

# BCCA

british cheque cashers association

# newsletter

Issue 48 – Winter 2008

## The Quarterly Newsletter of the British Cheque Cashers Association

### **BARRIERS TO DEVELOPING BUSINESS**

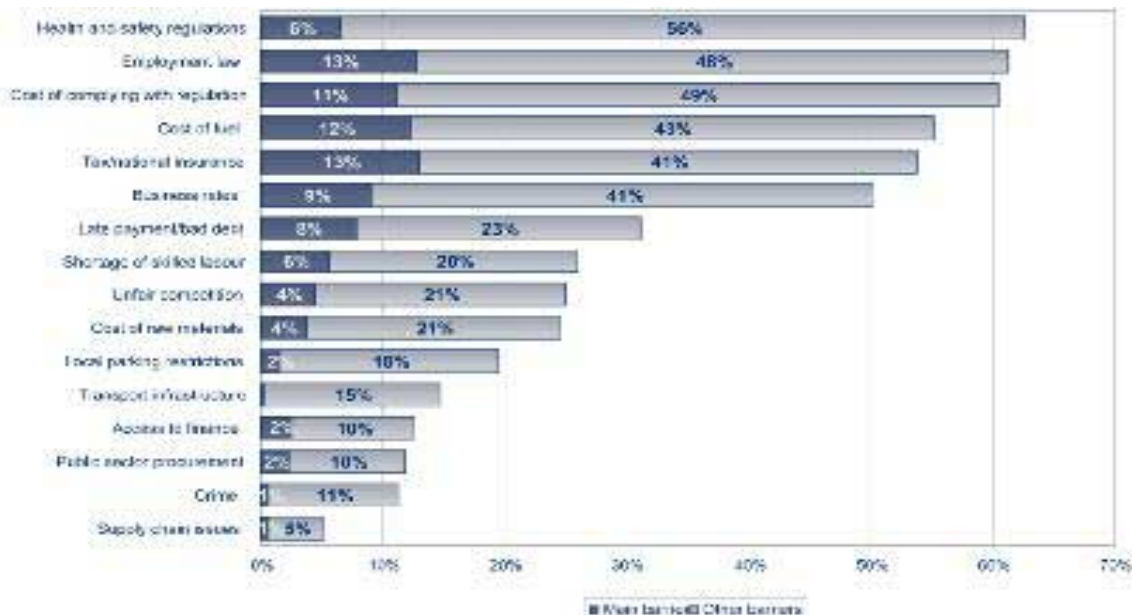
Life is full of coincidences and, as we were finalising the copy for this edition of the Newsletter, Lord Mandelson, the Government's Minister for Business, Enterprise and Regulatory Reform, appeared on BBC Radio 4 to announce a plan to underwrite bank lending to small and medium sized businesses. This initiative, apparently, will help to provide lines of credit and hence working capital for businesses which are finding times hard in the current economic climate (i.e. just about everyone). Whilst this is to be welcomed, we will see how it actually works out at some future stage.

The coincidence is that we recently came across the results of a survey conducted by the Forum of Private Business (FPB), an organisation with which the BCCA has a close relationship. The FPB asked its members which were the main barriers to business growth. The FPB's members identified six areas which were way ahead of the rest of the field. Disturbingly, five of these were *directly* within the government's control and the remaining one (the cost of fuel) partly influenced by government. Bearing in mind the government's declared policy of helping and "supporting" SMEs, we find this something of a paradox. So we asked Thomas Parry, Research Projects Manager at the Forum of Private Business, to analyse and comment upon the statistics. Thomas's findings are as follows.

*'Even in a recession, owners of small firms look at developing their businesses. In some cases, it can mean the difference between surviving or going into administration. Yet a recent poll of 7,000 members of the Forum of Private Business (FPB) shows that the barriers to growth have not changed significantly in the last few years. One respondent said the barriers now are the same as when he set up his business more than 20 years ago. These barriers (see image) can be summed up as regulation/red tape, the rising cost of doing business and taxation – which are no different to any other time. Access to finance, however, has become more significant over the last three months.'*

### In this edition

- 1-5** Barriers to developing business  
*View from the FPB*
- 5-6** Credit Regulation  
*View from the OFT*
- 6-11** BCCA Conference 2008  
*A Summary*
- 11-12** MLRO & Business Fined  
*Recent case*
- 12-14** Use of fake ID documents  
*Recent case*
- 14** 'Buffling'  
*An interesting survey*
- 14-15** Health & Safety Legislation  
*Update*
- 15** MLR DVD  
*Discount for members*
- 16** Keeping up with the fraudsters  
*Some useful statistics*



Bureaucracy is a serious problem for owner-managers of small businesses. It diverts their attention away from running their businesses, diminishing the focus of the business and the proprietors' resilience to keep the business going. 13% of the small-business employers surveyed by the FPB stated that employment law was the major barrier to developing their business and a total of 61% of respondents saw this as a significant impediment for their business.

