Proceeds of Crime

An inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud

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Contents

Acronyms and abbreviations

AFD	Asset Forfeiture Division
AMO	Account Monitoring Order
ARA	Asset Recovery Agency
ARIS	Asset Recovery Incentivisation Scheme
ARWG	Asset Recovery Working Group
BAM	Branch Assurance Manager
CADWG	Criminal Attacks Directors Working Group
CATDG	Criminal Attacks Tactical Delivery Group
CAWG	Criminal Attacks Working Group
CDL	Case Decision Log
CDT	Case Development Team
CEP	Criminal and Enforcement Policy
CFLT	Criminal Finance Litigation Team
CFP	Criminal Finance Programme
CFSF	Criminal Finances Strategic Framework
CHIRON	Criminal Investigation Electronic Case Management System
CHIS	Covert Human Intelligence Source
CHISOPS	Covert Human Intelligence Source Operations
CI	Criminal Investigation Directorate
CIB	Criminal Investigation Board
CIF	Civil Investigation of Fraud
CIO	Customer Information Order
CI OPS	Criminal Investigation Operations
CI SP&P	Criminal Investigation Strategy, Planning and Professionalism
CI T&C	Criminal Investigation Tasking and Co-ordination
CJES	Criminal Justice Enforcement Standards
CoE	Centre of Expertise
CPD	Continuous Professional Development
CPS	Crown Prosecution Service
CRI	Centre for Revenue Intelligence
CTE	Cross Tax Evasion
CTU	Criminal Taxes Unit
DG	Director General
DMB	Debt Management and Banking
DSO	Departmental Strategic Objective
DWP	Department for Work and Pensions
E&C	Enforcement and Compliance
ECSM	Excise, Customs, Stamps and Money Directorate
EH	Enforcement Handbook
EMAF	Enforcement Management Assurance Framework
ERT	Evasion Referral Team
ESG	Evasion Steering Group
EVP	Extended Verification Programme
Excom	Executive Committee
FATF	Financial Action Task Force
FCIB	First Curacao International Bank
FCLO	Fiscal Crime Liaison Officer
FFDP	Fiscal Fraud Delivery Plan
FFG	Fiscal Fraud Group
FFS	Fiscal Fraud Strategy
FI	Financial Investigator

FIO	Financial Intelligence Officer
FISS	NPIA Electronic Workspace System
FRO	Financial Reporting Order
FRTF	Financial Recoveries Task Force
HMC&E	Her Majesty's Customs and Excise
HMIC	Her Majesty's Inspectorate of Constabulary
HMRC	Her Majesty's Revenue & Customs
HMT	Her Majesty's Treasury
ID	Inland Detection
IDCC	Inland Detection Control Centre
IG	Internal Governance
ILA	Independent Legal Adviser
IMU	Intelligence Management Unit
IP	Insolvency Practitioner
IR	Inland Revenue
ITSA	Income Tax Self Assessment
JARD	Joint Asset Recovery Database
KPI	Key Performance Indicator
LC	Local Compliance
MAA	Mutual Administrative Assistance
MFT	Multi Functional Team
MIST	Management Information Support Team (CI)
MLA	Mutual Legal Assistance
MLRIU	Money Laundering Regulations Intelligence Unit
MLR 07	Money Laundering Regulations 2007
MOU	Memorandum of Understanding
MSBs	Money Service Bureaux
MTIC	Missing Trader Intra Community
NFIU	National Financial Intelligence Unit
NFSA	National Fraud Strategic Authority
NIU	National Intelligence Unit
NPIA	National Police Improvement Agency
NRO	National Risk Overview
NTFIU	National Terrorist Financial Investigation Unit
NTSCI	National Teams and Serious Civil Investigations
OCG	Organised Crime Group
OCPB	Organised Crime Partnership Board
OMU	Offender Management Unit (CI)
PACE	Police and Criminal Evidence Act 1984
PACE PO	Police and Criminal Evidence Act Production Order
PAYE	Pay As You Earn (Direct Tax Scheme)
PIR	Post Implementation Review
PMDU	Prime Minister's Delivery Unit
PNC	Police National Computer
PN160	Civil Investigation Process for Indirect Tax Arrears Below £75k
POCA	Proceeds of Crime Act 2002
POCA PO	Proceeds of Crime Act Production Order
PPS	Public Prosecution Service (Northern Ireland)
PSA	Public Service Agreement
PSNI	Police Service Northern Ireland
QA/QC	Quality Assurance, Quality Control Mechanism
RAG	Red, Amber, Green grading mechanism
R&C	Restraint and Confiscation
RCPO	Revenue and Customs Prosecutions Office
RCU	Restraint and Confiscation Unit
RIS	Risk and Intelligence Service Directorate

RIS BBS	Risk and Intelligence Service Business Balanced Scorecard
RIS CIG	Risk and Intelligence Service Criminal Intelligence Group
RIS T&C	Risk and Intelligence Service Tasking and Co-ordination
RIT	Regional Investigation Team
RPCT	RIS CIG POCA Consent Team
SARs	Suspicious Activity Reports
SCPO	Serious Crime Prevention Orders
SFO	Serious Fraud Office
SI	Specialist Investigations Directorate
SIPs	Standard Intelligence Packages
SMU	Source Management Unit
SO	Senior Officer
SOCA	Serious Organised Crime Agency
SOCPA	Serious Organised Crime and Police Act 2005
SOFI	Senior Officer Financial Meeting Group
ST	Specialist Teams
TCCT	Tax Credit Consent Team
TFT	Tactical Framework Team
UKBA	United Kingdom Border Agency
UK FIU	United Kingdom Financial Intelligence Unit
VAT	Value Added Tax

Executive summary

Tackling criminal finance is high on the Government's agenda. It features prominently in the Home Office's strategy for tackling serious organised crime,[1] which recognises that pursuing criminals' finances is one of the most important ways to make the United Kingdom a hostile environment for organised crime and thus to reduce harm to the public.

