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ILLICIT FRAUD SCHEMES

DEFINITION OF FRAUD

Fraud is the intentional deception of a person or entity by another to secure unlawful monetary or personal gain.

OVERVIEW

Thousands of individuals and businesses fall victim to fraudulent acts each year — usually unknowingly. With the advancement of technology, fraud schemes are becoming more complex, and it is becoming increasingly difficult to stay ahead of the fraudsters.

You may have heard of the fraud scheme orchestrated by Bernie Madoff; which ran from the 1980s to 2008 and to date, is one of the largest global financial crimes in history. Mr. Madoff defrauded thousands of investors of billions of dollars (prosecutors estimated the size of the fraud to be 64.8 billion US dollars). This Ponzi scheme collapsed in 2008 after investors started pulling their investments. The Proceeds of Crime Act highlights a number of fraud cases which reflect various types of fraud schemes.

FRAUD AND MONEY LAUNDERING: WHAT IS THE CONNECTION?

Fraud is a predicate offense to money laundering. Money laundering operations are designed to take the proceeds of illegal activity and disguise the existence, source, or application of those funds so the proceeds appear to come from a legitimate source. This process is of critical importance to the fraudsters, as it enables them to enjoy profits without revealing their source.

COMMON TYPES OF FRAUD

There are many types of fraud schemes, several of which occur through the mail, internet or by phone. Common types include:

A. Tax Fraud

Tax Fraud, also referred to as tax evasion, is when a person or a company purposefully underpays taxes. The following are examples of practices that would be considered tax evasion or fraudulent:

- Deliberately underreporting income (reduced income results in reduced taxes)
- Taking payments in cash and failing to deposit them in order to avoid tax consequences
- Inflating the value of business expenses or creating false business expenses for tax purposes
- Keeping two sets of financial records for your business
- Transferring assets to conceal them from the IRS
- Reporting personal expenses as business expenses
- Claiming more charitable deductions than were made
- Failing to file returns even if a substantial amount of income is made.

B. Identity Theft/Fraud

Identity theft/fraud refers to crime in which someone wrongfully obtains and uses another person's personal data in some way that involves fraud or deception, typically for economic gain. The perpetrator often uses the internet but can also obtain sensitive personal data from trash cans and other unsecured locations. Most identity theft victims only find out after they see strange charges on their credit card statements or apply for a loan. In many cases, personal information is exposed through security breaches at banks or companies with which you do business. Thus, identity theft can happen to anyone.

Topics Discussed:

⇒ Definition of Fraud
⇒ Overview
⇒ Fraud and Money Laundering: What Is The Connection?
⇒ Common Types of Fraud
⇒ Money Mules
⇒ Penalties For Fraud Offenses
⇒ Tips To Identify And Avoid Fraud

C. Cheque & Credit/Debit Card Fraud

Credit/Debit card fraud is a form of identity theft that involves the unauthorized use of someone's credit or debit card to fraudulently obtain money or pay for goods and services. On the other hand, cheque fraud occurs when a person pays for something with a cheque knowing that there is not enough money in the account to cover the cost, or when an individual forges a check stolen from another individual.

D. Insurance Fraud

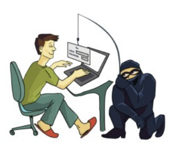
Insurance Fraud occurs when an insured person or entity submits false or inflated insurance claims, seeking compensation for injuries or losses that were not actually incurred. Insurance fraud can also be committed upon customers, through the sale of unlicensed or bogus insurance coverage to unsuspecting clients, or an insurance broker or agent's diversion or theft of insurance premiums paid by clients.

E. Pyramid Fraud/Ponzi Scheme

Pyramid Fraud, also referred to as Ponzi scheme, is a fraudulent investment operation where the operator, an individual or organization, pays returns to its investors from new capital paid to the operator by new investors, rather than from profit earned through legitimate investments or business activities. This type of fraud scheme operates on a "rob Peter to pay Paul" principle. With the promise of large returns as bait, the fraudster obtains money from new investors and uses it to pay off the earlier investors until no more new recruits can be found and the whole scheme collapses, with the newest investors losing everything.

F. Wire Fraud

Wire fraud refer broadly to any fraudulent scheme to secure financial gains through the use of telecommunication or information technology. People who commit wire fraud are typically looking for your personal financial information in order to use your credit cards or transfer money from your bank account. Telemarketing fraud and phishing are common types of wire fraud. Phishing refers to the fraudulent practice of sending emails purporting to be from reputable companies in order to induce individuals to reveal personal information, such as passwords and credit card information.



G. Securities Fraud

Securities fraud, also known as stock fraud or investment fraud, is a deceptive practice in the stock or commodities markets that induces investors to make purchase or sale decisions on the basis of false information, frequently resulting in losses. Securities fraud by a company occurs when an officer or director doesn't accurately report the company's financial information to its shareholders to encourage investors to buy shares. If the company subsequently goes bankrupt, the people who bought shares based on false information lose their investment completely. One famous example of this type of securities fraud was the Enron scandal, in which corporate officers failed to report the company's expenses, causing profits to appear larger than they were in reality.

Money Mules

A money mule is a person who receives and transfers illegally acquired money on behalf of others. They are likely recruited through online job advertisements and spam email. Fraudsters usually use spam emails, job search sites and social networking sites to offer job opportunities, claiming that participants can make thousands of dollars while working from home.

PENALTIES FOR FRAUD OFFENCES

Fraud must be proven by showing that the defendant's actions involved these five elements: 1) a false statement of a material fact; 2) knowledge on the part of the defendant that the statement is untrue; 3) intent on the part of the defendant to deceive the alleged victim; 4) justifiable reliance by the alleged victim on the statement; and 5) injury to the alleged victim as a result.

Most criminal fraud offences are considered felony crimes and are punishable by jail, fines, probation, or all of the above. Civil penalties may include restitution (paying the person/entity back) or payment of substantial fines (geared to punish the behavior). The penalties for your offence will depend on the nature, type, scope, and severity of the action and whether it was committed by an individual or an entity, such as a business, corporation or group.

TIPS TO IDENTIFY AND AVOID FRAUD

1. Do not give out personal information (credit card number, social security number and bank account information) over email or telephone.
2. Shred documents (receipts, statements) that contain your personal information before discarding them.
3. Reconcile your bank account regularly in order to identify any discrepancies.
4. Make sure you are purchasing merchandise from a reputable source.
5. Do your research to ensure that the companies you are considering to do business with are legitimate.
6. Be cautious when dealing with individuals/companies from outside your own country.
7. Don't invest in anything you are not absolutely sure about. Do your homework on the investment and the company to ensure that they are legitimate. The company providing the investment should provide you with detailed information on your investment . If the company can not answer your questions then that should be a red flag.
8. Beware of spam e-mails, internet advertisements, and questionable websites that promise goods or services that seem too good to be true, as they are likely fraudulent.
9. Report any suspected fraudulent activities to the Financial Intelligence Unit (FIU) or any other competent authority.

References:

- *Anti-Terrorism (Prevention of Terrorist Financing) Regulations (ATR), No. 47 of 2011.*
- *Anti-Money Laundering Regulations (AMLR), No. 46 of 2011.*
- *Proceeds of Crime Act, Cap 4 28*
- *http://criminal.findlaw.com/criminal-charges/fraud.html*

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