

**Welcome to the  
business of certainty**

**Guest blog:  
16 follow-up Q&As  
from Bureau van  
Dijk's financial  
crime webinar**



**BUREAU VAN DIJK**

A Moody's Analytics Company



***An extended guest blog post by Nicholas McTaggart, former Australian Federal Police Agent and former Head of the Australian Government's Criminal Assets Confiscation Taskforce, now founder of the Murinbin Group***

In August 2017 I joined **Qing Liu** as a panellist on Bureau van Dijk's webinar, **The role of company financial data in identifying financial crime**.

In our hour-long session we examined the trends of financial crime over time and shared some perspectives on the challenges we face today. We also drew on case studies to show how the use of financial data and corporate ownership structures can be used to minimize financial crime and mitigate risk – and the **webinar is now free to view on-demand**.

Live on the day we answered a stack of questions from our worldwide audience of **compliance** professionals. But many more were submitted that we didn't get a chance to answer. They were too good to ignore, so I offered to answer as many as I could in two guest blog posts.

Noting that these are my personal views, here's the first batch on anti-money laundering (AML) and counter-terrorism financing (CTF). Next week I'll **post a follow-up** on your questions around typology.

You're welcome to **contact me** for clarification at **[nicholas.mctaggart@murinbin.com](mailto:nicholas.mctaggart@murinbin.com)**.

# Your questions answered

## **1. “With money laundered in banks, couldn’t regulators trace transaction records and find that money if they found it suspicious?”**

Yes, most certainly. It can be tracked once it is identified. The difficulty is identifying the transaction as a money laundering transaction in the first place.

## **2. “Isn’t so-called ‘fracturing’ the specific reason there is greater inter-departmental cooperation between regulators and investigators so that one can identify offences at an early stage and provide enough time to undertake an investigation?”**

Yes. The objective is to be more proactive and disrupt the activity before it occurs. The cooperation you speak about needs to be increased and expanded to include cooperation between the public and private sector.

This will only be successful if we can find a way to increase trust. We also need to encourage a whole-of-government approach when it comes to data-sharing and data-analytics.

Bureau van Dijk is working closely with government agencies across multiple jurisdictions to help encourage more inter-governmental and inter-departmental cooperation. But even if this were achieved, criminal investigation alone would not solve the problem.

## **3. “For organisations with complex structures, what are your recommendations and/or best practices to determine how far down the corporate structure chain should we conduct due diligence checks?”**

The more complex the structure, the further down the ownership structure you should go. The critical questions you need to understand are: why the complexity? What is the commercial sense? If you can establish the answers to your satisfaction then there should be no suspicion. If you are unable to obtain critical information you need to assess the risk.

## **4. “Referring to the linear ownership structure, where should the bank stop and feel satisfied with its fact-finding? The structure was clearly very complex.”**

You can stop when your actions and fact-finding activity meet your organisation’s risk-comfort level.

Activity such as this needs also to be balanced on cost. Full information is a very expensive exercise, with efficiency dictating that some assumptions be made.

Given all this, however, if you’re not comfortable, my recommendation is you suspend or walk away from the situation until there are some changes in your favour. Remember, your organisation is the one subject to regulation, not (often) the client you are dealing with.

**5. “How can banks enhance their checklist before opening accounts of companies which could later come out as shell companies?”**

My experience is that all institutions work differently in how they onboard customs, individual or companies. Shell companies are not in themselves illegal; it is how they are used which creates the criminality. What you need to do is understand the function and purpose of the structures on an ongoing basis. I do not believe you can afford to set and forget by just completing any form of checklist at the onboarding stage.

**6. “Complex structures linking to tax havens are triggers for further due diligence. How many levels should I follow?”**

It depends on the significance of the transaction and what you understand is the commercial justification for such a structure. In some instances, depending on the circumstance, due diligence may be required at all levels.