1. Background

1.1 HM Revenue & Customs

HM Revenue & Customs (HMRC) is the UK fiscal authority whose main responsibilities are the administration, collection and (where applicable) repayment of direct and indirect taxes, duties and tax credits. It is accountable to HM Treasury (HMT).

The Department underwent a major restructure between 2005 and 2009, due to:

- the merger between the Inland Revenue (IR) and HM Customs & Excise (HMC&E); and
- the transfer of some responsibilities to the Serious Organised Crime Agency (SOCA) and the United Kingdom Border Agency (UKBA).

Tax and duty evasion and benefit fraud are criminal offences, and therefore can be addressed through criminal investigation. However, HMRC can instead choose to use a range of civil interventions to address this behaviour.

Criminal investigation is normally reserved for:

- addressing criminal attacks on the tax, duty and tax credit systems, principally carried out through organised crime; and
- selective prosecution (for the purpose of deterring others) of tax and duty evaders who seek to take advantage of their legal trading activity (eg tax evasion through suppression of legitimate business income).

However, the majority of HMRC's interventions against those who seek to commit tax and duty evasion or tax credit fraud, use a range of civil interventions, which focus on the recovery of the lost revenue.

1.2 Scope of this inspection

This inspection looks at HMRC's recovery of proceeds of crime through its use of criminal justice processes, and of civil investigation of fraud processes.

Its focus is on the Risk and Intelligence Service (RIS), Criminal Investigation (CI), and Specialist Investigations (SI) Directorates. Inspection outside these areas was only carried out where the process being examined required it.

[1] For instance, there is a chapter dedicated to the subject in Home Office (July 2009) *Extending our Reach: A Comprehensive Approach to Tackling Serious Organised Crime.*

2. Key findings

2.1 Performance in recovering the proceeds of crime

HMRC treats as a priority the recovery of the proceeds of crime derived from the taxes, duties and benefits they administer. They perform to a good standard in this regard (within the limit of the resources available).

2.2 Collaboration with other law enforcement agencies

The inspection found a genuine commitment in HMRC to work effectively with other law enforcement agencies, through:

- collaborations (eg joint criminal investigations);
- the provision of intervention opportunities (eg intelligence feeds); and
- contribution to cross-agency bodies (like the Organised Crime Partnership Board and the Asset Recovery Working Group).

HMRC's significant support to the National Policing Improvement Agency's (NPIA) nationally accredited specialist financial training for all law enforcement financial investigators and intelligence officers is both highly commendable, and illustrative of their desire to shape and influence the impact of law enforcement agencies' activity against criminal finances.

2.3 Strategy and business plans

In recognition of the Government's drive to address criminal finances, in 2007 HMRC created a Criminal Finance Strategic Framework (CFSF). The intention was that this would shape each directorate's business plans and so bring about more financial investigation and asset recovery delivery in operational activity.

However, poor governance and ineffectual oversight at a senior level meant that operational directorates did not act consistently and cohesively upon the principles of this framework, so the desired outcomes were not achieved. The directorate business plans (where they existed) largely failed to reflect the CFSF principles, and so failed to convey to staff the importance of making this activity part of their day-to-day work. This was a missed opportunity to drive forward this important agenda.

The position was recovered to a degree in January 2009 through the commendable initiative of CI, which launched a Criminal Finance Programme (CFP) designed to kick-start and reinvigorate cross-directorate activity against criminal finances. Effective governance and assurance mechanisms are in place to underpin this programme, and so to ensure deliverable outcomes. The CFP has launched four projects to initiate activity in tackling key areas of concern, with the first of these looking at Criminal Finances Intelligence.

Going forward, the CFP should underpin and feed into the Departmental financial strategy (which needs to be refreshed).

2.4 Performance of the Risk and Intelligence Service Directorate and use of criminal finance intelligence

The HMRC vision to maximise the effectiveness of its assets through allocating resource according to risk should necessarily place RIS at the centre of its activity: but the rationalisation of resources and the restructuring to align to the Department's new, fiscally-focused responsibilities have had a significant impact on the directorate. Its ability to identify and prioritise strategic threats, develop tactical solutions in conjunction with stakeholders, and provide the most effective operational

interventions – particularly in the criminal finance arena – has not universally met customer expectations.

Better use of criminal finance intelligence could be made through its effective and systemic identification, analysis, cultivation and utilisation. There is a lack of clear intelligence pathways where practitioners can give or receive financial intelligence. At a strategic level, gaps in criminal finance intelligence prevent the effective assessment of these risks within the National Risk Overview (NRO); this undermines the NRO's place at the heart of deciding allocation of resources to the greatest risks.

HMRC does not proactively develop suspicious activity reports (SARs) intelligence to maximise the benefits from this source. There is an inconsistent interrogation of the SARs systems for information to support existing criminal casework development, and little meaningful interrogation to identify criminal casework opportunities. There is no effective oversight, and weak governance and control structures fail to ensure that HMRC properly manage this intelligence flow and understand the outcomes it produces.

2.5 Performance of the Criminal Investigation Directorate

Within criminal investigations it is established practice for frontline officers to see confiscation as part of the investigative process, which is primarily undertaken by financially trained specialists. Resource limitations have forced a pragmatic approach to confiscation on the low level cases involving frontier interventions: this means there may potentially be missed asset recovery opportunities.

