

Criminal Finances Strategic Framework

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Purpose

1. This strategic framework seeks to reinforce the recovery of proceeds of crime as a central tenet of HMRC's enforcement work and, in accordance with the Government's drive to improve performance in the field of asset recovery, to make the recovery of criminal finances a priority for HMRC.
2. Tackling criminal finances is a top priority for the UK Government, reiterated regularly by the most senior politicians. Parliament has strengthened the powers available to enable law enforcement agencies to recover the proceeds of crime, most recently in the Proceeds of Crime Act 2002 (POCA) and the Serious Organised Crime and Police Act 2005 (SOCA). Expectations are high, and individual departments will need to deliver against an ever-increasing Government demand for tangible results. HMRC will assist the wider government in achieving this objective, translating these principles into an agenda for HMRC and, in accordance with the importance the wider government attaches to proceeds of crime recovery, ensure that this work is recognised and treated as a top priority within this Department.
3. Recovering the proceeds of crime allows law enforcement agencies both to reduce the incentive for future illicit activity and to dent the criminal's capacity to engage in such pursuits. The crimes investigated by and committed against HMRC are primarily motivated by the prospect of financial gain, so removing the profit is seen as an effective method of reducing crime. The proceeds of crime are often used to fund further criminal activity, so recovering this money (thus disrupting the criminal cycle) is central to the reduction of crime and, consequently, the damage it inflicts on society.

4. HMRC's criminal finance strategic framework will act as an effective lever to promote asset recovery within the Department's regime-specific strategies, giving greater prominence to the use of confiscation, cash seizure, referral of cases to the Assets Recovery Agency (ARA) and other responses available under POCA and other legislation. It will ensure that the investigation of a predicate offence includes a financial element. Where fraud is investigated it will be expected that enquiries into a suspect's financial affairs will run concurrently with a view to obtaining a confiscation order upon conviction. And if there is evidence of money laundering, charges should be considered in addition to or (where appropriate) instead of the predicate offence.
5. Eliminating the financial benefits of crime is key to de-incentivising and reducing criminal activity, and it is for business areas across HMRC to ensure that their activities are fundamentally geared towards achievement of this. Regime-specific strategy owners will be responsible for leading the development of operational plans which will enable the Department to deliver the requirements of this strategic framework, and for setting the targets and performance indicators in accordance with which success may be measured.

Cross-Government Working

6. Tackling the proceeds of crime is seen as an increasingly important aspect of law enforcement and a field in which Ministers are keen for performance to improve. The Home Secretary has emphasised the need for law enforcement agencies to maximise use of the new powers contained in SOCAP and, amid perceptions that performance is low relative to the potential volume of recoverable assets, the Prime Minister's Delivery Unit has completed a priority review of cross-governmental asset recovery. This has led to the establishment of new governance and performance arrangements and increased impetus being given to the importance and effectiveness of asset recovery work. It has also resulted (see paragraph 9) in Ministers setting new and very demanding targets for the period to 2009/10 and beyond. More recently, the Prime Minister's Strategy Unit has conducted a further study into the recovery of criminal proceeds. This document will be updated when Ministers have taken decisions on the recommendations and implementation plans have been formulated.. HMRC's strategic framework will contribute to this agenda, seeking to ensure that maximum advantage is taken of the available powers to ensure that criminals are denied the financial gain they presume to make by engaging in illicit activity.
7. The Government's overall objective of reducing crime is supported by a multi-agency approach to depriving criminals of their assets. This work is driven forward by the recently-established Asset Recovery Board (ARB), supported by the Asset Recovery Working Group (ARWG). The latter was previously known as the Concerted Inter-agency Criminal

Finances Action Group (CICFA). Previously overseen by HMRC, chairmanship of this group passed to the nascent SOCA in autumn 2005. ARB and ARWG partner departments and agencies are committed to the enhancement of asset recovery by mainstreaming such activity within their organisations and through bi- and multi-lateral capacity building.

8. HMRC is committed to the development of partnership working with SOCA, ARA, others in the law enforcement field and their Scottish and Northern Ireland equivalents. Working in partnership is often the most effective way of tackling organised crime, transcending conventional departmental boundaries in reflection of the shape and threat of organised crime, and ensuring that nothing falls between departmental 'cracks'.
9. Though there are no specific HMRC criminal finance PSA targets, action against criminal finances contributes directly to the closure of the tax gap, the key objective of HMRC PSA 1. Additionally, law enforcement and criminal justice agencies were collectively tasked to recover at least £100 million of criminal assets in 2005/6. The outturn for 2005/6 was £97 million, of which HMRC cases accounted for some £39.3 million. For 2006-7, Ministers agreed that law enforcement and criminal justice agencies collectively would need to increase the value of assets recovered by 25% to £125 million. The year-end outturn is expected to come very close to the target amount, with HMRC cases again generating a substantial contribution. Furthermore – and in the wake of the PMDU report – the target requirement for 2009/10 has been set at £250 million with significant further increases expected thereafter.
10. Arrangements for 2006/7 and 2007/8 mean that asset recovery agencies receive a proportion of the amount they recover. Maximising the asset recovery side of HMRC's law enforcement work will allow criminal monies to fund projects to strengthen law enforcement efforts, thus creating a "virtuous circle" in which criminals effectively subsidise action against their own activities. CICFA (now ARWG) agreed the arrangements for implementing the scheme, while HMRC has developed its own method of ensuring receipts from the Asset Recovery Incentivisation Scheme (ARIS) are utilised most effectively [see paragraph 24 for more detail.]
11. HMRC has worked with other Government departments in developing this document to ensure HMRC's aims and objectives complement the wider Government agenda. In particular, we have worked closely with the Home Office to ensure we support that department's drive to reduce crime and the harm it causes society. Mainstreaming efforts to recover the proceeds of crime is central to the Home Office agenda and key to the activity of the Serious Organised Crime Agency (SOCA), which has a specialist Proceeds of Crime Department. HMRC has worked with SOCA to develop our stance against criminal finances,

ensuring that it complements SOCA's Proceeds of Crime Blueprint and that our themes are congruent. The Department will continue to work together with SOCA in contributing and responding to Government initiatives and are committed, as are SOCA and the wider criminal justice community, to reducing harm by taking the profit out of crime.