Employment law has always been a key issue for owners and managers of smaller firms, but even more so now that unemployment is rising. Worryingly, some businesses are considering going into administration due to the cost of making staff redundant.

## Peace of mind in 2009...

As the economy tightens, cheque cashing is clearly a viable option for consumers who are looking for immediate or short term funds. However, the risks are greater as cash flow problems increase. **Transax Cheque Warranty** reduces the risks of non-payment by identifying your highest risks at the time of encashment and by providing you with a payment warranty on the majority of the cheques that are presented to you.

Our cheque intelligence is unrivalled: at any one time we know of **250,000** bank accounts under financial stress; we know of **2 million** stolen cheque numbers and **5 million** stolen cards. [You can screen all your cheques against this data - instantly.](#)

**In 2008 we received over 140,000 calls for warranty from Cheque Cashers. We alerted them to over £4 million of higher risk transactions (which they may otherwise have accepted). And we paid them over £1.8 million for bad debts.**

**The return on their Transax Cheque Warranty investment increased to a factor of 7 or more.**

There has never been a better time for any business to obtain a warranty on payments. With **Transax Cheque Warranty**, cheques become one of the most secure forms of payment.

For further information, call Mike Bradley on 0121 410 4458

**You take the cheque - and we will take the risk!**



Transax Cheque Warranty is provided by Certegy Ltd, part of Fidelity National Information Services Inc. Services provided by Certegy Ltd are covered by the Financial Ombudsman Service. [www.fidelityinfoservices.com/EMEApayments](http://www.fidelityinfoservices.com/EMEApayments)

Currently, owner-managers of smaller businesses are spending an average of 2 hours 40 minutes per week on complying with employment law rather than dealing with the needs of their businesses. Somewhat bizarrely, the response from the Government has been to support the increase of regulation, through the introduction of the Equal Pay and Flexible Working Bill. It is no wonder that 89% of respondents expect employment law to increase over the next 12 months, when what the economy really needs is a reduction.

Anecdotal evidence from the FPB's members indicates that those small-business employers that become sole-traders are unlikely to re-employ people in the future, preferring to use subcontractors and freelancers instead, which will have long-term implications for the UK economy.

When asked what measures the Government should take to help businesses overcome these barriers to growth, 15% of respondents cited

the simplification and limitation of health and safety regulations, while 74% wanted it to be better defined.

This is unsurprising as the FPB's research from June 2008 suggested that 1 in 5 managers responsible for health and safety did not know whether their companies would successfully pass a health and safety audit, despite them having in-depth knowledge of their own health and safety policies. Overall, health and safety regulations were considered an excessive burden by around 75% of respondents, mainly because owner-managers do not know how stringent the assessors will be or what the cost of instigating such changes will be.

The cost of complying with new regulations is another key barrier, as stability in the regulatory environment is key for businesses and allows them to improve their working practices according to market conditions. Research from the Department for Business, Enterprise and Regulatory Reform (BERR) indicates that,

# faster funds...



**1**

**pay the cheques into our bank account**

**2**

**notify us via fax or email**

**3**

**see the funds in your account just 48 hours later!**

whether an independent or a multiple operator we provide the best cheque encashment service without lengthy contracts or tie-in's

why wait? call David Wheeler today and start benefiting from our service within a few days

[www.cashandchequeexpress.co.uk/bcca](http://www.cashandchequeexpress.co.uk/bcca)

**cash & cheque**  
express

01923 606158 | 07738 544944 | david@cashandchequeexpress.co.uk

once a business has become accustomed to a particular regulation, the financial burden of complying with said regulation can drop by up to 40%. For some businesses, however, the cost of compliance has been almost crippling, due to the excessive requirements of industry-specific regulations, such as REACH, as well as the volatile economic conditions.

Taxation was cited by respondents as the other big barrier to the development of their businesses; a problem that has become more acute as access to working capital has waned. Owner-managers of smaller businesses clearly view as grossly unfair the policy of the Government to cut corporation tax for big businesses while increasing it for smaller firms. Reversing this decision was the measure that most business-owners wanted to see in the Pre-Budget Report. Tax and National Insurance is seen by owner-managers as a barrier to reinvesting further in their businesses. To many respondents, the answer to the current economic conditions is simple – “allow small businesses as much of their profit as possible to stimulate growth” – yet the concern is that small-business employers will have to bear the brunt of financing the country’s debt.