The realisation of HMRC confiscation orders is devolved by the Court Service to the independent prosecutors within the Revenue and Customs Prosecution Office (RCPO), which has now merged with the Crown Prosecution Service (CPS). However, at the time of the inspection, unrealised HMRC confiscation orders totalled £240 million. To assist in the recovery process, HMRC have seconded four financial trained investigators to RCPO. They have also launched a trial initiative in one region in which financial officers become proactively engaged in the realisation of assets against outstanding orders.

The CFSF advocates the mainstream consideration of money laundering investigations by criminal investigators as a means to attack criminal finances. However, written guidance for investigators places the emphasis on predicate offence investigations over money laundering investigations. This has resulted in very little consideration being given to money laundering investigations in a significant number of cases, and so in missed opportunities.

Similarly, the use of the various financial legislative tools is not fully mainstreamed into investigative activity. Recent improvements in the use of these tools can be partly attributed to the revised financial investigator structure implemented within CI in April 2009, which sought to maximise the use of this specialist resource through a focus on financial investigation.

2.6 Performance of the Criminal Taxes Unit

The Criminal Taxes Unit (CTU) was created in early 2007 in response to the Home Office initiative to use the tax system as a tool to disrupt serious criminality and recover the proceeds of crime. It has become a successful and established component within HMRC's asset recovery armoury. The Unit's focus is to provide support to other law enforcement agencies' investigations, targeting all levels of criminality by applying tax powers through criminal and civil interventions; and it has proved to be both very effective in recovering the proceeds of crime, and as a model for collaborations.

2.7 Use of civil insolvency powers

As an alternative to criminal investigation, HMRC have launched two noteworthy projects using civil insolvency powers to identify and recover substantial sums lost through tax and duty evasion. First, the Financial Recoveries Task Force (FRTF) was created to recover funds attributable to UK Vat fraud, temporarily frozen in numerous accounts in an off-shore bank. To date US$40 million has been recovered, with a further US$150 million in the pipeline. Second, a two-year project to tackle large-scale alcohol duty evasion has been successful both in stemming the flow of losses and in pursuing the benefits from these crimes.

2.8 Civil investigation of fraud processes

Civil investigation of fraud processes (CIF and PN160) are considered as a way of addressing evasion if (for whatever reason) a criminal investigation is not undertaken. Based on 2008/09 outcomes, these processes are effective in recovering the proceeds of crime and compare favourably to the results achieved by the criminal confiscation and cash seizures processes. However, these civil processes do not contribute to the Home Office process, which funds the Asset Recovery Incentivisation Scheme. Additionally, they are focused on those who have the ability to pay, and are inappropriate for tackling serious organised crime activity designed to steal money from the Government.

2.9 Use of debriefing and dissemination of best practice

Neither RIS not CI uses effective and systemic national debriefing, or dissemination of best practice. While guidance exists for intelligence and operational debriefing, compliance with this is inconsistent. Ad hoc arrangements satisfy localised needs but they do not feed organisational learning or improve HMRC's operability on a national scale.

3. Recommendations and considerations

3.1 Recommendations

Strategy and Business Plans

1. As the CFSF has not been effectively implemented, HMIC recommends that HMRC either refresh the CFSF or replace it with a new financial strategy. To ensure delivery of outcomes, this should be underpinned by robust governance.
2. HMRC has produced insufficient financial strategic intelligence assessments to inform the NRO. HMIC recommends that the FFG commission sufficient strategic assessments to address the financial intelligence gaps, so that this can be used to inform the correct risk assessment of these categories within the NRO.
3. HMRC lacks robust, accurate performance information and integrated measures and targets for the panoply of its proceeds of crime activity. HMIC recommends that HMRC ensure and assures the accuracy of performance information to facilitate the requisite development of robust measures for directorate and cross-directorate business plans that demonstrate the mainstream use of financial asset recovery tools and processes (as envisaged by the CFSF).

Intelligence

4. The development of intelligence to support money laundering investigations is not undertaken in all criminal intelligence casework. HMIC recommends that RIS

T&C and IG Intelligence ensure that this is undertaken in all HMRC criminal intelligence development packages.

5. There are considerable inconsistencies in the scope and detail of financial profiles for criminal intelligence development. HMIC recommends that RIS CIG create a best practice model for the completion of financial profiles by all CDTs and IG Intelligence, to include the mandatory consideration and recording of the use of POCA financial tools.
6. HMRC does not maximise the potential benefits of SARs intelligence. HMIC recommends that RIS establish an effective governance, management, prioritisation and performance regime for the use of SARs.
7. PNC and Centaur checks are not conducted on all SARs derived SIPs. HMIC recommends that CRI management ensure that these checks are conducted on all SIPs developed from SARs and processed in accordance with the *Enforcement Handbook*.
8. The HMRC team embedded in SOCA has refused less than 10% of the POCA consent requests it received in each of the last four years. HMIC recommends that HMRC develop a strategic policy on the handling of POCA 'Consent' requests, implement a formal national referral process, and ensure details of all refused POCA 'Consent' requests are recorded on Centaur. HMIC further recommends that HMRC should engage with the financial sector to understand and address the drop in POCA 'Consent' referrals.
9. HMRC's proactivity in driving negotiations with the Dubai Authorities to develop an asset sharing treaty is commendable. HMIC recommends that HMRC adopt a similar proactive approach to other external stakeholders responsible for the negotiation of international asset sharing agreements/treaties, to ensure that their interests are recognised and covered.