12. HMRC has also worked closely with HM Treasury, who drafted the revised UK anti-money laundering and terrorist finance strategy (issued on 28 February 2007) in developing these aspects of our strategic framework. The UK is seen as an international leader in effective money laundering controls – the principles of HMRC's anti-money laundering regime will serve to reinforce and strengthen this position.
13. The next section of this document sets out what HMRC seeks to achieve by publication of this framework, and the subsequent one the responsibilities of the HMRC business areas that will deliver its requirements. Thereafter, the document is broken down into sections by regime. Each sets out the principles in accordance with which work should be carried out in order to deliver the objectives of both HMRC and the wider law enforcement community.

HMRC's Objectives

14. In line with other agencies and the wider Governmental agenda, recovering the proceeds of crime is a priority for HMRC's enforcement and compliance work areas.
15. The criminal finance strategic framework complements HMRC's overarching strategy, in accordance with which enforcement and compliance work streams will work with others (such as ARA, SOCA, Treasury and the core Home Office) to deliver wider government objectives. HMRC will work to understand the evolving behaviours of those who seek to undermine the functions of the department, and use this knowledge to inform and improve efforts against such groups. In particular, we will continue to work with the Home Office and others to achieve a better understanding of the size and nature of the criminal economy and the potential impact of the various asset recovery and associated options.
16. This document seeks not to prescribe how operational business areas should operate in order to increase performance in the asset recovery arena, but to provide a high-level framework within which operational colleagues can design plans and set targets in accordance with which the Department will deliver. It will be incumbent upon these areas to convert the principles set out in this document into tangible results. The strategic framework therefore necessitates a response from business areas to provide the detail of how the Department will deliver the high-level requirements. This response is focused on four key objectives.
17. **Maximising seizures of cash and other negotiable instruments which result in forfeiture.** This will be achieved by
 - developing strategic and tactical assessments of cash movements, creating clear channels of communication and intelligence flows between all stakeholders and fully exploiting financial opportunities across commodity areas through the establishment of a National Financial Intelligence Branch;
 - mainstreaming detection activity by raising awareness of how cash movements impact on other strategies;
 - quality interceptions at the frontier (and inland) by a workforce equipped with the appropriate skills and equipment (including detector dogs);
 - maximising retention of seized cash by ensuring appropriate professional standards of interception, questioning and subsequent investigation;
 - debriefing and evaluating cases, especially where cash is not seized or is returned, in order to improve the quality of seizures and increase the proportion retained;
 - focusing on innovation and sharing of best practice and management information to maximise opportunities for detection and seizure; and

- developing a performance framework which clearly articulates the effectiveness of our activity and the contribution to overall delivery of the individual work areas.
18. **Maximising the value of criminal proceeds recovered through confiscation.** This will be achieved by
- ensuring that financial investigation with a view to confiscation is a feature of all criminal investigations; and
 - seeking restraint orders at the earliest appropriate stage during the investigation of any acquisitive crime to preserve assets for confiscation following conviction.
19. **Using every opportunity to use tax laws to tax criminal profits, and civil proceedings to recover criminal proceeds.** This will be achieved by
- the newly-established Criminal Taxes Unit working in partnership with other agencies to identify and pursue, or pass on for action, cases which offer tax intervention opportunities against suspects, their businesses and associates;
 - referring cases for civil recovery where criminal action has failed or is not appropriate but there is evidence of unlawful activity and the existence of assets derived therefrom; and
 - recycling funds from the Asset Recovery Incentivisation Scheme into new and innovative measures to enhance our attack on criminal activity and related profits.
20. **Identifying opportunities to further undermine criminal financial gains by pursuing money laundering offences in addition (or as an alternative) to other offences.** This will be achieved by
- maximising intelligence flows related to HMRC assigned matters through our financial intelligence officers embedded within SOCA;
 - further and proactively developing close relationships with key players – regulatory bodies, international partners, compliance colleagues – in order to drive investigation efforts against targeted money launderers, sharing information to the fullest extent possible within available gateways; and
 - considering the potential for taking money laundering criminal action, especially in cases of serious fraud and for those in positions of responsibility.
21. Tackling criminal finances will assist the Department in meeting its public service agreement targets, particularly PSA objectives 1 and 3. Respectively, these objectives require HMRC to improve the extent to which individuals and businesses pay the amount of tax due and receive the credits and payments to which they are entitled, and strengthen frontier protection against threats to the security, social and economic integrity and environment of the United Kingdom in a way

that balances the need to maintain the UK as a competitive location in which to do business.