The rising cost of doing business is also a key issue for businesses, worsened by the cost of fuel, which works as an inflator of prices throughout the supply chain. Even with the recent reductions in the cost of petrol, there is still a concern that the proposed increase in fuel excise duty is a step in the wrong direction, with 60% of respondents to the FPB’s survey calling for a reduction in the duty. Comments made by some respondents indicate that ‘the rising cost of doing business’ also includes issues with utilities companies, such as incorrect billing and no reduction in the high cost of fuel despite the reduction in wholesale prices.

Business rates have also added to the increase in business costs over the last few years and the FPB is particularly concerned about the introduction of

supplementary business rates to pay for the cost of large infrastructure improvements, such as the Crossrail project in London. Many small-business retailers have already commented on the impact of business rates on the high street, where we are starting to see an increasing number of boarded-up premises.

Measures such as cutting VAT was mainly a secondary response to reduction of regulation and a decrease in corporation tax. However, for construction companies, cutting VAT was a key requirement for an industry that is struggling at the moment.

It is worth pointing out that this research was undertaken in the week before Lehman Brothers went into administration; a time when financial barriers to business growth were less of a concern than they are now. This perception is backed up by the figures from the FPB’s member helpline, which has seen a marked increase in calls about finance in recent months.

The research does, however, show that there is a need for a more holistic approach to supporting small and medium-sized business employers, rather than just simple provision of financial support from the banks. As such, the FPB will continue to lobby for small-business employers on regulatory matters and those that add unnecessary costs for small firms, as well as the more immediate issue of providing working capital for businesses over the next six months.’

As members will know, the BCCA is run as a (very) small limited company, with its shares held in trust on behalf of the Association’s members. As such, we’re not surprised that the FPB’s members came up with these answers as we have the same issues ourselves. Yesterday’s jobs included signing a large cheque for the PAYE and national insurance (including the extortionate employer’s contribution of 12.8%) and compiling the VAT return.

Rather than having a go at the banks, in which the state now has a substantial “investment”, to use the word in its loosest possible sense, perhaps the government should have a REAL look at what it can do to reduce the burdens. There have been and still are plenty of initiatives, including those aimed at “better regulation”, on which we’ve commented upon in the past, but, despite the spin and claims of success, nothing’s really changed. Perhaps Lord Mandelson should concentrate on outcome instead of input but sadly that’s not public sector philosophy. That reminds us, it’s been several weeks since we last counted the plasters in the BCCA’s first aid kit.....

We would like to remind BCCA members, the vast majority of whom are small businesses, that they are entitled to join the Forum of Private Business on very favourable terms and can then take advantage of a range of member benefits, including very low plastic card transaction charges. You can find further details in the “members only” section of the BCCA’s website and on the FPB’s website.

## **THE OFT’S APPROACH TO CREDIT REGULATION**

The BCCA has a long established and very positive relationship with the Office of Fair Trading (OFT), not that we always agree with each other by any means, but overall it works well. As regular readers will be aware, the Office of Fair Trading has adopted a “risk based” approach to consumer credit licensing and regulation. Although we have covered this topic before, there has been a lot of inaccurate reporting elsewhere so we thought that it would be helpful to find out exactly what the OFT’s policy is and in particular, the role of trade associations such as the BCCA. So we asked Ray Watson, the OFT’s Director of Consumer Credit, for his views. Ray kindly agreed to write the following item for the Newsletter.

*‘A core part of the OFT’s approach to regulation of the activities of consumer credit licence holders is the constructive dialogue we enjoy with trade associations such as the BCCA. We believe that wherever possible and appropriate,*

# Become a N&N Cheque Cashing Agent

- Fast reimbursement
  - Excellent commission
  - Flexible debt options
  - Free signage and POS
- Plus*

I.T. solutions to meet requirements

Multiple product offerings inc.

MoneyGram International Money Transfer and  
JustCash Prepaid Card

*There’s never been a better time for your business to benefit*

Contact Rachel Sedgwick: Freephone 0800 195 9530

Email [rachel.sedgwick@cheque-exchange.co.uk](mailto:rachel.sedgwick@cheque-exchange.co.uk)



## **N&N Simple Financial Solutions**

Cheque Exchange Ltd 2007. All rights reserved.

*we should work with the businesses we regulate and their representatives to seek to ensure compliance, without us needing to resort to regulatory action. Given that many of the businesses we regulate do not pose problems, this makes sound sense as it means we do not need to bother them and can focus our finite resources on tackling the causes of major detriment in the credit market.*

*The importance of effective self-regulation is something we stress for all areas of the credit market. By issuing guidance on fitness, attending conferences and seminars and having regular meetings with trade bodies and businesses – the BCCA’s Chief Executive Geoff Holland and I meet frequently to discuss credit issues – we aim to ensure that those we regulate know what we expect of them and that we are made aware of their concerns. We believe there is a community of interest between us in ensuring acceptable standards of behaviour among licensees. Where such standards exist, consumers feel secure, have confidence and are happy to contract with fair dealing businesses. This benefits both those consumers and the businesses that operate within the market.*