Criminal Investigation

10. HMIC recommends that a case financial plan is created and maintained for all criminal investigations that highlights opportunities for money laundering investigations and the use of POCA financial tools to be pursued in the case. If money laundering is not pursued, this decision must be signed off by an operational assistant director.
11. HMIC recommends that CI establish whether the simultaneous execution of search warrants under POCA and PACE at the same premises represents best legal practice. Whichever approach achieves legal approval should be actively disseminated to all investigators.
12. Investigators fail to fully record all appropriate operational decisions in CDLs. Therefore, HMIC recommends that HMRC ensure and assure investigators record both positive and negative decisions, in accordance with the *Enforcement Handbook*'s requirements.
13. HMIC recommends that HMRC engage with the CPS to identify the most effective use of their provided resource to maximise the realisation of the un-enforced confiscation orders.

Civil Investigations

14. The draft CIF PIR recommends that DMB establish a process to prioritise debt recovery action for debts as a result of tax evasion, including related penalties and interest. HMIC recommends that such a process is established and rigorously assured.

Debriefing and Best Practice

15. There is no established national process for the dissemination of best practice within CI and RIS. HMIC recommends that HMRC implement an effective national process for identification and dissemination of best practice, both within and (where appropriate) across directorates. Specifically, HMRC should conduct debriefing of the FRTF and SI Excise projects and disseminate the identified best practice to the wider HMRC.

3.2 Considerations

Consideration should be given to:

1. Updating the *Enforcement Handbook* to remove references to the FNIU, and to replace them with details of the SPOCs who now undertake the responsibilities;
2. Extending the Competent Authority status for direct tax purposes to other appropriate FCLOs;
3. Instituting a process for monitoring the post event behaviour of individuals who have been subjected to the CIF process to ensure improved compliance, and to inform an assessment of the deterrent effect of the CIF procedure;
4. Making the financial refresher course for SOs to Grade 6 mandatory for operational criminal investigation staff at those grades, and to delivering the training course, appropriately adapted, to all operational criminal investigators below the rank of SO;
5. Undertaking a validation of the financial training provided to investigators to ensure it meets the business needs; and
6. Identifying the business need for and if appropriate, delivery of relevant financial refresher training to RIS CIG staff.

1: Background

1.1 HM Revenue & Customs is the UK's fiscal authority responsible for the administration, collection and (where appropriate) repayment of direct and indirect taxes, duties and tax credits. It is accountable to HM Treasury (HMT), which currently measures HMRC's performance against six objectives. The first objective is to ensure that the right amount of taxes, duties and benefits are paid at the right time (closing the tax gap[2]). Activity is therefore prioritised around the prevention of losses; education and enabling taxpayers to be compliant; and the collection of revenue. Through compliance activity, HMRC seeks to assure customer (taxpayer/claimant) behaviour; and it has developed a range of interventions to address the non-compliant. Criminal Investigation is one such sanction reserved for addressing criminal attacks by organised crime, and creating a deterrence through selective prosecution of rule breakers who seek to take advantage of their legal trading activity. While addressing criminal finance as a result of tax and duty evasion and benefit fraud is recognised as important, it does on occasions by design become secondary to HMRC's principal purpose. The majority of HMRC's interventions against the non-compliant are through a range of civil interventions that prioritise the recovery of the lost revenue.

1.2 Tackling criminal finance is high on the Government's agenda and features prominently in the Home Office's strategy for tackling serious organised crime, with a chapter of *Extending our Reach*[3] dedicated to the subject. This recognises that pursuing criminals' finances is one of the most important ways in which they can make the United Kingdom a hostile environment for organised crime and thus reduce harm to the public. The priority of this work is also captured by Public Service Agreement (PSA) 24,[4] which sets specific asset recovery targets for the law enforcement community. HMRC accepts it has a responsibility to contribute to these targets and is committed to doing so, but does not formally accept ownership of disaggregated targets appropriate to them, for fear of setting a precedence that HMRC resources become accountable to the Home Office rather than to HMT. HMRC's contribution to the PSAs is purposely secondary to its core functions as a fiscal authority when the priorities do not mutually coincide with its set strategic objectives.

1.3 Recognition of HMRC's effort to recover the proceeds of crime is largely assessed on its performance in the criminal justice arena and the activity that contributes to the Home Office 'tin box'. This is only a very narrow view of the totality of their activity, much of which is underpinned by 'business as usual' practices that are reliant on inherent taxation powers. There have been several relatively recent external reviews assessing law enforcement agencies' performance in meeting asset recovery targets. This inspection does not seek to replicate that work, but focuses on the effectiveness of HMRC's processes, systems and resource utilisation in maximising the recovery of criminal finances through the use of available tools.[5]

1.4 HMRC's compliance workstreams deal with low-level evasion through tax-geared penalties of up to 100% for direct taxes and a misdeclaration penalty (15%) for VAT (or on occasion they assess for the identified arrears only, plus interest). These options have not been considered by this inspection and therefore no view

[2] The 'tax gap' is the difference between the theoretical and actual tax take.
[3] Home Office (July 2009) *Extending our Reach: A Comprehensive Approach to Tackling Serious Organised Crime*.
[4] PSA 24 lapsed in April 2010 and has not yet been replaced.
[5] Specifically, the financial tools provided by legislation.

can be given on the effectiveness of these mechanisms to recover the proceeds of crime from tax and duty evasion.

1.5 HMRC was created from the merger of the IR and HMC&E in April 2005, and the new Department continues to undergo major transformational change. This is driven by the need to align itself more closely with its changing responsibilities while meeting an imposed remit to significantly reduce operating costs, including staff costs. This priority has been the prime concern for the board of HMRC, as it worked to create an organisation that is in tune with its main role as a fiscal authority. Appendix A shows the major events in the past five years that have demanded priority action from the Department, and so inevitably forced other priorities and issues to be given less timely consideration.