22. This strategic framework will facilitate the reduction of the tax gap under PSA objective 1 by mainstreaming and prioritising the recovery of the proceeds of crime. It will also contribute to PSA objective 3, both by restricting the extent to which criminal finance is able to enter the UK economy and – by restricting the amount of criminal money leaving the UK – reducing the volume of illicit goods entering the country.
23. HMRC is committed to utilising POCA powers on confiscation, money laundering, cash seizure and investigative techniques wherever appropriate, and to ensuring that the principle of financial investigation alongside the investigation of predicate offences applies across all regimes. HMRC will develop and deploy non-traditional and innovative methods to most effectively deprive crime of the finance by which it is fuelled. We will work closely with the Proceeds of Crime Department in SOCA to place HMRC at the forefront of this work and will establish our own Criminal Taxes Unit to ensure that income deriving from criminal activity is taxed. More detail of this new measure can be found in paragraph 88 et seq.
24. In addition to depriving criminal circles of the profit upon which they thrive, asset recovery can generate funds which can be used to increase work on recovering the proceeds of crime, further emphasising the need for the Department to prioritise efforts in this field so as to maximise the benefit offered by the Asset Recovery Incentivisation Scheme (ARIS). The amount of money available to HMRC will be determined by the total value of receipts received by the Home Office in the financial years 2006-07 and 2007-08. Allocations will be based upon each agency's contribution to the total value of remittances from cash forfeiture orders, confiscation orders (including part-paid orders and interest), civil recovery and certain taxation cases.
25. HMRC cash forfeitures will secure the Department 50% of the amount remitted to the Home Office. Money raised by confiscation order receipts will be split into three equal portions to reflect the stages of investigation, prosecution and enforcement, so HMRC, RCPO and HM Courts Service (HMCS) confiscation order activity will result in a 3-way equal split of the 50% share where all three agencies are involved¹. In cases referred to ARA by HMRC, the two agencies will equally split the 50% allocation of receipts achieved via ARA's civil recovery and direct tax functions.
26. HMRC expects the scheme will generate between £12 and £15 million for the Department in 2006-7, of which approximately £5 million is

¹ This could be a four-way split if the case is undertaken jointly with, for example, SOCA or a local constabulary.

expected to be set aside to fund three key projects². HMRC has developed a set of criteria against which other receipts from the scheme will be allocated internally. Activities/projects for which bids are made will have to meet all the primary criteria, which demand that the activity for which funding is intended fits with both HMRC's PSA objectives and broader Government asset recovery objectives, contributes to the incentivisation fund or has a similar negative effect on criminal finance, and will result in the recovery of further proceeds of crime. In addition, some of the secondary criteria must be met – the work will need to be innovative, encourage integration of former Customs and Revenue areas, be project-based rather than adding to baseline of existing activities and/or make an indirect contribution to asset recovery, e.g. publicity or research type projects.

27. These criteria are designed to ensure that funding is not restricted only to those areas whose activities raise money for the scheme. Areas of the Department undertaking civil investigations are also eligible so as to ensure that we continue to pursue the most appropriate means of stripping the profit from crime. In some cases, the civil route may be the most suitable course of action and, as it allows a substantial amount of profit to be stripped from crime at relatively low cost, can represent good value for money for HMRC.
28. Bids for funding from HMRC's ARIS receipts will need to be underwritten by the relevant Deputy Director and submitted for consideration to a panel chaired by Criminal and Enforcement Policy (CEP).
29. With the introduction of the asset recovery incentivisation scheme, HMRC will have greater capacity to direct funds towards a wider range of important work directly or indirectly supporting our criminal finances activity than would otherwise have been feasible within Departmental resource constraints.
30. In summary, HMRC is committed to supporting and furthering the wider Governmental agenda of stripping the financial incentive from crime so as to reduce the harm caused by such activity. The criminal finance strategic framework will drive other departmental strategies and provide a structure within which operational plans may be constructed in order to ensure delivery of HMRC's objectives.

² These projects already have an expectation of receiving funding and have been established accordingly. They are the Cash Forfeiture Litigation Team (CFLT), Document Exploitation facility (DOCEX) and the Anti Money Laundering Unit which were created and funded by the Recovered Assets Incentivisation Fund (RAIF). This was a scheme for which the Home Office provided £45m over three years for projects agreed by CICFA.

Business Areas

31. A number of operational business areas within HMRC will deliver the Department's objectives.
32. **Criminal Investigation** identifies recoverable tainted assets during the normal course of investigation and, as a result of specific asset targeting, sources further cases (including those for referral to the Assets Recovery Agency), provides intelligence on money flows, modus operandi etc and, as a result of their range of investigatory work, sources convictions for money laundering and other offences. Financial investigation work can be broken down into five integral parts:
- Use of high quality intelligence to identify money flows and non-compliant businesses as possible precursor indicators to criminal activities.
 - Money laundering investigations where we aim to tackle the most complex systems, organisations and professionals, requiring specialist knowledge and training.
 - The identification of money laundering activities through investigations into predicate crime.
 - Civil seizure and forfeiture of crime related cash detected at the frontier or inland.
 - The identification, restraint and confiscation of assets.
33. **Intelligence** provides high quality operational and tactical intelligence for Investigation, Detection and MSB/HVD assurance activity. It produces strategic intelligence to inform wider Departmental and HMG priorities. It acts as a catalyst for the deployment of departmental resources and works closely with other organisations to exchange information and intelligence, such as suspicious activity reports (SARs) from SOCA. Intelligence also receives debriefing information from colleagues in other operational business areas, and manages human intelligence sources. The overseas Fiscal Liaison Officer (FLO) network will work more closely with their host counterparts in order to better facilitate international financial intelligence flows.
34. **Detection** identifies and seizes cash (and other commodities) primarily at the frontier, and sources cases for other business areas to take forward. They also provide further intelligence (stimulated by the interception and its circumstances) that can build the case against suspicious travellers for the police or for Criminal Investigation, which will be undertaken in conjunction with Intelligence.
35. **Criminal Finance Litigation Team** works with case officers to ensure that all cases referred to it are processed through the courts as swiftly as possible. It also inputs such cases onto the Joint Asset Recovery Database (JARD), liaises with investigation and finance officers

regarding remittances of forfeited cash and provides statistics on amounts forfeited and remitted.

