D. Trust and Company Service Providers

4.8 Trust and corporate entities provide the basis for a range of economic activities in modern economies. Although they have many legitimate applications (such as business finance or estate and tax planning), they can be misused by criminals for illegal purposes such as hiding the ultimate beneficial ownership of assets, legitimatising the **integration** of crime proceeds with the financial system, or **layering** of crime proceeds through various forms of investment such as in the stock market.

4.9 Trust and corporate structures may be set up by terrorists and used wholly or partly for financing of terrorist activities. Trust, for example, may be established for charitable purposes and subsequently misused to finance terrorist activities.

4.10 In view of the risks involved, trust and company service providers must be vigilant at all times and report anything suspicious to JFIU.

(a) Suspicious Activity Indicators

The following are some indications of potentially suspicious activities:

(i) Multi-jurisdictional and/or complex structure of corporate entities and/or trusts are established without valid grounds;

(ii) Payments (local or foreign) are made or received without a clear connection to the actual activities of the corporate entity;

(iii) Use of off-shore bank accounts without legitimate economic necessity;

(iv) Customer's unwillingness or refusal to provide information/documentary proof on himself/herself or beneficial owner(s) of trusts/companies;

(v) Sources and/or destinations of funds are unknown;

(vi) Transactions are heavily cash-based which should normally be carried out through other payment facilities;

(vii) Customer's background is not commensurate with the value of transactions carried out by the customer or on behalf of the company;

(viii) A company is established primarily for the purpose of collecting funds from various sources which are then transferred to local/ foreign bank accounts that have no apparent ties with the company;

(ix) Incorporation of a company by a non-resident with no links or activities in the jurisdiction where the company is established; and

(x) The money flow generated by a company is not in line with its underlying business activities.

(b) Below are four case examples for illustration.

Case Example 1: A structure of trusts misused for fraud

Mr. X was a trust service provider in Jurisdiction A. He established a number of domestic trusts to carry out a fraud scheme, defrauding over 500 investors of about US$56 million.

The scheme involved Mr. X, in the name of the domestic trusts, wiring large amounts of money to domestic and off-shore bank accounts. The money came from the 500 odd innocent investors who were convinced to form trust organisations and to place their savings into these trusts, which were tied to the off-shore bank accounts. The investors were promised favourable returns and reduced tax liabilities as the money was deposited into off-shore bank accounts. Once the investors put in their money to the trusts, Mr. X would inform them that the money would be managed by an international investment agency. In fact, this has never happened and Mr. X and his associates defrauded the trust owners (investors).

Key Message

The above case illustrates that a structure of trusts together with off-shore bank accounts can give the appearance of a legitimate purpose, which can then be used to lure investment from innocent third parties for illegal purpose.

Case Example 2: Overseas trust to mask the beneficial owner of assets

An overseas resident (Mr. Y) living in Jurisdiction B opened a bank account for the purpose of receiving a substantial transfer from Jurisdiction C. The transfer originated from the closure of a bank account of an overseas trust, which has been in existence for one month and managed by lawyers in Jurisdiction C. As soon as the money was credited to the newly-opened bank account, Mr. Y requested to withdraw the amount in cash and close the bank account.

Key Message

The beneficial owner of the substantial sum of money was masked by the overseas trust. If the lawyers in Jurisdiction C have performed proper "customer due diligence", the reasons for forming the trust and its subsequent closure should trigger suspicion for filing a "Suspicious Transaction Report" with the competent authority concerned.

Case Example 3: Corporate vehicle misused to channel bribes

A railway builder (Company Z) in Jurisdiction K has employed a law firm to form a complex structure of companies so that bribes can be transferred through these companies' bank accounts to officials in various other jurisdictions to thank them in "facilitating" the award of contracts to Company Z. Whilst there was no legitimate business in these series of companies, the overseas money transfers were substantial. After the bribes were transferred, the companies and their bank accounts became dormant.

Key Message

Corporate vehicles were used to channel bribe payments so as to veil the connection between the party which offers bribe and their ultimate recipients.

Case Example 4: Multi-jurisdictional corporate structure to launder money

Mr. B traveled to Jurisdiction M and went to Notary A to set up a company solely for the purpose of buying real estate. The shareholders of the company were family members of Mr. B, who also resided abroad. Shortly after incorporation, Company X bought a luxury detached house in Jurisdiction M. The property was paid by several transfers from an overseas Company Y. Despite repeated requests, Mr. B refused to provide details of Company Y to Notary A.

Key Message

Multi-jurisdictional corporate structures and international movement of funds are readily available vehicles to conceal the source of money for investment and the beneficial owner of the assets.