1.6 The initial merger in April 2005 brought together two historic departments that had very different and established policies, processes and procedures. This required the creation of new joint operating procedures at all levels that recognised the wider ambit of the new Department's responsibilities and how they could be successfully merged. As part of this programme of work a complete review was undertaken of existing deterrents, powers and safeguards, including challenging historical assumptions and a process of wide consultation. In the interim, the use of some inherent powers was limited to the officers who exercised them in the former departments, particularly within CI. At the same time the creation of SOCA was announced, to be effective from April 2006 with a ring-fenced shadow body created in the pre-cursor agencies in the interim.

1.7 To meet the requirement to significantly reduce operating costs, in October 2006 the Department launched a five-year transformation programme to rationalise estates and reduce staff numbers while still increasing productivity. The Pacesetter programme (which is the foundation for delivering this) reviewed processes, systems and resources to ensure they were fit for purpose in accordance with lean principles.

1.8 In November 2007 a Cabinet Office paper recommended the creation of the UKBA from a merger of the Immigration Service, UK Visas and HM Customs. A shadow UKBA was created in April 2008, to which HMRC nominally transferred inland and border detection resources. Through further complex negotiations, decisions were taken in July 2008 to transfer the Inland Detection (ID) resource back to HMRC, and in December 2008 to transfer the frontier Criminal Investigation resource (except that which related to fiscal offences which was retained in HMRC) to the UKBA: this was not finalised until December 2009.

2: Governance, strategy and assurance

2.1 HMRC's Executive Committee (Excom) would not ordinarily focus attention on the tools used by the Department to carry out its business. The championing of such methods would ultimately be the responsibility of director generals (DGs) to ensure that the appropriate importance is attached to the range of options available to deliver business goals, and to the effective dissemination of these tools throughout their commands. As such, while there should be an appreciation at Board level of the need to address the proceeds of crime generated by attacks on the tax, duty and benefit regimes administered by HMRC, it is for the DGs to champion the use of financial tools as a means to address these threats and deliver outcomes.

2.2 The HMRC governance structure for addressing fiscal fraud is invested in the Fiscal Fraud Group (FFG).[6] This group is chaired by the DG Enforcement and Compliance (DG E&C) and is supported by a Criminal Attacks Working Group (CAWG) and the Evasion Steering Group (ESG). These bodies are supported by a raft of subordinate groups charged with specific remits (eg the Criminal Finance Strategic Framework Steering Group, and various commodity-specific strategy delivery groups). The CAWG additionally took on the responsibilities of the former Criminal Attacks Directors Working Group (CADWG), due in part to the duplication of responsibilities.

2.3 The FFG are the owners of the Fiscal Fraud Strategy (FFS). They also produce a Fiscal Fraud Delivery Plan (FFDP) that defines the activity, priorities, key performance indicators (KPIs) and the directorates that will deliver outcomes in line with FFS, against the principal HMRC strategic business objective of closing the tax gap.

2.4 On 31 January 2006, the published Internal Audit review concluded that HMRC's criminal finance strategy was out of date and did not reflect the Proceeds of Crime Act (POCA) 2002. It identified that remedial action was needed to address the absence of a current criminal finance strategy; an integrated prosecution strategy; inadequate management information systems; the fact that outcomes/impacts were not fully understood; and feedback systems were informal and inconsistently applied. It therefore recommended that a criminal finance strategy should be finalised and published as a priority. The review recognised that criminal finance was only one of many priorities for HMRC but concluded that *"….a clear unambiguous steer is required from Enforcement Senior Management where criminal finance actually sits within Departmental priorities.*"

2.5 Responsibility for a new criminal finance strategy was placed with Criminal and Enforcement Policy (CEP), which drafted the Criminal Finances Strategic Framework (CFSF). This was published on the Department's intranet and internet on 24 May 2007, alongside corresponding strategy documents from HMT and the Home Office. CEP chaired a newly formed steering group to ensure delivery of outcomes against the CFSF, and was accountable to the CATDG (now CAWG). The DG E&C had ensured that the CFSF was personally endorsed by all relevant directors, and had obtained sign-off from the Paymaster General.

2.6 The CFSF commendably articulated that it "*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*

[6] Formerly the Criminal Attacks Tactical Delivery Group (CATDG).

asset recovery, to make the recovery of criminal finances a priority for HMRC. 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. 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. 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."

2.7 Following publication the important message delivered by the CFSF was not periodically tested to ensure its principles were received and embraced by all within HMRC. It is disappointing that the majority of HMRC interviewees canvassed had neither heard of nor seen the CFSF.

2.8 At the meeting of the CADWG in January 2008, CEP requested that the group play an increased influential role in driving forward implementation of the CFSF principles and requirements in operational business areas, because progress in these workstreams was assessed as weak (despite it being a top priority). In April 2008, CEP proposed that the CADWG could achieve this by a number of measures (including clear reaffirmation that recovering the proceeds of crime and maximising the use of available powers is a central tenet of HMRC's enforcement and compliance work), and that they should seek to promote and embed criminal finance and asset recovery action within all HMRC strategies by influencing their owners appropriately.

2.9 A distinct lack of progress was evidenced at the CFSF steering group meeting in June 2008, at which it was noted that there was still a need to link all current strategies with the CFSF, so that a tactical document with performance measures for asset recovery could be created. The importance of bringing the CFSF to the attention of operational staff was also emphasised, with every effort made to inform new entrants of the strategy. There is little evidence that these recommended actions took place.