*Clearly, the OFT’s primary role is to protect consumers. Businesses which harm or pose threats to consumers because they engage in unlawful behaviour or unfair business practices or which pose a danger through lack of competence must be kept out of, or removed from, the credit market. Our focus is on ensuring this while not imposing unnecessary burdens on good businesses.*

*As well as individual problem businesses and their behaviour, we also target our resources on sectors where the risk of serious consumer detriment is high. I would stress that this does not mean all businesses engaged in such activity are themselves high risk. It is the **potential** for harm to consumers from an **activity** that determines the risk – not the specific conduct of any individual business.*

*Thus if someone unscrupulous was allowed to enter the market and engage in one of the high risk activities, there would be potential for very serious damage to consumers. Businesses that have been established for some time and given us no reason to call into question their credit competence and/or to consider that they pose a particular risk to consumers, have not as yet been subject to any substantive additional burdens. When the licences of such businesses come up for renewal we will now seek confirmation of skills, experience, knowledge and systems - but for competent and established businesses this should not mean any more than simply providing evidence to demonstrate what they do in practice.*

*Our open approach and commitment to dialogue is reflected in our project on irresponsible lending which we launched in August last year. The BCCA and other trade bodies are among those fully engaged in this project. I would urge you if you have views to feed them through to the BCCA as they will then be brought straight to us.*

*So my key message to you is to work with your trade body, know your legal obligations and treat your customers well. If you do this you will have no reason to be concerned about regulation.’*

*As Ray says, we will be fully involved with the OFT’s “irresponsible lending” project. Meetings are scheduled for late January and February and a consultation document is due out in late March. The OFT’s final guidance should be published around the end of July.*

## **BACK TO THE FUTURE FOR BCCA**

The BCCA’s Conference was a resounding success judging by the feedback given on the day. We would like to thank the main sponsors (APS, Transax, Teletrack), the lunch sponsor, GB Group, and all exhibitors, for their support and for contributing to that success. We would also like to thank all delegates who were able to attend.

For those members who did not come to the event, you will find a questionnaire inside this newsletter which we hope you'll fill in and return to us. This will enable us to understand the reasons why some members don't attend Conference and it will allow you to air your views. The questionnaire comes with a freepost addressed envelope so it'll cost you nothing other than 5 minutes of your time to complete!

For this year's Conference, we asked Jill Hulme, the BCCA's PR Consultant, if she would provide a summary of the day's events.

*'BCCA members may have gone back to the familiar surroundings of the Forest of Arden hotel for the 2008 conference on 6<sup>th</sup> November, but the focus was firmly on the future.*

*Retiring Chairman David Carver opened the meeting by summarising the BCCA's important role in helping to shape national policy and regulation, and its efforts to protect and promote the value of cheques. He thanked Geoff, Rachael and Lindsay for their hard work, and handed over to new chairman, Michael Liley.*

*In his 'state of the nation' address, Geoff emphasised that the BCCA's predictions for the future were now happening in the present. These included a boom in short term, low value loans (known as micro lending) as a strong and cheaper alternative to authorised or unauthorised bank overdrafts.*

*Key activity over the last 12 months has included:*

- *Broadening the BCCA's Constitution to include other types of lenders*
- *Strengthening relationships with regulators and legislators such as the OFT, HMRC and BERR*

- *Responding to an increasing number of requests for advice and assistance from members and consumers. No member using the BCCA's complaints procedure has been referred to the Financial Ombudsman Service in the last year*
- *Growing take-up of the cheque alert scheme by members, leading to a reduction in third party cheque fraud*
- *A brand new website, plus an increased range of member benefits including products and services available at a discount*
- *Assisting members with the implementation of the Consumer Credit Act amendments and the Money Laundering Regulations.*

*"Responding to consultation documents and regulatory changes has been a very significant part of our workload," added Geoff. "We're contributing to the debate on the Payments Council's proposals to wind down the cheque clearing system and the review of the cheque guarantee scheme, plus the initial stages of the OFT's irresponsible lending review. BERR has set up 14 working groups to look at the practicalities of adopting the European Consumer Credit Directive and the BCCA is also involved in all of these groups."*

*Looking to the future, Geoff reinforced the BCCA's commitment to defending its members' interests, in conjunction with other trade associations where appropriate. To survive the economic downturn, he emphasised that members need to maintain high levels of regulatory compliance, fair dealing and customer service. "The UK is a good place to do business, with a strict but realistic regulatory regime, and the future holds plenty of opportunities for members," he added.*

### Speaker Round-up

**Peter Sparkes** (Cheque & Credit Clearing Company) kicked off the guest speaker sessions by talking about the UK clearing system, which handles cheques worth £4.5 billion each day. With cheques declining in volume, credit cards and ATMs are seeing a growth in transactions. However, 61% of all financial transactions are still in cash. He also outlined the Payments Council's timetable for producing a roadmap by the end of 2009 for the eventual phasing out of cheques.

