



ANGUILLA FINANCIAL SERVICES COMMISSION

FROM THE OFFICE OF THE DIRECTOR

GH/tbb
Email

09 April 2015

To: Company Managers and Trust Companies

Re: Notice Concerning Companies Involved in Forex Contracts or Binary Options Business – Requirement to Register as a Non-Regulated Service Provider under the Externally and Non-Regulated Service Providers Regulations, 2013 (“ENRSP Regulations”) under the Proceeds of Crime Act, R.S.A. c. P98 (as amended) (“POCA”)

Please be advised that the Anguilla Financial Services Commission (the “Commission”) considers any company incorporated under the laws of Anguilla involved in the business of dealing in, or offering facilities to others to deal in, foreign exchange (forex) contracts, binary options, contracts for differences or any other type of security or commodity, whereby the business is structured to generate income from trades, including the results of trades, in which it or its customers engage, to fall under the definition of “service provider” under section 1(d) of Schedule 2 of the Anti-Money Laundering and Terrorist Financing Regulations, R.R.A. P98-1 (the “AML/CFT Regulations”). The above-noted section of the AML/CFT Regulations defines a “service provider” to include:

“A person who, as a business, trades for his own account or for the account of customers in –

- (i) money market instruments, including cheques, bills, certificates of deposit and derivatives,*
- (ii) foreign exchange,*
- (iii) exchange, interest rate and index instruments,*
- (iv) financial futures and options,*
- (v) commodities futures, or*
- (vi) shares and other transferable securities.”*

As a service provider, the company is required to apply to the Commission to be registered as a non-regulated service provider in accordance with section 3 of the ENRSP Regulations. Upon enactment of the proposed Investment Business Act, such companies will be required to be licensed under that legislation.



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The Commission when reviewing an application for registration under the ENRSP Regulations will consider the following:

- 1) the location of the customers and the mind and management of the company's business;
- 2) whether the business is licensed in any jurisdiction and whether supervised for AML/CFT purposes; and
- 3) the ability of the Commission to supervise the company's business for AML/CFT purposes.

The Commission considers that companies involved in the business of dealing in, or offering facilities to others to deal in, forex contracts or binary options to be a high risk for money laundering and terrorist financing if not licensed or supervised in any jurisdiction. Reference is made to the Investor Alert published on 12 December 2014 on the Commission's website. See link below:

<http://fsc.org.ai/PDF/INVESTOR%20ALERT%20Unregulated%20Investment%20Business%20-%202012%20Dec%202014.pdf>

Reference also is made to the attached memorandum dated 2 April 2015 from the Head of Anguilla's Financial Intelligence Unit which identifies companies engaged in binary options and forex trading as an emerging crime type and the high risk of money-laundering and terrorist financing that these types of businesses represent.

If such a company fails to apply to register under the ENRSP Regulations, or if the Commission refuses to register it, and the company continues to engage in the business, it will be non-compliant with section 152E of POCA. The Commission's expectation is that such circumstances will result in the registered agent immediately terminating its relationship with that company.

I encourage you to provide a copy of this notice to your introducers and intermediaries.

Yours sincerely,

Gerry Halischuk

Director

Enc.



MEMORANDUM

To: Director of Anguilla Financial Services Commission
From: Head of Financial Intelligence Unit, Anguilla
CC:
Date: 2nd April 2015
Re: **Binary Options/Forex trading – emerging crime type**

Dear Mr Halischuk,

Introduction

The Financial Intelligence Unit (FIU) has recently seen an increase in reports concerning web-based companies purporting to offer the facility to trade in 'binary options' or 'forex'. However, rather than being genuine internet trading platforms, the websites encourage customers to deposit money and this money is never returned to them.

This activity impacts upon Anguilla because the companies involved are IBCs registered in Anguilla and the companies then include the company management agent's office address on their website. The company also may claim to have an address in another country, a London, U.K. address is especially popular. In most cases, however, this address is a corporate mail box at best and is not staffed. Thus when victims lose money and seek to file a complaint their only point of contact is the company manager's office.