2.10 By the beginning of 2009 there was recognition by some key stakeholders that the CFSF was out of date, required refreshing and had not produced outcomes. Towards the end of 2009 tentative steps were taken to create a new HMRC criminal finance strategy, to be effective for 2010/11.

2.11 There has been demonstrable ineffective governance in driving the implementation of the CFSF forward. Without an action plan and determination of how to measure performance against it (with clear accountabilities and deadlines), it is difficult to see how directorates were to be held accountable. While there was an escalation of the issue to the CAWG in light of weak outcomes, there was clearly insufficient momentum garnered from the group's involvement. Clear direction from the FFG (then CATDG), in light of the directors' personal endorsement to the DG E&C, would have assisted in resolving this issue. This is a missed opportunity in driving forward the HMRC criminal finance/asset recovery agenda at a strategic level.

2.12 There have been no internal assurance reviews on the implementation of either the Internal Audit 2006 recommendations or the 2007 CFSF. There have been

some localised assurance of topics within the compass of criminal finance in directorates, but these invariably addressed specific issues rather than the strategic HMRC picture. Operational assurance is primarily governed by the Enforcement Management Assurance Framework (EMAF, discussed further below).

Recommendation 1
As the CFSF has not been effectively implemented, HMIC recommends that HMRC either refresh the CFSF or replace it with a new financial strategy. To ensure delivery of outcomes, this should be underpinned by robust governance.

Criminal Finance Programme

2.13 CI's Strategy, Planning & Professionalism workstream (CI SP&P) recognised that the CFSF had failed to deliver the envisaged outcomes. To redress the position and reinvigorate activity across HMRC they took the lead in developing a Criminal Finance Programme (CFP). This Programme sought to enhance Departmental work in understanding and tackling criminal finances in support of department strategic objectives (DSOs). The proposal was put to the CAWG in January 2009 and recommended that governance should be placed through the CAWG to the FFG. A cross-directorate steering group was formed and a programme manager appointed to oversee activity and drive outcomes, reporting to the CAWG. Following acceptance of these proposals, the CFP launched four projects immediately, and also absorbed relevant pre-existing ad hoc projects. The Programme envisages that it will take five years to achieve the level of desired outcomes in performance improvements.

2.14 The four new projects launched were:

1) **Criminal Finances Intelligence** – *"a project to establish how criminals manage their finances; how HMRC can identify new threats and how to interdict the movement of criminal cash."*
2) **Cash/Money Service Bureaux (MSBs)** – "*a project to ensure the most effective action is taken in support of the MSB action plan and in dealing with PMDU recommendations about cash seizure and forfeiture. The project will also need to take advice from the Tactical Delivery Group on the priority given to cash seizure work (inland and at the border)."*
3) **Good Practice & Internal Tasking** – *"a project about establishing, sharing and enhancing good practice across all HMRC & RCPO work in this area. Particular current issues are the understanding of recent judicial guidance on confiscation, the effective follow up of failed prosecutions, and more broadly the use of civil and tax powers alongside criminal powers in this area."*
4) **Criminal Taxes Partnership Group** – "*a project to establish a more coherent set of partnership and coordination arrangements with other agencies working in this area obviously focusing in the first instance on SOCA, the NFSA and the SFO..."* [7]

2.15 Lately, another strand of work has been adopted that looks at financial techniques. This will seek to develop better tactical cross-directorate planning, making best use of criminal and civil tools to their maximum benefit – not on a case-by-case basis, but by types of cases.

2.16 The CFP is a highly commendable initiative to reinvigorate activity at a time when the messages from the CFSF have largely been lost in the wider HMRC. It

[7] Due to this project overlapping with work in the other projects, it has now been closed and subsumed into them.

is vitally important that this time momentum is not lost through ineffectual governance failing to drive outcomes. The CFP will underpin and feed into the new criminal finance strategy that is likely to replace the CFSF.

2.17 At the first HMRC national conference for specialist financial investigators (FIs) and at a related operational team leader (SO) event there was a call for an improvement in the dissemination of financial information. This was addressed by the development of a communication plan that aims to provide a higher quality of information in all areas of criminal finance and related work through better use of the HMRC intranet, other publicity vehicles, presentations at operational team meetings, and potentially a shared workspace for technical information. While the creation of this plan is to be applauded, it is essential that it is launched without further delay and that key learning points, relevant best practice and developing case law and legislation is disseminated to all relevant practitioners (not just to FIs).

3: Business plans

3.1 The CFSF did not seek to prescribe how operational business areas should operate in order to increase performance in the asset recovery arena. Rather, it aimed to provide a high-level framework within which operational directorates could design plans and set targets in accordance with which the Department will deliver. It was incumbent upon the directorates to convert the principles set out in the CFSF into tangible results. The strategic framework therefore necessitated a response from business areas to provide the detail of how HMRC would deliver the high-level requirements. This response was focused on four key objectives:

(1) Maximising seizures of cash and other negotiable instruments which result in forfeiture;
(2) Maximising the value of criminal proceeds through confiscation;
(3) Using every opportunity to use tax laws to tax criminal profits, and civil proceedings to recover criminal proceeds; and
(4) Identifying opportunities to further undermine criminal financial gains by pursuing money laundering offences in addition or as an alternative to other offences.

3.2 As a reflection of the importance attributed to criminal finance, the CAWG incorporated it as a key priority (along with other commodity-focused risks) in the 2008/09 Criminal Attacks Tactical Plan. However, the KPIs for activity to address this risk were only alloted to CI and RIS, thereby not overtly recognising the responsibilities of other directorates in this regard.