The new consumer credit licensing regime was the main theme of **Nigel Cates'** (OFT) presentation. He highlighted the good working relationship between the OFT and the BCCA, and the key role of the association in helping members comply with the licensing regime. Key changes from 1 October 2008 include: the new fitness test for licence applications/renewals; the OFT's risk-based approach to

licensing with more focus on areas where there was a potentially higher risk to borrowers; the introduction of the lifetime licence with five-yearly 'top-ups'; and the introduction of proportionate sanctions for misconduct. He also spoke about the Irresponsible Lending Review, which will result in new OFT guidance in the next 9-12 months.

**Mike Bradley** (Transax) outlined the problem of attempted fraud. His company has provided warranties on cheques worth £1 billion in the last year, including £18 million of protection to cheque-cashers. Transax believes 2019 may be the final closure date for the cheque clearing system, but has concerns about the cost to consumers and business, as well as the viability of alternatives such as mobile payments. He outlined the 'We love cheques forever' campaign, and urged members to highlight the benefit of cheques to their business contacts and MP.

## Stop cheque fraud...

In recent years millions of pounds have been lost to cheque fraud – protect your business from this threat by confidently verifying your customers identity with ID from Tracesmart.

- Instantly verify customer identity and residency
- Validate passports, driving licenses and debit/credit cards
- Confirm identity without leaving a credit footprint
- Prevent fraudulent cheque cashing

**Protect your business from fraud – contact Tracesmart today for a free trial:**



t: 02920 474 150  
e: [info@tracesmartcorporate.co.uk](mailto:info@tracesmartcorporate.co.uk)  
[www.tracesmartcorporate.co.uk](http://www.tracesmartcorporate.co.uk)

**TRACESMART**<sup>®</sup>  
CORPORATE





**MANY BCCA  
MEMBERS ARE  
ALREADY  
CASHING IN!  
JOIN THEM  
NOW!**

## **CHEQUE US OUT... AND MAKE EVEN MORE MONEY!**

Adding the Western Union money transfer service to your business can seriously increase your profits. What's more becoming an Agent will not cost you a penny! The extra footfall you receive will also give you increased opportunities to make even more money.



**Start making more money  
call 0208 563 6614 to find out how**



Three themes were covered by legal expert **Jeanette Harwood** (Walker Morris): the increasing number of companies examining the payday loan market; increased scrutiny of the industry by the public, media, regulators and politicians; and the regulatory maze facing BCCA members. Jeanette reminded members of their obligations under the Anti-Money Laundering regulations, particularly the need for due diligence on all customers. She also highlighted the key changes to the Consumer Credit Act, including the new arrears and default notices.

With cheques ultimately being phased out, **Rich Wagner** (APS) encouraged members to look at new revenue streams for the future such as pre-paid cards. He outlined the customer benefits of the APS product, including low ATM fees, purchase protection, a credit builder facility and a cash back option. For lenders,

APS offers a range of support including site visits to assist with compliance, a faster sales process and increased commission available from day one.

Following an excellent lunch sponsored by GB Group, the afternoon session began with **Jill Hulme** (JLH PR) speaking about growing media interest in the industry. She outlined the BCCA's policy of engagement with journalists to help inform them and get across positive messages. Jill also advised members on the do's and don'ts of handling the press if they receive calls from journalists.

How credit information can assist with responsible lending was the key theme for **Dale Williams** (Teletrack). By providing an independent assessment of a potential customer's ability to repay and their current indebtedness, Teletrack can help members to know their customers, avoid those with



Specialists in  
**Business and Property Insurance**

for BCCA cheque cashers, pawnbrokers & jewellers.

Geoffrey Cavalier has been providing a personal service to BCCA members since 1999.

We will advise and make recommendations for your business needs.

Offering insurance from a range of companies insuring you get the best premium rates.

Commercial building cover for shop, office, warehousing, buy to let, including loss of rent.

**Business Insurance Services UK**

Commercial, Property and Business

Settington Cottage, 79 High Street, Gillingham, Kent ME7 1BL.

Tel: 01634 855161 Fax: 01634 855191 e-mail: [gmcavalier@round-head.co.uk](mailto:gmcavalier@round-head.co.uk)



multiple concurrent loans and prevent fraud. The company's database holds 200 million records for 37 million unique consumers.

