



MEDIA BRIEFING – JUNE 2015

Tip of the iceberg: the role of the banks in the FIFA story

Overview: the role of banks in FIFA alleged bribes

The headlines generated by the U.S. investigation into FIFA reveal allegations of serious corruption at football's governing body. Beneath the headlines, details are emerging of the crucial role banks played by processing the related payments. This has two elements:

- *Key mechanism for bribe payments.* It would have been almost impossible for the alleged bribery involving FIFA officials to have occurred without access to the financial system. Indeed, the U.S. Department of Justice has claimed that the accused relied on the use of "trusted intermediaries, bankers, financial advisors and currency dealers, to make and facilitate the making of illicit payments".¹ The U.S. authorities have listed over 20 banks which processed payments relating to the scandal (see table 1 below).
- *Did banks fail to do key checks?* In almost every country, anti-money laundering laws require banks to do a range of checks on their customers, to detect whether the money they handle might be the proceeds of crime, or intended for terrorist groups. At the very least, the allegations involving FIFA officials raise serious questions about whether the banks named in the indictment carried out the checks they are supposed to, and if so, whether they were adequate.² At least three banks, HSBC, Standard Chartered and Barclays have already announced internal probes into the payments.³

The wider corruption scandal involving banks

The involvement of the financial system in the FIFA bribery allegations is symptomatic of a much bigger problem and a largely hidden truth. Banks play an integral role in enabling large scale theft from state budgets, by providing a place for unscrupulous government officials to hide their ill-gotten gains, with devastating human rights implications. In the words of a Nigerian anti-corruption investigator *"if you know there's no landing space to land your plane, you don't take off in the first place. It's the same with money: if there is nowhere to land it once you've stolen it, you can't steal it"*.⁴

Key statistics:

- A World Bank study looking at a sample of 200 cases of large scale corruption found that governments were at least \$56.4bn poorer as a result.⁵
- According to research commissioned by the Nigerian government, the country and its citizens have missed out on at least \$35 billion over 10 years due to corruption in the oil industry.⁶ This represents more than one year of government spending. Just one tenth (\$3.5 billion) could have been used to give a basic education to the 5.5 million girls in Nigeria who are currently missing one.⁷
- UN Office on Drugs and Crime (UNODC) estimates that the amount of money laundered globally each year is between \$800 billion - \$2 trillion (2 - 5% of global GDP).⁸

- In 2011 the UK banking regulator (the Financial Services Authority) found that 75% banks were not doing enough to prevent money laundering.⁹ In 2014, it's replacement (the Financial Conduct Authority) found "significant and widespread weaknesses in most banks' anti-money laundering systems and controls."¹⁰

The cost of corruption

Corruption is not a victimless crime. It is major problem with a devastating human cost. Just as FIFA money going missing starves critical grassroots programmes of funding, theft of state funds traps millions more in poverty in developing countries. When officials steal from their country's coffers, they decimate funds that should be spent on hospitals, schools and other basic services.

Rich countries are affected too. Corruption thwarts competition and innovation, and adds to the cost of doing business around the world, undermining the global economy. A report by the B Team, a group of international CEOs and business leaders including Richard Branson and Mo Ibrahim, states "Corruption is bad for business, adding up to 10% to the cost of doing business globally, and is equivalent to a 20% tax on foreign businesses. It undermines competition and financial stability, and undercuts investments in human capital and sustainable development".¹¹ Corruption also leads to failed states and breeds terrorism, threatening the national security of all countries.

Banks have a history of breaking the rules

While many banks do a good job at upholding anti-money rules, a large number do not. This failure spans a spectrum: from lacking the required systems to spot suspect funds; to turning a blind eye when risky funds are identified; to knowingly handling ill-gotten gains. The result is that many banks leave the door wide open for money launderers.

This raises two main questions: why are many banks repeatedly breaking the law and/or regulatory standards, and what can be done to change this? Skewed incentives lie at the root of the problem. Under the current system, banks can make significant profit even if they handle tainted funds. There are several reasons for this: on a global basis the rules are rarely enforced; where penalties are handed out, they usually do not go far enough; and, senior executives who have oversight of breaches rarely face financial or reputational consequences themselves. It can even make sense for banks to break the rules under the present system.

