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Keep an Eye on the Employees Too

Posted on **07 September 2009** by **Peter Oakes**

Last week (1 September 2009) Garda (Irish Police) arrested a number of people as part of an investigation into major crime gangs. The investigation led to the seizure of drugs worth €3 million. One of the persons arrested was reported to be a trainee accountant working at one of Ireland's main banks. If this specific allegation is true, a question will arise as to whether the accountant was connected to the alleged crime gang by simply happening to know a gang member or was perhaps

using his position to perpetrate financial crimes.

Without pre-judging the rights of the individual to a fair hearing, the story is very interesting as accountants by way of their profession and financial institutions (and their employees) have specific financial crime obligations. The placement and layering of dirty money with clean money is a lot easier when you have a person working on the inside. Countries which adopt FATF standards fully appreciate the need to perform customer due diligence. However last week's news leads one think to about another important due diligence avenue – that of employee due diligence (or know your employee).

In the last few years a number solicitors' and accountants' offices have been raided in Ireland as part of money laundering and tax offence investigations. Some of these raids followed the infamous 'Northern Bank' theft where £26.5 million (GBP) was stolen, in 2004, from Northern Bank's cash centre by the IRA. The Garda alleged that this money was laundered through the Republic of Ireland. This investigation led to the conviction of a financial adviser, Mr Ted Cunningham (60) and his son, Timothy Cunningham (33). In April this year Mr Cunningham (Sr) was sentenced to 10 years jail for his role in laundering some £3 million (GBP). Mr Cunningham (Jr), whose admission of guilt was kept from his father during his trial, received a suspended sentence. Mr Cunningham (Sr) was a director of a financial services firm which although not regulated by the Irish Financial Services Regulatory Authority had financial crime obligations by virtue of being a designated body under the Irish Criminal Justice Act 1994. Indeed Mr Cunningham's (Sr) firm appointed a number of regulated companies through which it conducted business, but there is no allegation that any of these regulated appointees were involved in the offence.

Mr Cunningham (Sr) is not the first employee/representative of a financial institution to be prosecuted for money laundering in Ireland. In July 2007 an agent of the Educational Building Society was found not guilty on direction of the trial judge following a hearing into allegations that he laundered €1.1 million. In 1999 a bank manager from Allied Irish Banks was arrested and charged in connection with laundering £6 million (Irish Punts). This case also collapsed when the prosecution could not bring sufficient evidence to pass the criminal burden of proof test.

Earlier this year (March 2009) a Bank of Ireland cashier pleaded guilty to stealing the account details and pin numbers from customers he served during his employment at the bank. The offender used an illegal magnetic data skimmer to skim the data of 87 customers. The offender passed on the account details to two eastern European men, who took a total of €319,641 from the customers' accounts. According to the Garda, customers wishing to withdraw money had handed their cards to the bank cashier, who swiped them twice; once through the bank's machine and once through his own machine. In order to authorise the withdrawals, the customers then entered their pin numbers into the bank's electronic pad. The cashier observed the pins being entered and jotted the numbers down. After downloading all the information onto a private computer new bank cards duplicating the data were made.

The above cases are reminders of the need for ongoing diligence not just upon our customers but also upon our employees.

Peter Oakes is founder and managing director of Compliance Ireland Regulatory Services Ltd and City Compliance Regulatory Services Ltd. In addition to advice and training on financial crime, Peter advises local and overseas firms on regulatory compliance issues (peter@complianceireland.com / www.complianceireland.com). Peter is admitted as a solicitor in Ireland, the UK and Australia. He has worked in the enforcement and legal departments of, respectively, the UK Financial Services Authority and the Australian Securities and Investments Commission. Peter is also a former registrar of a disciplinary board which sanctioned auditors and liquidators for regulatory failures.

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