BCCA members are the eyes and ears of the fight against financial crime according to **Stephen Hardwick** (Serious Organised Crime Agency). The Suspicious Activity Reporting (SARs) regime alerts the authorities to possible criminal activity, including laundering drugs money and funding terrorism. In 2007, 220,000 SARs were submitted, including 6,920 from cheque cashers. He outlined the penalties for not reporting suspicious transactions, including a prison sentence, and urged members to submit a SAR if they had any concerns at all about a customer.

**Nicki Rose** (Trading Standards Institute) has 18 years' experience as a Trading Standards Officer, and is the TSI Lead Officer for Banking and Finance. She outlined her role in getting feedback on how regulation is working, responding to consultations and dealing with the press on consumer finance stories. Nicki emphasised that trading standards officers strive to create a level playing field for lenders as well as consumers, for example by investigating and closing down websites selling fake IDs and highlighting that high APRs are not by themselves an indication of an unfair loan agreement.

The conference was rounded off by **Paul McManus** (GB Group) who focused on the importance of identity verification. In the last year, fraud has cost the economy an estimated £13.8 billion, with 230,000 offences committed. The benefits to members of using GB Group's service includes increasing the number of accounts that can be opened (around a 40% uplift in business); the customer feels safer and their asset value increases; fraud drops by 60-80% and charge backs by 40%. Members can maximise revenue by managing risk.'

## **MLRO'S IN THE FINING LINE**

Recently the FSA fined an MLRO and its business for failing to ensure that it had suitable anti money laundering compliance procedures in place. This is a scary thought for any MLRO and demonstrates that this job is not for the faint hearted. We asked Ian Hargreaves and Elizabeth Robertson from law firm Addleshaw Goddard LLP to review this case.

*'Anyone working in a Regulated environment, especially in the financial sector over the last 12 months will be aware of the increasing clamour of voices demanding tighter regulation and stiffer penalties when regulatory breaches occur. Rightly or wrongly, "light touch" regulation is blamed as a significant factor in the global financial crisis. The increased activity of the Financial Services Authority ("FSA") and other regulators since the summer, as they respond to this criticism, is particularly evident from the Enforcement Division of the FSA against Approved Persons in an effort to ensure compliance is at the top of the agenda of all businesses backed up by a credible deterrence policy.*

Last week's landmark decision by the FSA to fine the Money Laundering Reporting Officer ("MLRO") at financial advisory firm Sindicatum will send a shiver down the spine of MLROs up and down the country. It is a salutary reminder to those who fulfil this function for businesses of the personal responsibility for ensuring that a business complies with regulatory requirements.

Sindicatum's founder, director and MLRO was fined £17,500 and the business was fined £49,000 for not having proper systems in place for ensuring that AML procedures were complied with. The FSA found that the firm did not obtain adequate due diligence information or keep sufficient records of its work for many of its clients. A further aggravating feature was that although Sindicatum employed external consultants to carry out regular compliance audits, findings and recommendations from these reviews were not followed up by the management properly.

### **The FSA's decision:-**

1. *The Firm – Breach of Principle 3 - Failure to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, including identification verification long after the entity became a client, KYC documents in foreign languages without evidence that they had been translated or understood, no independent verification of documents and no evidence to support that directors and owners were in fact the directors and owners of client businesses.*

2. *The MLRO – Breach of Principle 7 – Failure to comply with the relevant standards and requirements of the regulatory system. The MLRO failed to ensure checklists were fully completed and did not notify the Board of compliance problems in his annual MLRO report. Principle 7 covers all persons undertaking “Significant Influence Functions” and gives this decision a much wider application.*

### **Conclusions**

*This decision is relevant to MLROs and Compliance officers regulated by the FSA but it has much wider application, for example, to MLROs in law firms who are regulated by the Solicitors Regulatory Authority or others who fulfil Anti Money Laundering functions in businesses supervised by HM Revenue and Customs or the Office of Fair Trading who will all, no doubt, follow where the FSA leads.*

*This case reinforces the importance of the MLRO/Compliance function and the personal risks involved in taking on such a position. A senior person clearly needs to fulfil the role with a good understanding of the business but there is also a tension and a risk if that person has too many other duties or is also responsible for generating new business where compliance procedures can sometimes be seen as a barrier to success.*

*Training and audits will only take a business so far if problems are not identified quickly and acted upon. The real challenge is to make compliance a central part of individual and business success otherwise the guns at the FSA and other regulators will keep on “fining”.*

Ian qualified as a solicitor at Macfarlanes and joined Theodore Goddard in 1994. Ian has been a partner in Addleshaw Goddard since 2003. Ian specialises in fraud and has significant experience in dealing with employee fraud. He has advised and is currently advising FTSE 100 companies on frauds perpetrated against them including advice on the tracing of assets. Ian is the Money Laundering Reporting Officer for Addleshaw Goddard and has advised several clients on the relevant legislation together with the implementation of policies and good practice in this area.