The solutions

We need to change this balance of incentives, so that banks have much more to lose than they have to gain from handling suspect funds. By far the single most effective solution would be to hold senior bankers personally responsible when their banks break the rules. Until the people who run banks start to lose bonuses, face personal fines and suspension, or in the most extreme cases go to jail, they will not take the rules seriously.

Recent policy developments give cause for cautious optimism. This year the UK's Financial Conduct Authority will finalise the details of the Senior Managers Regime, a new measure to require banks to name a senior banker as responsible for each key risk the bank faces. Under current proposals this will include giving a senior manager the personal responsibility for ensuring that the bank complies with anti-money laundering rules. It is vital that the final policy ensures this is allocated to someone who reports to the board of a bank.¹² The EU has passed an updated Anti-Money Laundering Directive which should also give senior executives overall responsibility for the issue, and it is vital each member state implements this in an

effective way.¹³ However, as U.S. laws stand, officials have claimed it is extremely difficult for them to establish legal liability for executives,¹⁴ which is something that lawmakers should look to address.

Summary of key recommendations:

Governments and Regulators should:

- Start holding senior bankers personally responsible when banks violate anti-money laundering regulations.
- Remove legal impediments preventing authorities from holding senior executives personally liable for banks' wrongdoing.
- Adopt a much stronger, and smarter, approach to enforcing existing anti-money laundering rules.
- Establish adequate anti-money laundering regulations governing banks and others in countries where these regulations currently do not exist.
- Remove obstacles for banks (such as difficulties in identifying the real, ultimate owners of companies which they hold accounts for).

Banks should:

- Appoint someone from either the board, or senior management team, to have the overall responsibility for anti-money laundering regulations, as part of a broader culture change.
- Significantly enhance the scrutiny of accounts held by people with access to government budgets, and who pose a high risk of money laundering.
- Work closely with each other, governments and a range of actors to solve key problems.

About Global Witness

Global Witness exposes the hidden links between demand for natural resources, corruption, armed conflict and environmental destruction. We believe that the only way to protect peoples' rights to land, livelihoods and a fair share of their national wealth is to demand total transparency in the resources sector, sustainable and equitable resources management, and stopping the international financial system from propping up resource-related corruption. Our campaigns which focus on the financial system involve work to ensure that banks stop taking corrupt funds, including calling for much more robust enforcement of anti-money laundering regulations, and ending anonymous company ownership.

Further information

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- For a comprehensive look at this issue, with a range of case studies and examples of banks facilitating corruption and other serious crimes, and a full set of policy recommendations, see the new Global Witness briefing *Banks and Dirty Money* www.globalwitness.org/reports/banks-and-dirty-money

Table 1: Banks named in the U.S. court indictment¹⁵

Banks have been listed in the U.S. indictment for a number of reasons. Sometimes banks are listed for having processed alleged bribes, or for being used to spend the proceeds of the bribery; and some of the banks were simply correspondent banks – i.e. one stage in a chain of payments, and so would have limited access to information on the underlying nature of the transaction. At other times the bank is listed for being used as part of the suspected wire fraud conspiracy, which can include the bank being used to pay contracts which resulted from a bribe, but which may have seemed legitimate (e.g. the rights to broadcast football tournaments). As outlined above, none of the banks have been accused of any wrongdoing so far.

Bank	Location of bank	Paragraph mentioned in Indictment
Banco de Credito Centroamerica	Managua, Nicaragua	302
Banco do Brasil	New York, U.S.	125
Banco do Brasil	Asuncion, Paraguay	125
Banco Itau	New York, U.S.	163
Banco Itau	Brazil	206
Banco Itau	Miami, U.S.	206, 302
Banco Lafise	Costa Rica	293
Bank Hapoalim	Zurich, Switzerland	250-2, 258
Bank Julius Baer & Co	Zurich, Switzerland	250
Bank of America	New York	192, 196, 251, 284
BankInter	Madrid, Spain	206, 302
Barclays	Cayman Islands	138
Barclays	New York, U.S.	138
Capital Bank	Panama	237, 328
Citi Private Bank	New York, U.S.	46
Citibank	Miami, U.S.	179-182, 221, 231, 237, 250, 284, 293, 302, 328,
Delta National Bank & Trust Co	Miami, U.S.	46, 163, 229-230
Doha Bank	Qatar	221
Espirito Santa Bank	Miami, U.S.	251
Fidelity Bank	Cayman Islands	229-231, 315
First Citizens Bank	Trinidad and Tobago	138 , 179-182 , 194
FirstCaribbean International Bank	Bahamas	198
HSBC	New York, U.S.	229-231, 315
HSBC	Hong Kong	229-231, 315