**7. “Is there any publicly available source of information that shows ownership structures of companies located in counties including the British Virgin Islands, Jersey and the Cayman Islands?”**

Bureau van Dijk draws comprehensive records from the market regulators in those jurisdictions. They also have tools within the database to help identify beneficial ownership. I do concede, however, that there is limited requirement for companies registered there to provide information at this time, but I do expect this will improve in the future.

**8. “When you mentioned the Panama Papers, sometimes an individual or an entity can be listed on the International Consortium of Investigative Journalists (ICIJ) website as having offshore businesses. Is it true that the said individual/entity might be doing legal tax avoidance?”**

Language is critical here. There are a number of legitimate structures that have been set up for people and corporate entities to minimise tax. It is when those structures get used to avoid or evade tax that issues arise. Funds used or created for the deliberate avoidance or evasion of tax in most jurisdictions of the world constitute money laundering.

**9. “Is it true that financial risk is much reduced when dealing with government- owned or controlled, or public listed companies, since it is more difficult for them to ‘hide’ their corporate structures?”**

Structure is one element to consider in risk but in my view not the critical one. It is the activity that is occurring within that structure which creates the risk. There are plenty of examples where government-owned or controlled entities have been implicated in criminal activity, corruption being one that comes to mind.

**10. “How do you envisage know your customer (KYC) utilities influencing accountability on customer due diligence (CDD)?”**

Correct automation of fundamental KYC, usually through IT solutions, will free up your human resources to undertake more complex analysis on high-risk clients and transactions. There needs to be more coordination in the industry on KYC processes to reduce duplication and costs. I believe governments have a role in this respect.

**11. “What do you think will happen in the future to Australian AML compliance legislation given that the country is generally regarded as being behind the rest of the developed world, most recently by the Financial Action Task Force (FATF)?”**

I believe as the regulator improves its capabilities, which it is doing exponentially, then you will see much more significant regulatory intervention, especially if the government introduces a penalty regime that does not rely on a civil adversarial process. Remember, Australia is an island with a limited number of inhabitants that occupies a small portion of the landmass concentrated in a few areas.

**12. “How is it possible to check money laundering in large infrastructure projects?”**

Audits – desktop and on the ground; use of consultants with expertise. All this depends on the inherent risk of the project; I am aware of projects such as these with very little independent governance, which I believe are asking for trouble in an effort to save little cost.

**13. “Complex corporate structures aside, what other ways can fraudulent people cover up their businesses?”**

Certainly, you don't necessarily need complex structures. It is just that nowadays corporate structures are cheap to create, have little oversight compared to other activity, and are recognised in law as a person. They are more flexible than false identity because you can continue to change the directors whilst the company continues its activity.

**14. “Can an easy set-up of a company be considered as a money laundering company?”**

No, unfortunately it is not as easy as that. Governments around the world are making company formation as simple as possible as they are looking to promote trade, and the intent behind that policy is understandable. However, it is the behaviour of the owner of the company that may become the problem. Easy company set-up alone does not amount to money laundering. However, as explained on the webinar, there may be many different criteria that can be used to look at the substance of a company to determine if it is likely to be used for money laundering.

**15. “Do you see the need for banks to continually monitor and request for updated passports of their customers or connected parties (upon expiry of passports) as part of on-going KYC monitoring?”**

Unfortunately, because financial institutions accept governance on a risk-based approach determined by them, the answer to your question is yes, very much so. Because criminals have become very adept at operating in the environment using structures to commit financial crime like never before, that requirement is becoming far more complex.

It is time for all parties to sit down, however, and identify the true priorities, because comprehensive governance is becoming far too expensive and ineffective to be sustainable.

**16. “How should a financial firm react to a suspected fraud?”**

In New South Wales in Australia, for example, legislation specifies that this should be reported. However, in saying that, there are a number of considerations that apply. We need to understand the laws of the local jurisdiction to provide further commentary on this

## That's it... for now

Look out for my **follow-up on typology questions** – and do let me know if I can answer any more of your questions on any of the topics we cover here or in the webinar. Here are my **contact details** again.

## Recording of the webinar

This is **available for free to view** until August 2018.



[Register to watch the webinar on demand](#) >

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