Elizabeth joined Addleshaw Goddard as a partner in September 2007. Her main practice area is domestic and international business crime and regulation. Elizabeth's particular areas of expertise include FSA investigations, compliance and risk, money laundering and mutual legal assistance. She has successfully represented Governments, individuals, trusts and corporate clients dealing with many high profile and politically sensitive investigations in the UK, Europe, the US and India. Elizabeth has represented clients facing proceedings brought by the Serious Fraud Office (SFO), the Financial Services Authority (FSA), Revenue and Customs and other Government Regulators.

### **USE OF FAKE ID DOCUMENTS: FOOD FOR THOUGHT**

As all cheque cashing members will know, there is always the possibility that a customer will attempt to use false identity documents to cash a cheque. Thankfully, the procedures that members have in place usually means that fraudulent documents are rooted out before the cheque is cashed.

# Unique, Specialised Credit Performance Data

© 2009 Teletrack UK Ltd. All Rights Reserved.

## Real-time Credit Assessment, Fraud Check and Identity Verification

Specialising in providing information on non-traditional consumer credit applicants, Teletrack UK Ltd. is a credit reference agency that offers a full complement of risk assessment tools that are timely, relevant and focused on consumer credit performance within sub-prime lending markets. Since Teletrack's focus is non-traditional lending markets, the information contained in our database includes credit performance history gathered from payday advance providers and other businesses offering solutions to consumers with less than perfect credit history. Teletrack UK Ltd. combines information from our proprietary, sub-prime AWARE database with market leading traditional credit reporting and fraud prevention/consumer authentication services.

As a single-point of access to Teletrack's AWARE database and additional external databases, our solution is designed to help you make the best lending decisions possible. Contact us today to see how Teletrack can help you continue to grow your business.

**Call 0845 0171052 or visit us at [www.teletrack.co.uk](http://www.teletrack.co.uk).**



*A First Advantage Company*

What the BCCA has been interested to learn is that the use for which a false identity document such as a passport is used could be of potential significance when sentencing a person for possession, according to the Court of Appeal in the recent case of **Regina V Omotade (O)**.

In this case, O was appealing against sentence after pleading guilty to a single offence of possession of a false identity document with intent, contrary to section 25 of the Identity Cards Act 2006. The case is very relevant because O had used a false Nigerian passport to try and cash a cheque to which she was entitled.

Originally O was sentenced to 15 months and the judge said that this fell in the middle of the custodial sentencing range advised in the case of **R v Kolawole (K) [2005]**. That range was 12 to 18 months. However, that was considered to be the appropriate sentencing practice for a guilty plea to a passport offence under the Forgery and Counterfeiting Act 1981 where the defendant was of good character and a single passport had been used.

However, O's case was distinguished under the 2006 Act, as the defendant was using the false passport to obtain a sum payable under a cheque to which she was entitled. O's sentence was reduced from 15 months to 10.

On this basis it might have been the case that had she tried to cash a cheque which she was not entitled to, using a false identity document, her sentence could have been longer.

### ***DO YOU THINK OUTSIDE THE BOX?***

We all do it in our professional lives and perhaps socially. Yes we all employ a bit of 'buffling.' That is, waffling in business terms to impress our colleagues or friends. Phrases

such as *'thinking outside the box'* or *'singing from the same hymn sheet'* are used as well as *'touching base'* or *'going forward'*.

According to nearly half of Britons surveyed by YouGov, the use of such terms is on the increase as employees try to impress their bosses. These terms could be reminiscent of old chat up lines, well used, despite the cliché, in a desperate attempt to impress. But do they work?

Well according to the survey, 20% of respondents believed that use of such terms has had or could have a positive effect on their careers. The increase use of these terms has been blamed on popular business TV reality shows such as *'The Apprentice'* or *'Dragon's Den.'* Who knows when this phenomenon will end.

### ***LOCKED UP!***

New health and safety legislation coming into force this month (January) should force employers to ensure that the law is followed as greater sanctions are introduced. The new Act should ensure that employees also play their part in compliance. We asked Stephen Thomas of the Safety Technical Team at Croner (Croner supply the BCCA's Business Support Helpline) if he could explain the new provisions.

