usually complicated and difficult to understand
- Ø The company issuing the note is fictitious but in many instances has a name similar to a recognizable bank or insurance company
- Ø Various sales people or agents become involved, lured by lucrative commissions. These people may be unable (or unwilling) to see the fraud for themselves
- Ø These sales agents are frequently unlicensed and claim that investors will receive a high fixed rate return with a very low level of risk. Many sales agents claim that the notes are guaranteed or insured
- Ø Some promoters try to avoid repaying investors' principal by convincing investors to roll over their promissory notes on repayment. Investors may therefore continue to receive interest payments but stand almost no chance of having their capital investment returned to them

Other information: "Prime Bank Instrument Fraud" Proximal Newsletter No 2 (May 2000)  
"Too good to be true...." Proximal White Paper No 2, available on our website.

#### NO RELAXATION OF FATF "BLACKLIST"

As predicted in this newsletter last month, the Financial Action Task Force has not removed any country from their "non-cooperative countries and territories" list. In their progress report dated 1 February 2001 the FATF said that some countries had "taken

impressive strides towards improving their counter money laundering regimes" but no country on the list had both enacted and implemented all of the necessary reforms. However it now appears that the list of fifteen jurisdictions has now been split into two parts – those that are now co-operating and making progress and the "rest". The first group comprises:

- The Bahamas
- The Cayman Islands
- The Cook Islands
- Israel
- Liechtenstein
- The Marshall Islands
- Panama

Of the remainder the following countries have made some progress:

- Dominica
- Niue
- St Kitts and Nevis
- St Vincent and the Grenadines

Whilst Lebanon, the Philippines and Russia have begun to make changes. Nauru has yet to communicate what steps it intends to take (see news roundup below)

The full progress report can be downloaded from [www.oecd.org/fatf/](http://www.oecd.org/fatf/)

## ORGANIZED CRIME BIGGER THREAT THAN WAR

At an international conference on Transnational Organized Crime conference in Tokyo at the end of January, a senior United Nations official claimed that "Internationally organized crime is now a bigger threat to security for ordinary people than war".

Pino Arlacchi, the Under Secretary General at the United Nations Office for Drug Control and Crime Prevention also made the following comments:

- The fight against the organized criminals behind human trafficking, corruption and cyber crime must be a genuinely global effort
- Organized criminals can co-operate across borders with greater ease than law enforcement officials – that is why international co-operation is so vital
- The level and intensity of international crime has gone beyond what governments and the general population are prepared to accept
- As many as one million women and children are trafficked each year across national borders by criminal groups
- The profits from corruption, drug trafficking and other crimes have become so big the numbers are difficult to grasp, while money laundering is estimated by the US government to be equivalent to as much as five percent of the world's gross domestic product

## GLOBAL NEWS ROUNDUP

**RUSSIA:** On January 29 the deputy chairman of the State Duma's Security Committee, Alexander Kulikov told the official RIA Novosti news agency that:

- Organized crime structures control approximately 40% of Russia's private businesses and 60% of state run enterprises
- Revenues from "shady businesses" make up 40% of Russia's gross domestic product, with nearly 9 million citizens involved in these activities
- Between 50% to 85% of banks are under the control of organized crime (This is apparently based on Interior Ministry figures, but we think they are historical not necessarily a reflection of the current situation)
- Over the last five years the number of organized crime groups rose 17 times while the number of groups with corrupt links rose 170 times

NEW YORK: Rudy Giuliani, Mayor of New York, is attempting to reduce and eradicate the corruption prevalent in the NYC building trade, which is the reason for the fact that building costs in the city are between 20-30% higher than in other US cities. The influence of the "mob" is believed to be extensive through extortion, double billing and other scams. The total "mob tax" is reckoned to generate hundreds of millions of dollars each year.

MIAMI: An Aruban businessman, Randolph Habibe, who laundered money for Colombian drug cartels has reached a plea bargain, accepting an 11 year prison sentence to avoid a probable life sentence. Habibe was extradited to the US after a five year legal battle and finally pleaded guilty to racketeering conspiracy for laundering \$11 million in drug profits. Habibe was accused of being the chief financial officer for Colombia's La Costa drug cartel, as well as working for the Medellin and Cali cartels. The laundering took place through Habibe's own businesses that included a car dealership, eight banks and a frozen food company.

NAURU: The island of Nauru which has gained an unenviable reputation for corruption and money laundering appeared to be heading for a political crisis at the beginning of this month (February 2001). Eleven of the country's eighteen MPs have signed a petition demanding the recall of parliament and were threatening to overthrow the President, Bernard Dowiyogo. The protesters accused the government of involvement in corruption such as the diversion of US\$ 970,000 into American Bank accounts for the sale of Nauruan passports – claimed to have been sold to Thai and Chinese nationals to create new false identities for criminals. Another key complaint is the licensing of "banks" by the government that have subsequently been used for money laundering activities

## THE FINAL WORD

"The world wants to be deceived" – Sebastian Brant

We finish this month with two true stories from airports around the world: Officials at Harare airport in Zimbabwe stopped a 26 year old woman after they became suspicious about the apparent size of the lady's bottom. Her rather large bottom was, in fact, due to 14 pounds of marijuana that she had stuffed down her shorts. Even more surreal was a male traveller who was stopped at Narita Airport in Tokyo. A customs spokesman commented that suspicions were aroused because "for someone about 170 centimetres tall, he was wearing suspiciously big shoes". Inside the rather large shoes was 350 grams of heroin: but the suspect proclaimed his innocence claiming that he was asked by a Thai man at Bangkok airport to wear the shoes, but he had no idea what was in them!

PROXIMAL DUE DILIGENCE WARNING LIST

The due diligence warning list contained in our January 2001 newsletter remains current.

NEW!!

YOU CAN NOW CHECK MONEY LAUNDERING & BUSINESS CRIME HEADLINES THAT ARE UPDATED DAILY ON OUR WEBSITE AT [WWW.PROXIMALCONSULTING.COM](http://WWW.PROXIMALCONSULTING.COM) EACH HEADLINE IS LINKED TO THE FULL STORY

IF YOU OR YOUR COLLEAGUES WOULD LIKE TO BE ADDED TO OUR DISTRIBUTION LIST PLEASE E-MAIL US AT [proximal@bluemail.ch](mailto:proximal@bluemail.ch) or go to our web site and use our newsletter subscription form

IF YOU WOULD LIKE COPIES OF OUR PREVIOUS NEWSLETTERS PLEASE E-MAIL US WITH YOUR REQUEST

IF YOU WOULD LIKE TO DISCUSS A SPECIFIC PROBLEM OR PROJECT WITH US PLEASE CALL US ON +44 1672 516725, OR FAX US ON +44 1672 516759

© PROXIMAL CONSULTING MMI

*This research was prepared by Proximal Consulting and is for information purposes only .*

*This publication is not a substitute for specific professional advice*

*Any dissemination, distribution or copying of this communication without prior approval from Proximal Consulting is prohibited*