3.3 The FFG, through the FFDP, demonstrate an appreciation of the importance of addressing criminal finance/asset recovery. The FFDP for 2009/10 draws upon the CFSF as a source and identifies money laundering as one of the seven cross-cutting threats it seeks to tackle. Given the wide landscape it seeks to address, fraudsters' behaviours have been divided into three groups (Criminal Attacks, High End Evaders and Low End Evaders), for which tailored responses cognisant of the level of threat and losses are articulated.

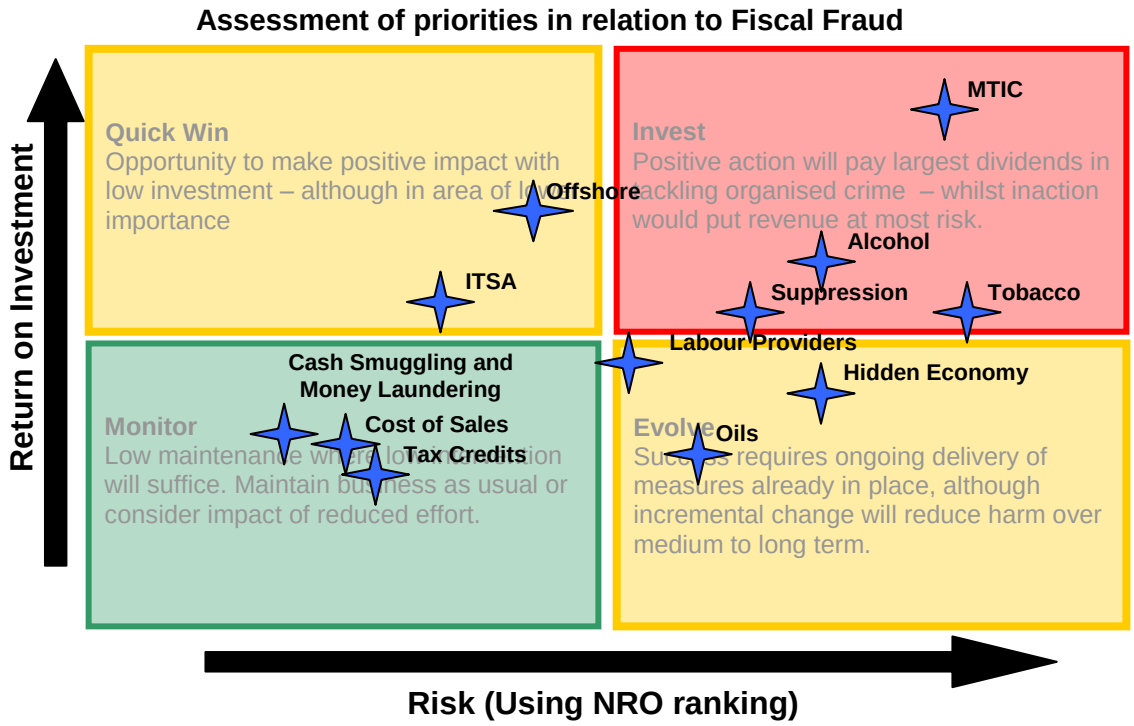
3.4 As part of the priority to address the criminal attacks element, the FFDP envisages an approach that identifies, targets, disrupts and dismantles those behind such attacks by tackling criminal finance as one of a range of interventions.

3.5 The National Risk Overview (NRO) identifies and prioritises HMRC's key compliance risks. These are assessed and ranked in relation to their relative importance against a number of HMRC priorities, weighted to reflect Senior Director preferences. This provides a strategic picture of risk for the FFG and is a fundamental source upon which the FFDP is shaped, and so which ultimately determines operational activity. Reviewed annually, the NRO is created from threat assessments (based on Departmental and open-source external material) conducted by the RIS strategic analysts, and is primarily commodity/regime centric. To qualify for inclusion in the NRO each risk must meet at least one of the following strategic parameters:

- £250 million or more annual net tax gap
- £250 million or more annual reduction in receipts
- Financial impact of 10% or more of its regime
- Major political or reputational impact.

A risk will also be included if it has the potential to meet at least one of the above strategic parameters within the next two years. The money laundering risk in the NRO only focuses on businesses that HMRC supervises as there is an associated compliance regime in which the risk appears. However, money laundering per se, although arguably meeting at least one of the above strategic parameters, does not feature. HMRC claim that criminal finance and money laundering are considered implicitly in each NRO risk, but they do not routinely feature in the risk summaries in the NRO. This is further demonstrated in the FFDP 2009/10 where the key activities against the priority risks do not show activity to address criminal finance or money laundering, despite commenting in the plan that money laundering is an essential element of most forms of criminal attacks and that, because it is being conducted by criminals and terrorists, it presents a major cause of harm to society.

3.6 Unfortunately HMRC has no estimates for money laundering for the sectors it covers, and only rates the risk as Amber (based on the NRO) for cash smuggling and money laundering through the businesses they supervise. The lack of an informed intelligence picture gives rise to an assessment of these criminal finance-related risks as low return on investment, and as low risk in the FFDP's determination of priorities, as shown within the following matrix from the plan:



3.7 It is concerning that the NRO-prioritised assessment of these financial risks is not based on sufficient informed strategic intelligence assessments. The FFDP concedes that there are areas (such as Criminal Finances) where HMRC's understanding of the risks are weak, and therefore they tend to fall down the priority order. In essence, inadequate intelligence means low risk. If there is little intelligence on a risk it will not percolate to the top of the NRO or FFDP priorities, and therefore ultimately is only likely to attract a corresponding operational response. HMRC recognise that currently this is not perfect, and that there are intelligence gaps that need addressing. Threat assessments will only be conducted on these gaps/low risks if a Departmental sponsor pushes for it; and this appears to be the only way that a risk can be properly informed and so raise its profile on the NRO, thereby instigating prioritised operational activity. The FFG acknowledges this shortfall in the FFDP 2009/10; and along with the other identified intelligence gaps has called for prioritised early RIS intelligence assessments.