36. **Assurance Activity** is mostly concerned with the regulation of Money Service Businesses (MSBs) and High Value Dealers (HVDs). Since 1 June 2002 all MSBs have been required to register with Customs/HMRC (unless they are already part of a firm regulated by the Financial Services Authority). The Money Laundering Regulations 2003 extended this requirement to high value dealers in cash. (In December 2007, HMRC's regulatory functions will be extended to include Accountancy Service Providers and Trust and Company Service Providers.) Assurance activity affords HMRC the opportunity to educate regulated bodies of their obligations under the regulations and to ensure their compliance, providing an additional means of preventing the use of these businesses for money laundering purposes. The process of assurance also generates intelligence.
37. The contribution made by all these areas needs measuring in order for the department to assess the progress of its efforts against criminal finances. A number of measures will facilitate this, and these are outlined in the 'activity' chapters below.

Powers

38. Part 8 of the Proceeds of Crime Act contains the investigatory powers for use in criminal confiscation, money laundering and civil recovery. These provisions consolidate and extend the powers for which earlier legislation provided.
39. Four powers are available to HMRC for the purposes of investigating whether a person has benefited from criminal conduct and the extent or whereabouts of that benefit, and/or whether a person has committed a money laundering offence. All require the approval of a circuit judge or equivalent. These are:
- **Production Orders**, which permit officers to take away or be given access to material;
 - **Search and seizure warrants**, which authorise entry to and search of the premises specified, and the seizure and retention of material that is likely to be of value to the investigation;
 - **Account monitoring orders**, which require financial institutions to provide information relating to a specified account for a specified period; and
 - **Customer information orders**, which require financial institutions to provide any information they hold that relates to the person specified in the order. They should supply enough information to allow the HMRC officer to obtain a Production Order.
40. Part 7 of POCA also requires banks and other businesses in the regulated sector to make a disclosure to SOCA where they have knowledge, suspicion or reasonable grounds to know or suspect that another person is engaged in money laundering. The requirement to report suspected money laundering applies to all crimes which give rise to criminal property, including tax evasion.
41. HMRC's recovery of the proceeds of crime is also assisted by the Money Laundering Regulations 2003, which completed the implementation of the Second EC Money Laundering Directive. Previously, the regulated sector included banks and other financial services but the Regulations extended the scope of anti-money laundering controls to a much wider range of firms and professions including accountants, auditors, tax advisors, lawyers, estate agents, casinos, and High Value Dealers (these are businesses that deal in goods and accept, or are prepared to accept, the equivalent of €15,000 or more in cash in a single transaction).
42. The Serious Organised Crime and Police Act 2005 gives law enforcement agencies a number of new powers with which to combat serious crime. Sections 76-81 provide for the making of Financial Reporting Orders (FROs). FROs are a new weapon in the armoury of law enforcement. Where the courts are satisfied that there would be a high risk of re-offending, they may impose these orders where certain

'trigger' offences have been committed. This enables the financial affairs of serious acquisitive criminals to be monitored from the point of sentence for up to 15 years (up to 20 years where an individual is imprisoned for life). The order will require offenders convicted of specified offences to make such reports of their income and assets as are set out by the Courts in the order. The 'trigger' offences originally included specified deception offences in the Theft Acts 1968 and 1978 and criminal lifestyle offences as specified in Schedule 2 of POCA 2002 but have recently been extended to further serious offences including tax and duty evasion and cheating the public revenue.

43. FROs can be an important tool in ensuring the future compliance of a convicted tax evader provided that one of the "trigger" offences is engaged. If there is a risk of the offender committing tax evasion offences in the future, either during imprisonment or upon release, then the opportunity to secure an FRO should not be overlooked. In particular, this may point to the laying of charges under the Theft Act and/or for money laundering offences.
44. SOCAP also provides for the making of Disclosure Orders under s 62-66. These powers are exercisable by the Director of RCPO and any Revenue and Customs prosecutor delegated by him. The Director RCPO has decided that these powers should be used in appropriate serious cases of fraud. An offence should be considered as serious fraud if its commission has led either to actual or potential substantial financial loss or gain. A stand-alone offence which would not be considered serious fraud may be treated as such if it forms part of any conduct which could lead to actual or potential substantial financial loss.
45. This new power allows for an appropriate person (i.e. an officer of HMRC as delegated by the Director RCPO) to issue a Disclosure Order, where:
 - there are reasonable grounds to suspect that an offence under s61 SOCAP has been committed;
 - it appears that any person has information (whether or not this information is in a documentary form) that is relevant to the investigation of that offence and;
 - there are grounds for believing that the information so provided by compliance with the Order is likely to be of substantial value (whether or not by itself) to the investigation.
46. Failure to comply with such an order is an offence punishable by imprisonment or a fine. Access to this power provides prosecutors and law enforcement agencies with another powerful tool in tackling fraudulent behavior and wider criminality.