Securities and Exchange Commission (SEC) warning

Needless to say this type of criminal enterprise has come to the notice of the US authorities. The Securities and Exchange Commission (SEC) and the Commodity Futures Trading

Commission (CFTC) have issued a joint investor alert, in which they explain very succinctly how these types of fraud are perpetrated. I've reproduced this explanation here:

“The SEC and CFTC have received numerous complaints of fraud associated with websites that offer an opportunity to buy or trade binary options through Internet-based trading platforms. The complaints fall into at least three categories:

- 1. The first category of alleged fraud involves the refusal of certain Internet-based binary options trading platforms to credit customer accounts or reimburse funds after accepting customer money. These complaints typically involve customers who have deposited money into their binary options trading account and who are then encouraged by “brokers” over the telephone to deposit additional funds into the customer account. When customers later attempt to withdraw their original deposit or the return they have been promised, the trading platforms allegedly cancel customers’ withdrawal requests, refuse to credit their accounts, or ignore their telephone calls and emails.**
- 2. The second category of alleged fraud involves identity theft. For example, some complaints allege that certain Internet-based binary options trading platforms may be collecting customer information such as credit card and driver’s license data for unspecified uses. If a binary options Internet-based trading platform requests photocopies of your credit card, driver’s license, or other personal data, do not provide the information.**
- 3. The third category of alleged fraud involves the manipulation of the binary options trading software to generate losing trades. These complaints allege that the Internet-based binary options trading platforms manipulate the trading software to distort binary options prices and payouts. For example, when a customer’s trade is ‘winning,’ the countdown to expiration is extended arbitrarily until the trade becomes a loss.”**

In Anguilla the most commonly reported of these three methodologies is the first; in which the companies refuse to refund customers’ money which they have deposited into online trading accounts.

Links to organised crime gangs and terrorist groups

Information gathered by the Anguilla FIU, and supported by similar reports from other international law enforcement agencies, indicates that this type of sophisticated fraud is likely to have links to organised crime gangs (OCG) and possibly terrorist financing (TF).

Banking information discovered during the course of our investigations provides a connection to Eastern Europe. This is a favourite location for OCGs wishing to hide the proceeds of crime. Company registration information shows that a number of persons from the Middle East are connected to these companies. This brings with it a clear TF risk.

Anguilla connections

As I said in the introduction, the main area in which this activity impacts upon Anguilla is through the registration of the companies used to facilitate these frauds.

A number of Anguilla licence holders have formed IBCs that have subsequently turned out to be connected to websites used for binary options trading fraud. The Anguilla address is then listed on the websites (often under the 'Contact Us' page).

Some of the common factors in the registering of these companies are that the Beneficial Owners are represented to be Israeli citizens and the company profile is usually given as 'marketing'.

The way forward

It appears to be the case that Anguilla has been specifically targeted by OCGs involved in this type of sophisticated fraud. The registering of IBCs in Anguilla forms part of a complicated 'web' which makes investigation by law enforcement extremely difficult.

Not only are IBCs registered in Anguilla but the companies are being formed by overseas agents and/or licence holders which adds a further 'layer' between the criminals and law enforcement.

Add to this the fact that they are using IP-masking software to disguise the location of the servers for the websites; and the bank accounts seem to be held in Eastern Europe and/or the Middle East; and one can see the deliberately complicated nature of the operation.

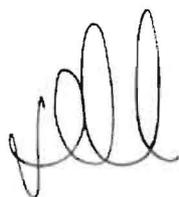
Any business that holds a licence to form IBCs in Anguilla (including overseas agents of a license-holder and foreign-based licence holders) should be aware of this current trend and should undertake enhanced due diligence checks on anyone seeking to register an IBC if the business purpose is given as 'marketing' or 'online marketing'.

This due diligence should be an on-going process and company managers/MLCOs/MLROs should seek information from their clients about the websites they intend to use for their 'online marketing'. These websites should be viewed and researched to properly establish the nature of the business.

It is also imperative that SARs are submitted to the FIU in a timely fashion so that the intelligence can be collated to produce a full picture of the criminal network.

The FIU are available to provide advice and guidance should any service provider wish to have confidential discussions before submitting a SAR.

Submitted for your information and action as appropriate.



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Detective Inspector Ian McDonald
Head of Branch
Financial Intelligence Unit