HSBC	London, UK	163
Intercommercial Bank	Trinidad and Tobago	221
Itau Unibanco	New York, U.S.	163
JP Morgan Chase	New York, U.S.	163, 237, 250, 302
JP Morgan Chase	Miami, U.S.	258
Republic Bank	Trinidad and Tobago	192-193, 196-198, 213, 284
Standard Chartered	New York, U.S.	229-231, 315
UBS	Unclear	251
Wachovia	Unclear	179-182
Wells Fargo	New York, U.S.	237, 293

¹ See the Department of Justice indictment, p29 <http://www.justice.gov/opa/file/450211/download>

² For an example of transactions which might raise questions, see the BBC investigation looking at how alleged payments were laundered by then FIFA Vice President Jack Warner <http://www.bbc.co.uk/news/world-latin-america-33039014>

³ See the Daily Telegraph report <http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/11641624/Banks-probe-Fifa-payments-amid-corruption-allegations.html>

⁴ For a comprehensive look at this issue, with a range of case studies and examples of banks facilitating corruption and other serious crimes, and a full set of policy recommendations, see the new Global Witness briefing *Banks and Dirty Money* www.globalwitness.org/reports/banks-and-dirty-money

⁵ See the World Bank report "Puppet Masters" 2011, Appendix B, p117, <http://star.worldbank.org/star/sites/star/files/puppetmastersv1.pdf>

⁶ See the Guardian "Nigeria: how to lose \$35bn" November, 2013 <http://www.theguardian.com/world/2012/nov/13/nigeria-oil-corruption-ridabu>

⁷ This is based on the UNESCO figures which estimate that five years of schooling, the agreed level for a basic education, costs approximately \$125 per pupil per year. See the UNESCO: <http://unesdoc.unesco.org/images/0018/001885/188561e.pdf> For the figure of 5.5 million girls missing an education see the Nigerian Voice article about a UNESCO report in 2013 <http://www.thenigerianvoice.com/news/126463/1/nigeria-accounts-for-55m-out-of-school-girls-says-.html>

⁸ See the UNODC website <http://www.unodc.org/unodc/en/money-laundering/globalization.html> accessed May 2015

⁹ See the 2011 FSA report "Banks Management of High Money-Laundering Risk Situations", Executive Summary http://www.fsa.gov.uk/pubs/other/aml_final_report.pdf

¹⁰ See the FCA's press release for its report "How small banks manage money laundering and sanctions risk" November 2014 <http://www.fca.org.uk/news/fca-finds-small-firms-need-to-manage-financial-crime-risks-more-effectively>

¹¹ See the B-team report "Ending Anonymous Companies", Executive Summary p3 http://issuu.com/the-bteam/docs/bteam_business_case_report_final.we?e=15214291/11025500

The B Team is a global initiative that brings together international CEOs and business leaders to "make business work better." www.Bteam.org

¹² See the Financial Conduct Authority's latest document on the proposed Senior Manager's Regime: 0 <http://www.fca.org.uk/your-fca/documents/consultation-papers/cp15-09>

¹³ See the EU Council statement 12 January 2015, p67, point 3a <http://bit.ly/1F88VGU>

¹⁴ For example see the quotes from former Assistant Attorney General Nathan Hochman about the acquittal on aiding tax evasion charges of a senior executive at the Swiss Bank UBS, in this Bloomberg article <http://www.bloomberg.com/news/articles/2014-11-03/ex-ubs-executive-weil-acquitted-of-u-s-tax-conspiracy>

¹⁵ For the full indictment see <http://www.justice.gov/opa/file/450211/download>