Cash Seizures and Forfeiture

47. POCA Part 5 provides for the seizure and forfeiture of crime-related cash. HMRC and police officers may seize cash in amounts of £1000 or more if there are reasonable grounds to suspect that it is either the proceeds of, or is intended for use in, unlawful conduct. Upon application by HMRC/Police, a magistrates' court may authorise seized cash to be detained whilst its origin and intended use are investigated, and may order it to be forfeited permanently if satisfied to the civil standard of proof that the money is in fact associated with criminal activity.
48. It is a priority for HMRC to increase the amount of illicit cash seized and forfeited. As well as disincentivising further crime by reducing its profitability, this activity will allow HMRC to better contribute towards the wider Government's asset recovery targets (see paragraph 9). It is of primary importance to HMRC, therefore, to increase the amount of illicit cash seized and forfeited and – by improving detection and intelligence work on cash – reduce the amount of seized cash returned to travellers. HMRC needs to ensure that innocent travellers carrying legitimate cash are not inconvenienced by having their cash seized in error and returned, whilst at the same time more accurately targeting and appropriating criminal cash.
49. HMRC is committed to increasing the value of criminal money detected and seized both at the frontier and, where appropriate, inland. The Department will continue to deploy cash-dedicated teams at key high-risk locations, and flexibly direct cash resources towards identified high-risk areas. New methods of working amongst cash detection staff will be explored in order to maximise the detection and seizure of criminal cash, and an understanding of the importance of cash work will be engendered amongst non-cash Detection staff.
50. Intelligence will be better developed to identify high-level intervention opportunities and cash consolidation points both in the UK and overseas. Investigation will look to Intelligence to allow them to maximise the impact of inland detection powers, allowing seizures to be made both at the frontier and inland. Better use of analytical tools will be sought in order to tackle issues such as high returns of seized cash. This will generate a better understanding of why officers return a significant amount of the cash they seize and do not seize a sizeable portion of cash detected, and inform efforts to improve performance in this area.
51. Intelligence will identify and profile cash courier targets so as to improve cash seizure 'success rates', as cash will more often be seized from those who are already identified as a risk and are, as such, more likely to yield potentially forfeitable cash. Strategic and tactical assessments relating to the movement of illicit cash, including methods

and routings (for import and export) and sources, will be improved to facilitate effective detection and seizure.

52. Better interaction between Detection and Investigation Teams and local offices when cash is seized can facilitate HMRC's recovery of the proceeds of crime. Explanations offered by individuals from whom cash has been seized at the frontier may be efficiently verified by checking with local compliance staff. Such information may assist officers in seeking to maintain a cash seizure or otherwise returning the funds. In all instances, the facts surrounding the cash detection may assist compliance staff when dealing with taxpayers' affairs. Where relevant gateways allow, HMRC will share this information with other organisations such as ARA or Police forces when appropriate to do so in order to disrupt criminal financial activity.
53. This practice will facilitate the identification of individuals who represent a potential threat to HMRC's regimes, better equipping HMRC to take appropriate action against suspicious or illicit activity. The information will need to be properly targeted, and careful management will be required to ensure it can be used effectively.
54. Although POCA does not stipulate that either forfeiture or confiscation should take precedence where cash is seized in the course of a criminal investigation, it is HMRC's policy to seek forfeiture rather than await confiscation, especially where forfeiture is uncontested. Forfeiture is HMRC's preferred course of action unless it has the potential to prejudice the criminal proceedings, in which circumstances the prosecutor and cash forfeiture lawyer will take a view as to the best way forward. In all cases, best practice is for the prosecutor and cash forfeiture lawyer to liaise at an early opportunity, and review the case as matters progress.
55. Progress made on the seizure and forfeiture of cash may be gauged by the number and value of cash seizures, and the amount forfeited.

Restraint and Confiscation

56. Confiscation represents a valuable tool in the fight against criminal money flows. Rather than simply relieving a convicted defendant of cash or assets obtained directly from the criminal conduct specified in the indictment, confiscation can in many circumstances strip out assets up to the level of the entire benefit assumed to have been generated by crime within the six years prior to the court order.
57. Under the procedures the court must first decide whether the convicted defendant has a criminal lifestyle (e.g. has committed one of the offences listed in POCA Schedule 2). If it decides that this is the case, the court will assume that all assets which have passed through the defendant's hands in the previous 6 years are derived from crime (and must therefore form part of the benefit calculation) unless the contrary can be demonstrated or there would be a serious risk of injustice. It will then order the defendant to pay a sum of money equal to the value of his or her benefit, or a smaller sum where less than the determined benefit is available for payment. Where a defendant can not be categorised as having a criminal lifestyle, a more limited form of confiscation applies and the benefit figure is calculated by reference to the particular offence(s) of which the person has been convicted.
58. POCA Part 2 makes provision for confiscation and restraint in England and Wales. A confiscation order can be issued to a convicted defendant by the Crown Court. Application for a confiscation order may be made by the prosecutor, and the subsequent proceedings are conducted according to the civil standard of proof. Restraint orders are issued by the Crown Court to ensure that the assets of a convicted defendant are not dissipated before a confiscation order can be made or enforced. The prosecutor may apply for a restraint order where a criminal investigation has been started or where proceedings for an offence have commenced but have not been concluded.
59. Confiscation has a number of clear advantages for the law enforcement community. The benefit recovery aspect of confiscation orders could potentially (and frequently does) enable the recovery of significantly more than the value of the tax evaded/assets originally obtained by deception, increasing the department's contribution to the government's asset recovery targets while severely denting the criminal's capacity to continue with such conduct in the future and, in consequence, reducing the harm caused by crime. The potential scope of confiscation orders and the default sentence for non-payment also represent powerful deterrents against the commission of acquisitive crime.
60. Rigorous financial investigation with a view to confiscation should be a feature of all criminal investigations where initial enquiries indicate that recovery of assets is in prospect. Restraint should be sought (and at

the earliest appropriate time) whenever significant assets are identified during a criminal investigation of any acquisitive crime in order to maximize the potential for asset recovery.

