

Asset tracing - following the trail

Interest in the use of asset tracing procedures often focuses on actions connected with fraud and other criminal activities. Asset tracing may, however, be of value in a wider range of cases including matrimonial cases and commercial disputes.

What is asset tracing?


An asset tracing exercise follows the trail along which assets have passed. Forensic accountants will need to prepare an exhaustive analysis of the transactions along the trail and to consider the passage of the funds, possibly through intermediaries, from source to destination.

The importance of asset tracing

In addition to their part in fraud cases, asset tracing techniques can be particularly important in money-laundering investigations and in confiscation proceedings, in which there may be arguments concerning the identity of those controlling assets or in relation to the amounts involved and/or the location of assets. Asset tracing may also be useful in complex matrimonial cases, in which one or more of the parties may go to considerable lengths to conceal their assets, and commercial disputes, in which, for example, funds may have been moved from a company to a connected party via a circuitous route.

Tracking funds

Asset tracing is, in effect, the tracing of a monetary value (i.e. the value of the assets with which the trail starts). The source of the assets is normally a bank account from which the funds have been removed. The funds may then be turned into other types of asset, such as shares and property, on their way to their destination. In tracking the first stage of the funds' journey from the source bank account, the forensic accountant must identify the individuals or entities to which the funds have been paid or the bank accounts into which they have been transferred. Where funds have been transferred abroad, it may be possible to obtain access to the London correspondent accounts of overseas banks to which they have been transferred and thus to identify the next account in the chain.



Forensic accountants may find that funds have been paid into an account in which they are “co-mingled” with money from other sources. The legal principles governing the tracing of funds are complex, but it may be possible in some cases to “earmark” funds which have been co-mingled.

Attempts to trace funds can, however, be frustrated: for example by the conversion of funds into cash in hand, which can subsequently be spent, used to open bank accounts in names unrelated to those of the individuals or companies in possession of the funds, or converted into other currencies. Funds may also be paid to entities in jurisdictions in which it may be difficult to obtain information about movements on bank accounts or about companies to or from which payments have been made.

Information requirements

Documentation required from banks may include returned cheques, instructions to make transfers, statements, deposit slips, advices of transfers between accounts, letters of credit, documents confirming foreign exchange transactions, relevant correspondence and applications to open accounts. In addition, forensic accountants may need access to documents such as credit card receipts, share transfer forms, loan agreements, trust deeds, declarations of trust, documents evidencing powers of attorney, title deeds, companies’ financial statements and annual returns.

Forensic accountants’ work can be made easier by Court orders, including freezing orders and search and seizure orders. It may be essential to obtain orders quickly to prevent assets from being dissipated or transferred overseas.

Summary

Forensic accountants’ role in asset tracing is to track funds to their ultimate destination. A carefully planned tracing exercise can yield effective results. In order to maximise the value which forensic accountants can add in such cases, it is often necessary to involve them as quickly as possible. This is one area in which time is clearly of the essence.

To obtain further details of our activities or to benefit from the firm’s experience and expertise, please contact Rakesh Kapila or George Sim.

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