



CASE STUDY: Trust Service Provider (TSP) Declined Business due to Suspected ML and Tax Evasion

❖ Key Points

- The proactivity of the TSP disallowed the use of the Bermuda economy to launder the proceeds of crime.
- The FATCA and CRS tax rules in place, it makes it more difficult to avoid paying tax or disclosing assets in Bermuda on which US taxes are legally due.
- The TSP highlighted within the Suspicious Activity Report the concern that the suspect walk-in visitor may attempt to use other Bermuda TSPs to facilitate ML and tax evasion.
- Competent authorities in Bermuda and respective jurisdictions have been notified about this suspect activity.

❖ The Case

In 2023, a trust service provider had an in-office walk-in visit from a US citizen, Mr. A, who specifically enquired into understanding how he could avoid paying US taxes. Mr. A was joined by a colleague whose name was not obtained. It was unclear if the colleague was a local resident or not.

The TSP representative explained that with FATCA and CRS tax rules in place, it was impossible for a US citizen to avoid paying tax (or disclosing assets) on which US taxes were legally due. It was also confirmed with Mr. A that whilst the TSP might be in a position to help with a fully US

tax-disclosed structure, the TSP would not be in a position to provide services if the sole purpose and intention was assisting a US person in not meeting US tax obligations.

Mr. A mentioned that he had been advised to set up a Bermuda company owned by a trust to which his name should NOT appear. The TSP representative asked Mr. A where he had received this advice, to which the reply was, “This was general advice”.

The TSP representative asked if Mr. A had any family outside of the US, to which he stated no. Mr. A then explained that he was working for a syndicate in Singapore that provided loans of a minimum of \$10 million, with no maximum, to both US and non-US startup companies.

Mr. A named several local service providers to the TSP representative and asked if it was possible for the other local TSPs to assist him. The TSP did reiterate that the other local TSPs would also have the same obligation to report and without specific US tax and structuring advice, it would likely be quite difficult to open a Bermuda Company, Bermuda Trust and/or Bermuda bank account with any provider, as all would be subject to FATCA reporting.

❖ Red Flags of Suspect Activity

Some of the red flags of suspicious activity that were noted in this SAR filing are:

- It appeared that Mr. A. completed research on the potential structuring of his assets, allowing him to remain anonymous but still benefitting from the funds.
- Mr. A's website was also reviewed and was deemed to be very generic for a multi-million-dollar operation with international business ventures.
- Mr. A also attended the TSP with a third party who was not identified.
- Mr. A purposely flew to Bermuda to seek a relationship with a TSP.
- Mr. A was concerned that his link to Mexico would negate his efforts to establish a relationship with a TSP in Bermuda.
- Mr. A enquired if other jurisdictions (BVI or Cayman) would allow him to structure a business account for tax avoidance purposes.

❖ Report Indicators Identified

Report indicators selected by the CSP to identify the characteristics within the SAR narrative included:

- Declined/refused business due to suspected criminal activity
- Tax evasion

❖ Checks Conducted by the FIA

Disclosures were made to local and overseas competent authorities by the FIA. The results of these disclosures are as follows:

- Mr. A stated that he came to Bermuda by private jet; however, records show that he arrived on a commercial airline.
- Mr. A stated that his relationship was with a “Syndicate in Singapore that provided loans”; however, this statement changed as noted in a filing by a local bank about the suspect activity of Mr. A. Mr. A told the local bank that his relationship involved “high net worth individuals in Saudi Arabia through oil money”.
- Both the local bank and TSP declined to approve Mr. A as a client and recommended that Mr. A seek advice from a Tax Specialist.

❖ Key Takeaways

1. Due to the TSP's thoroughness, details about Mr. A were captured, which were corroborated with a filing by another reporting entity and could be readily passed on to and acted upon by local and overseas competent authorities. This filing is a great example of the effectiveness of the TSP sector regarding detecting and filing suspect activity reports involving potential clients.
2. The filing of Suspicious Activity Reports involving declined business of a current or potential customer due to the identification of suspect activity, for example, a change in communication methods, a show of aggressiveness, the use of suspect comments, the detection of suspect transactions or the detection of adverse media. This information assists with the analysis of the FIA analysts and the dissemination of informative disclosures to the competent authorities in Bermuda and in other jurisdictions.