61. HMRC will make use of all appropriate powers to increase the measure of benefit for confiscation purposes where fresh evidence comes to light suggesting that the original measure was inadequate. The recoverable amount may also be increased or decreased following a change in the defendant's circumstances or the uncovering of assets that were not disclosed at the time the order was originally made. The financial investigation may be refreshed at any time for revisiting the available amount and within 6 years for revisiting the determined benefit.
62. The Proceeds of Crime Act facilitates the acquisition of a restraint order. Restraint orders can now be issued by any Crown Court and may be granted at the start of the investigation rather than at the point of charge or when charging is imminent, though there are some circumstances in which it will not be appropriate to seek a restraint order lest an individual becomes aware that he or she is being investigated.
63. HMRC will be able to measure productivity in this field by gauging the number of restraint orders, the value of assets restrained, the number of confiscation orders made, the value of those orders and the amount of money realised as a result of the enforcement of these orders.

Civil Recovery and taxation (ARA)

64. Part 5 of POCA enables ARA to recover (in civil proceedings in the High Court) assets which are or represent those obtained through unlawful conduct. ARA's cases are referred by law enforcement agencies or prosecution authorities and this represents another method by which HMRC (and the wider law enforcement community) may strip the profit from crime. Where criminal prosecution has either failed or been judged impossible, HMRC will maximise the opportunities offered by ARA and its powers by referring appropriate cases. To meet ARA's case referral criteria, recoverable property must have been identified and have an estimated value of at least £10,000 and must include property other than cash or negotiable instruments. There must also be evidence of criminal conduct that is supported to the civil 'balance of probabilities' standard of proof.
65. Part 6 of POCA provides that ARA may use revenue functions to tax the proceeds of crime in cases which pass a 'suspicion of wider criminality' test, meaning that ARA cannot take on cases in which the only suspected irregularity is in the tax affairs of an individual or business. Such cases are proper to HMRC. HMRC does not refer direct tax cases directly, but the Director of ARA may choose to use these functions once a case has been referred.
66. Cases should only be referred to ARA when all HMRC's options have been considered and exhausted. There is a single point of contact for all referrals to ARA, who have been advised to accept only those cases which have been referred through this route. All requests by ARA for information or intelligence will be handled by the single point of contact in the Centre for the Exchange of Intelligence.
67. HMRC will be able to gauge the benefit of the civil recovery/taxation option by measuring the number and value of cases referred to ARA for civil recovery and gauging those in respect of which ARA make use of the available civil recovery and taxation functions.

Money Laundering

68. The UK is seen as an international leader in effective money laundering controls, and HMRC seeks to ensure that its efforts in this sphere serve to further bolster that reputation.
69. Previous legislation (e.g. the Criminal Justice Act 1988 and the Drug Trafficking Act 1994) drew a distinction between the laundering of proceeds derived from drug trafficking and non-drugs related offences. POCA updated, expanded and unified the money laundering offences, making it easier for money launderers to be investigated and prosecuted by removing the requirement to identify the specific offences which generated the money or property.
70. The existing UK anti-money laundering regime consists of measures ranging from criminal provisions to punish money launderers and deprive them of the proceeds of this activity to reporting obligations upon the financial services industry and other areas of business. International standards are set by the Financial Action Task Force (FATF) and the EU makes directives, while POCA sets out reporting requirements and primary money laundering offences. HMRC's anti-money laundering efforts, which are supported also by the money laundering regulations (see paragraph 80 for more information), will support the Government's overarching strategy and give further credence to the UK's international standing in the effective control of money laundering.
71. HMRC operates a discerning approach to prosecution in respect of all offences within its remit. Where evidence of money laundering is uncovered during the course of the criminal investigation of a predicate offence, HMRC will ask the prosecutor to consider the addition of money laundering charges to the indictment in order to further dent an individual or gang's capacity to fund or commit future illegitimate activity. Equally, stand-alone money laundering prosecutions are valid where there is sufficient evidence to support charges under the Proceeds of Crime Act. There is no monetary threshold for prosecution.
72. Where the suspicion of money laundering mounts during a civil investigation, and there is evidence of other serious illegal activities which are not assigned matters, HMRC will consider disclosing this information to other agencies under statutory gateway provisions, either in the CRC Act or other legislation³.
73. HMRC will normally investigate money laundering cases criminally where the money flows (benefit) are derived from fraud against HMRC regimes. HMRC will also investigate cases that will identify and investigate those persons benefiting from fraud by providing the means

³ For example, the Serious Organised Crime and Police Act 2005.

to launder the proceeds of crime, with particular focus on advisers, accountants, solicitors and others acting in a 'professional' capacity who provide the means to put tainted money out of reach of law enforcement. The focus will be on cases where investigation and referral to RCPO will do most to promote compliance with the law and where HMRC can make a contribution to the over-arching HMG anti-money laundering strategy. HMRC will utilise all of the investigative powers in the Proceeds of Crime Act 2002 in the course of investigating money laundering. It will devote effort to counter the use of trusts, offshore mechanisms, internet banking and other devices in the cleansing of criminal monies and will refer appropriate cases to RCPO who will consider prosecution.