*'A new Act coming into force in the New Year allows anyone who is convicted of a health and safety offence, including directors and other senior managers to be imprisoned where previously they were subject only to court-imposed fines.*

### ***What is it?***

*The Health and Safety (Offences) Act 2008 received Royal Assent on 16 October 2008. The Act amends s.33 of the Health and Safety at Work etc. Act 1974 (HASAWA) and will come into force in January 2009.*

*Although it does not actually create any new offences or legal duties, the legislation will increase penalties and provide courts with greater sentencing powers for those who flout health and safety legislation. The maximum penalties that can be imposed for breaching safety regulations in the lower courts have been raised from £5,000 to £20,000 and the range of offences for which an individual can be imprisoned has also been broadened.*

### **What does this mean?**

*In the past, a prison sentence following a conviction under health and safety law was generally handed down only where a workplace fatality had occurred and the person in charge was shown in court to be grossly negligent.*

*Once the new Act is in force, Directors and Senior Managers who are shown to have been negligent or have consented or connived with the commission of an offence could now face imprisonment. One such example would be if a director or senior manager asks an employee to bypass the guard on a machine, which results in a serious injury or fatality.*

*Individual employees who commit an offence under Section 7 of HASAWA by failing to take reasonable care of fellow employees, such as accidents as a result of horseplay or failure to follow training or health and safety procedures are also covered by the new legislation.*

*The new Act will inevitably result in higher fines and more prison sentences for negligent bosses following serious or fatal accidents that occur from January. As ever, it is vital to the health of a business to ensure that standards of health and safety are kept high (particularly during the current economic climate) or, at the very least, the minimum legislative requirements are met.'*

Stephen is responsible for co-ordinating legislative updates for Croner Consulting customer products and the development of new products. He also writes articles for a

number of publications, delivers training courses and advises colleagues on changes to health and safety legislation. If BCCA members want further information about this they should contact Croner on **08445 618133** and quote the BCCA Scheme number.

### **'TWO DILIGENTS' DVD – DISCOUNT FOR BCCA MEMBERS**

The BCCA is regularly contacted by businesses offering products or services which they believe will be of value to BCCA members. One such product came from **Money Laundering Resource (MLR)**. They offer, amongst other things, a training DVD for staff working within businesses that need to comply with the Money Laundering Regulations 2007. As all BCCA members will know, it is a requirement of the Regulations that all staff are regularly trained on this legislation. Money Laundering Resource can send out an evaluation copy of the DVD before you place an order so that you can see whether or not this would be useful to your business. Although none of the DVD's specifically relate to cheque cashing, the BCCA requested an evaluation copy of the DVD that we thought would be most suitable; 'Two Diligent's DVD: **All Businesses**'. In our opinion, the DVD is very good, raising some of the issues surrounding money laundering that could affect any business, particularly relating to customer due diligence. Although the BCCA is unable to 'recommend' products or services per se we feel that this DVD might be of value to some members. As a result, we have negotiated a **10% discount for our members** on the current published price. At the time that the BCCA newsletter went to print this was £595 (plus VAT) (without the discount applied). For further information on the DVD, you can visit the Money Laundering Resource website at [www.mlro.net](http://www.mlro.net) or telephone 01223 554999.

## **FRAUDSTERS CHANGE TACTICS**

Fraudsters constantly change and evolve. They move with the times and are often ahead of it. In many respects it is the only way that the fraudster can survive.

As a result, it would seem that fraudsters are moving away from application fraud, because of the restrictions on credit in the current economic climate, according to a report from the all-party parliamentary group on identity fraud. Instead it would appear they are targeting existing accounts. The report also claims that there has been a vast increase in cyber crime where fraudsters use the internet and email to tap into existing accounts.

APACS figures support the comments made in the all-party parliamentary group report as they show that there has been a 185% increase in online banking fraud losses from January to June 2007 contrasted with the same period in 2008. In addition, the number of phishing incidents is also up 186% from January to June 2007 contrasted with the same period in 2008. Phishing works by fraudsters sending emails to unsuspecting people posing as reputable organisations such as banks or government agencies that the person might have a relationship with. They then ask them to 'validate' or 'confirm' their account information once the person has been directed to a website which looks genuine but is not. The fraudster relies on the unsuspecting recipient to provide personal information or confidential passwords which will allow them to, for

example, steal a person's identity and run up bills in the recipient's name. Phone, internet and mail order card fraud losses on UK issued cards was also up 18%. However, with the increase in online shopping this was inevitable.

The only significant decrease in fraud according to the APACS statistics is fraud losses on lost or stolen cards which is down 11% from January to June 2007 contrasted with the same period in 2008. In the past three years this type of fraud has fallen by 38% and is now at its lowest level for 10 years. One would suggest that consumers are getting better at looking after their cards/ wallets and are promptly reporting thefts/ losses to their banks.

Some other interesting trends from the APACS statistics were:

*(Period: January to June 2007 compared with January to June 2008)*

- Counterfeit (skimmed/cloned) card fraud - up 22%
- Card ID theft – up 2%
- Cheque fraud losses during January to June 2008 rose 35% from 15.1m to 20.4m. However APACS observed that these losses still remain relatively low compared with other types of fraud.

Unfortunately we don't know what 2009 will bring and what activity fraudsters will engage in as the difficult current economic climate continues.

# **WINTER** 08