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TYPOLOGIES REPORT

FY 2016

Financial Intelligence Unit
Kingdom of Lesotho

Lesotho

To Our Stakeholders

HIGHLIGHTS

This is the second issue in series also intended to raise awareness on trends relating to the commission of money laundering in Lesotho. It is a result of the analysis conducted on the financial information that was received for the financial year 2015/2016 that the Financial Intelligence Unit is able to produce this kind of a report. It has been established that the common way of laundering money is participating in pyramid schemes and tax evasion.

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Director
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1. Pyramid scheme

Definition

Pyramid is a fraudulent system of making money based on recruiting an ever increasing number of investors[1] which is presented as a legitimate business while in actual fact it is not. It is based mainly on recruiting people rather than selling goods or providing services. In pyramid scheme people are recruited to make payments to the person who recruited them while expecting to receive payments from the persons they recruit. The issue of pyramid scheme goes hand in hand with tax evasion as the proceeds there are not amenable to relevant taxes due to the fact that pyramid schemes are not licensed.

How pyramid scheme works.

At the heart of every pyramid scheme are two things; an investment with exceptionally attractive return given within a short space of time and the processes for participating are not tedious as opposed to licensed institutions which require KYC documents among others. Commonly pyramid schemes are known of high and quick returns with minimal or no risk at all. The owner of the scheme earns from payments made by recruited participants after he/she had made only one payment. The new participants recruit others and so on and so forth. The owner gets a cut from each and every payment made by every new participant with the result that him/her together with others at the top get more money while those at the bottom of the scheme always lose out. The first to join pyramid schemes do benefit while it is the opposite with those who join later.

With a view to lobby more trust from both the prospective and actual participants/investors the con artist pays returns as promised for months or

[1] www.ag.ny.gov

even for years. One would wonder as to how this is possible as there is never any actual investing done but with fraud this is possible. The profits come through the old “robbing Peter to pay Paul” method. New investors’ money goes right to pay old investors, thus keeping them happily unaware that their original capital is at a serious risk.

There are three categories of people who participate in pyramid schemes; those who partake out of greed, those who are misled into thinking that they are joining an investment club or a gift program and those who believe that the products are legitimate

CASE STUDY

(a) An entity which operated under the pretext that it was a stockvel became the subject of analysis. It was discovered during the analysis that the entity was operating a pyramid scheme and or alternatively conducting an unlicensed banking business in breach of section (5) (5) of the Financial Institutions Act of 2012.

The way in which it was conducted was, if investors invest Six Hundred Maloti in five (5) working days as the minimum amount, they would get a return of One Thousand Maloti. The maximum that one could invest was Ten Thousand Maloti with the administration fee of Two Thousand Maloti with a promised return of Twenty Thousand Maloti after twenty five (25) working days.

(b) In another scenario, quite a significant number of Basotho invested their funds with one on-line pyramid scheme called MMM. The funds were distributed to the participants under the guise that they were donations with the clear intention of avoiding the might of law because in actual fact they were investments.

Participants were donating in anticipation of getting back what was donated together with interest of thirty percent (30%) in some instances. As is always the case with schemes of these nature some claimed successfully while others never got anything in return. This was so prevalent that the transactions in excess of M 34,544,115.40 were recorded in four months' time. Pyramid schemes have a potential to create fertile ground for both Money Laundering and Terrorist Financing.

How to avoid pyramid schemes.

To avoid being conned one has to do among others the following;

- Find out if the investment seems too good to be true. If it seems to be, it probably is.
- Do your own due diligence by researching the business or the person himself before investing
- Don't let greed overcome your good judgement
- Should ask what the collateral is for one's investment. Always there are no collaterals with pyramid schemes
- Check with all relevant regulatory authorities

- Resist the temptation to invest just because the people selling you the program are friends or are part of your organization

- The more specific law geared at ousting pyramid schemes should be enacted

2. TAX EVASION.

Tax evasion is loosely defined as an intentional failure to pay due taxes mainly by submitting false reports.

The new established trend.

The manner on how tax is evaded as discovered through the analysis of the reports by the Financial Intelligence Unit is as follows;

Business persons use their personal bank accounts for conducting transactions that relate to affairs of their businesses and the majority of these transactions are cash deposits of round amounts which when traced back are found out to be business collections. Mostly these are credit transactions which are not even consistent with the customers' profiles identified during the establishment of business relationship.

Conversely quite a significant number of transactions conducted in business accounts are expenses in the name of salaries, purchase of stock/material etc. under normal circumstances one would expect some credits into the account after sale of stock, provision of services and or completion of assignment but our analysis has found the opposite. It is our considered opinion therefore that this is done with a sole purpose of masquerading business profits making way for tax evasion.

Case study.

This relates to one Mr. X who had XY as his Engineering Construction Company. He had both personal and business accounts held with MB Bank. Mr. X's personal bank account received large sums of money as a payment for the supply of services provided by XY engineering construction Company. After receipt of the payments, the Director Mr. X would transfer from his personal to business account an amount of money only enough to pay for wages and construction inputs.

The business account reflected only debit transactions thereby giving the impression that the business is not making any profits while in actual fact the profits are hidden in a personal bank account of Mr. X. The analysis of a personal account reflected the balance of **M3, 328,398.50** while that of the Business had the balance of **M2, 275,276.37.**

3. **Fraud**.

A person who deliberately makes to another person a false representation, or conceals from another a fact which in the circumstances he or she has a duty to reveal, with the intention that such a person should act upon the representation to his or her detriment, and thereby causes him or her so to act, commits the offence of fraud as contained by section 68(1) of Penal Code Act of 2010.

Case study.

One Mosotho national was charged for securing a loan under false pretences from one of the Commercial banks. The facts were that he went to the bank with his paramour and made the bank to believe that the particular individual was his wife with the result that she was given a leave to sign documents for a home loan application to the prejudice of the bank.

Owing to that misrepresentation, the Bank suffered the loss estimated to M700, 000.00 or there about. However the assets of the suspect were confiscated and sold in auction.