74. Intelligence, particularly financial intelligence, is key to the fight against money laundering. HMRC's Financial National Intelligence Branch has been reinforced and reorganised into one national branch under a single command, which will allow the department to more effectively exploit financial intelligence and opportunities across all areas by establishing specialist Financial Intelligence cells within commodity commands. This will further entrench the financial element within the different strategy areas and ensure that other strategies, such as alcohol or tobacco, are developed and implemented with clearer emphasis upon the recovery of the proceeds of crime.
75. This unit will work closely with the SARs exploitation team at SOCA, which will have a single point of contact with HMRC, to ensure the rapid sharing of intelligence. Representation within SOCA will be enhanced through an embedded financial intelligence team to better exploit SARs-derived intelligence and manage the relationship with the Proceeds of Crime Directorate there.
76. With the creation of SOCA, HMRC will focus more on criminal money flows as they relate to HMRC responsibilities, and will work with SOCA to ensure financial intelligence relating to areas in which SOCA lead can be utilised to strip the profit out of these crimes. For example, although HMRC will no longer investigate drug trafficking proactively, it will have an interest in the taxable profits generated by this sort of activity, to which end financial intelligence arising from drug trafficking will be of use.
77. As HMG's strategy outlines, money laundering is an international phenomenon. All intelligence branches will include trained financial officers, and HMRC will ensure that overseas opportunities are better exploited by utilising the Fiscal Liaison Officer (FLO) network. Supported by HMRC's Financial National Intelligence Branch, they will pro-actively engage overseas host agencies in order to better facilitate the timely exchange of relevant information.
78. Financial Intelligence will seek to develop closer relationships with the FSA, other regulatory bodies and private companies to improve

intelligence flow and sources. The existing MSB/HVD financial intelligence unit, a dedicated team, will be expanded to allow HMRC to maximise investigation opportunities and to support compliance with the regulations. It will identify and develop specific intelligence regarding non-compliant MSBs and HVDs and those engaged in money laundering in order to drive targeted investigation efforts.

79. Measuring the number of successful money laundering prosecutions and the value of consequent confiscation orders will enable HMRC to gauge its success in this area.

Money Service Businesses and High Value Dealers

80. Supervision of money service businesses (MSBs) and high value dealers (HVDs) and, from December 2007, Accountancy Service Providers and Trust and Company Service Providers will assist in identifying and deterring money laundering activity across these sectors. Since 1 June 2002 all MSBs have been required to register with Customs/HMRC unless they are already part of a firm regulated by the Financial Services Authority, in which case they have to notify the FSA of their money service activities. The Money Laundering Regulations, which came into force in 2004, extended this requirement to HVDs in cash. These are businesses that deal in goods and accept, or are prepared to accept, the equivalent of €15,000 or more in cash in a single transaction. We welcome the extension of the regulated sector and the intelligence benefits that this will provide.
81. All MSB and HVD businesses must register with HMRC. They must also pay an annual fee based on the number of premises through which they operate. The register comprises some 4,600 businesses operating through about 34,500 premises. Though the total number of businesses remains similar, there is a high turnover of registered businesses.
82. Under the Money Laundering Regulations 2003, businesses are required to have systems and controls in place to prevent money laundering and to enable them to identify and report suspicious activity to SOCA. Businesses must be controlled in such a way as to facilitate the identification of suspicious activity, the identities of customers must be confirmed and records must be held for five years. The regulations also provide that businesses must ensure staff are fully trained and appoint a nominated officer to report suspicious activity.
83. The regime will support the compliant but come down heavily upon businesses that shirk their responsibilities. HMRC will seek to inform the sectors of their responsibilities through quality guidance, and encourage co-operative working and improve best practice by holding regular trade forums and seminars. Non-compliance will be tackled with prompt and effective sanctions.
84. HMRC will work in partnership with the sectors to achieve strong anti-money laundering systems across the industry, maintain the integrity of the MSB sector via effective operation of a 'fit and proper' test (as required by the 3rd Money Laundering Directive) and assure compliance with the regulations through a risk-based visiting programme guided by a specialist intelligence unit.
85. Partnership working is key to the success of the regime. HMRC will consult with industry on any changes to our guidance, encourage industry to participate in this work and assist them to develop their own

guidance. We will seek industry views on any forthcoming legal changes, advising Treasury and Home Office of their opinions, and encourage the growth of trade bodies so that representations may be made direct to policymakers. HMRC will maintain frequent and regular dialogue with trade associations and individual businesses to improve anti-money laundering activity across the sector. Quarterly MSB Forums will allow the sector to discuss issues and facilitate best practice, and annual regional seminars will keep small businesses apprised of forthcoming developments and allow them to discuss their concerns.

86. HMRC's activity will maintain the integrity of the MSB sector. We will develop an effective anti-money laundering 'fit and proper' test that enhances the reputation of the MSB sector's active compliance with the regulations. We will make the process as transparent as possible and allow for independent appeals. Intelligence resources, including the development of advanced data-matching techniques in conjunction with the UK Financial Intelligence Unit at SOCA, will be utilised to "police the perimeter" and ensure that unregistered businesses do not pose unfair competition to the legitimate MSB sector. They will also be used to drive forward an awareness programme among other parts of HMRC and with agencies such as Police and Trading Standards to encourage the flow of information to enhance our risk profiles. We will continue to have early contact with each new registered business to confirm their understanding of the regulations and their responsibilities, thereafter visiting businesses according to perceived risk.
87. HMRC will regularly review the assurance and penalties policy to ensure that criminal activity and non-compliance with the regulations is promptly identified and remedied. Robust sanctions (including civil penalties) will be imposed to tackle non-compliance and, where non-compliance is serious and repeated, it may attract criminal sanctions. Where criminal offences are identified, HMRC will take the appropriate action under POCA in conjunction with RCPO.

Taxing Crime and the Criminal Taxes Unit

88. The Criminal Taxes Unit (CTU) will focus both on closure of the tax gap under PSA1 and on minimising the harm caused by crime in accordance with the wider governmental harm reduction agenda.
89. HMRC has been working with the Home Office and others in law enforcement to consider how direct taxation may be used as a means of taking some of the profit out of crime. It is intrinsic in the nature of their activity that many suspected criminals evade tax on the income, profits and gains derived from their activities, contributing to the tax gap. HMRC will use its tax powers to recover any unpaid taxes and bring these individuals and their businesses into the tax system, with the aim of increasing tax yields, disrupting criminal finances and reducing both the profitability of crime and the harm it causes.
90. Central to the taxing crime agenda is the creation of a Criminal Taxes Unit. This is a multi-disciplinary team, comprising civil and criminal investigators with direct and indirect tax experience, receivables staff to handle and advise on collection and enforcement, specialist intelligence and potentially secondees from the Police.
91. The team will develop HMRC's taxing crime capabilities and build our partnership with other agencies, for and with whom it will act as a central point of contact. The team will adopt a proactive approach to ensure that taxation is fully utilised as a weapon against crime. It will establish good working relationships with local forces and specialist units such as Financial Investigation Units, Regional Asset Recovery Teams and Fraud Units. Centrally, the team will develop the department's relationship with SOCA and will act as the liaison point for the use of direct tax for tackling crime with RCPO, SOCA, ARA, ACPO and other government department partners.
92. Our broad approach will be to ensure that, in any given case, we identify tax intervention opportunities, both civil and criminal, that may be used against identified suspects, their businesses and associates. Working in partnership with wider law enforcement, we will seek to use taxation to disrupt criminal finances. In appropriate cases the CTU will instigate and advise upon criminal investigation opportunities for tax evasion with a view to referral to RCPO for consideration of prosecution and subsequent confiscation of assets.
93. The Unit will manage information flows and select suitable cases for tax interventions. HMRC wishes to tap into the information that law enforcement financial investigators uncover about the financial activities of suspects, and ensure that this information is acted upon within the Unit or is brought to the attention of the tax inspector dealing with the suspect's tax affairs. The team will focus on all levels of criminality. It will liaise with the police to identify level 1 and 2 criminals

who are not fulfilling their tax obligations, and robustly pursue unpaid tax, late payment and filing, interest, fines and tax penalties. The team will also tackle the taxation of level 3 criminality in liaison with SOCA and other law enforcers, and will help develop HMRC's interface with SOCA.

94. HMRC is already working successfully with the police on a number of investigations, has identified several instances where tax interventions have been effective, and delivered criminal charges for tax evasion in some cases. HMRC is committed to maximising the use of direct taxation to raise the stakes for criminals and those who benefit from their activities, including their families and professional advisers.

Next Steps

95. This strategic framework document will act as an effective lever to promote the importance of asset recovery within other departmental strategies and provide a framework within which operational plans may be constructed in order to ensure delivery of HMRC's objectives. It is not the intention of this document to set out the ways in which operational business areas must operate in order to increase performance in the asset recovery arena. Rather, it provides a high-level framework within which operational colleagues will design plans and set targets in accordance with which the Department will deliver. These business areas will be responsible for converting the principles set out in this document into tangible results.
96. The Head of Criminal and Enforcement Policy within HMRC will chair an implementation steering committee which will oversee progress in delivery of the Criminal Finance Strategic Framework. All key HMRC stakeholders, such as Detection, Investigation, Intelligence, Central Compliance and ECOps will be represented on this group, which will ensure the desired impact upon other Departmental strategies and frameworks is being achieved. The group will report regularly to the Enforcement and Compliance Management Forum.
97. In the interests of sustained and relevant activity against criminal finances, it will be necessary to update this framework document from time to time. The frequency with which this is done will depend on wider developments (e.g. those arising from the report of the Prime Minister's Strategy Unit on asset recovery and the progress of the Serious Crime Bill, currently before Parliament) and agreed by the implementation steering committee.

Abbreviations

ACPO: Association of Chief Police Officers

AMLU: Anti Money Laundering Unit

ARA: Asset Recovery Board

ARA: Assets Recovery Agency

ARIS: Asset Recovery Incentivisation Scheme

ARWG: Asset Recovery Working Group

CEP: Criminal and Enforcement Policy

CFLT: Criminal Finance Litigation Team

CICFA: Concerted Inter-agency Criminal Finances Action Group

CRC: Commissioners of Revenue and Customs [Act] 2005

CTU: Criminal Taxes Unit

DOCEX: Document Exploitation Facility

ECMF: Enforcement and Compliance Management Forum

ECOps: Enforcement and Compliance Operations

FATF: Financial Action Task Force

FLO: Fiscal Liaison Officer

FSA: Financial Services Authority

HMCS: Her Majesty's Courts Service

HMG: Her Majesty's Government

HVD: High-Value Dealer

JARD: Joint Asset Recovery Database

MLR: Money Laundering Regulations

MSB: Money Service Business

POCA: Proceeds of Crime Act 2002

PSA: Public Service Agreement

RCPO: Revenue and Customs Prosecution Office

SARs: Suspicious Activity Reports

SOCA: Serious Organised Crime Agency

SOCAP: Serious Organised Crime and Police Act 2005