Recommendation 2
HMRC has produced insufficient financial strategic intelligence assessments to inform the NRO. HMIC recommends that the FFG commission sufficient strategic assessments to address the financial intelligence gaps, so that this can be used to inform the correct risk assessment of these categories within the NRO.

3.8 The CFSF envisaged that regime-specific strategy owners would be responsible for leading the development of operational plans, which would in turn enable the Department to deliver the requirements of this strategic framework. These operational plans would have to be in tune with the priorities, key activities and expected operational responses articulated in the FFDP. However, for the regime-specific priorities identified in the FFDP 2009/10, the key activities do not mention asset recovery action as a means to achieve outcomes. While HMRC may view this as being implicit to achieving the stated expected revenue benefit, if this activity is not clearly emphasised the mainstreaming of this activity is unlikely to be taken forward or seen with the same focus as the articulated activities.

3.9 The FFDP does set out some KPIs in line with the CFSF four key objectives: both for CI (in terms of confiscation orders and cash forfeiture for regime-specific priorities with expected numerical and financial outcomes), and for SI (in terms of yield from evasion activities and Excise project activities). The KPIs for RIS are somewhat limited in this regard: the only indicator for cash smuggling and money laundering is 'the disruption of networks through joint working with other Law Enforcement Agencies', with an expectation only of monitoring, as opposed to any numerical or financial outcomes.

RIS business plans

3.10 RIS is represented on the CFSF Steering Group and is charged with translating the principles of the CFSF into its business plans. The 2008/09 RIS Business Plan accordingly outlined its purpose, objectives, activities and measures. Additionally, and in recognition of the importance of driving through its own ongoing restructuring, the plan focuses on how the Directorate's change programme contributes to the wider HMRC transformation programme through reducing their estate, achieving staff efficiencies and adopting a campaign approach to criminal and taxation risks.

3.11 The business plan laid out five key delivery objectives, with linked activities to express the Directorate's contribution towards the three HMRC DSOs. The objectives and activities were articulated in generic terms, without reference to specific regime or cross-cutting threat priorities or criminal finance. The measures, linked to a refreshed RIS Business Balanced Scorecard (RIS BBS), were expressed by 14 KPIs, of which the six lead KPIs were customer satisfaction; number of cases delivered; quality of products; productivity; staff engagement; and sick absence. The stated intention of the plan was to devolve some of the KPIs to Senior Officer (SO) team leaders in order to help frontline staff identify their contribution to both the plan and directorate performance.

3.12 The business plan did not give any recognition to the CFSF, did not articulate clearly any of its principles, and failed to impress upon staff the dynamics of mainstreaming criminal finance asset recovery tactics within their work. The RIS BBS similarly failed to set performance indicators in this regard: measures were expressed in vague terms of number and quality of cases/products produced (judged by timeliness, relevance, completeness and adherence to standards).

3.13 The RIS business plan for 2009/10 was reshaped to address HMRC's purpose and vision through activity against the six Departmental objectives. Once again

the CFSF principles were not translated into the recorded activity against the relevant objectives. Clearly the business plans have not been used to convey to RIS staff the importance of the CFSF principles and the need to embed this approach within their routine activity. This is underlined by the fact that no financial intelligence requirements have been established by the Directorate since 2007/08.

3.14 It was therefore not surprising (although nonetheless disappointing) that the majority of RIS interviewees canvassed were not aware of any RIS financial strategy, and did not perceive a sense of importance attached to criminal finances by the senior management. The exception to this is the RIS Criminal Intelligence Group (RIS CIG): within this Group, the relatively recent appointments of key personnel who have a clear grasp of the importance of addressing criminal finance, together with remnants of the now defunct Financial National Intelligence Unit (FNIU), have helped to disseminate the message throughout the Group command.

CI business plans

3.15 Like RIS, CI is represented on the CFSF steering group. As the directorate most closely linked to CFSF, it has a key role to play in translating the framework's principles to activity. Since the publication of the CFSF there have been no CI Business Plans apart from a 2009/10 plan issued in the latter half of 2009. This articulates the activity envisaged against the six Departmental objectives. However, there is only limited articulation of the CFSF principles and objectives in the following terms:

Objective 1 (Improve the extent to which individuals and businesses pay the tax due and receive the credits and benefits to which they are entitled):

- *"We will work with the Financial Recoveries Task Force to provide a wider contribution to MTIC VAT recovery;*
- *"We will use the Criminal Taxes Unit to take the profit out of crime by both criminal and civil means;*
- *"We will reduce harm to the community by pursuing beneficiaries of criminal activity using POCA powers in partnership with other Law Enforcement Agencies;*
- *"We will continue to work on improving our joint performance with partners on the forfeiture of cash at the border in support of the Home Office Cash Action Plan."*[8]

Objective 3 (Improve our professionalism in dealing with the security of our customer's information, our stakeholders and our external impact):

- *"We will work closely with partner agencies and the OCPB, to lead the Programme 20 Fiscal Fraud activity, Asset Recovery, Criminal Finance Programme and other activity against fiscal fraud."*

Within the 'measures for success' section, there is an expectation of a Revenue Loss Prevented target of £0.5 billion, and a £18 million yield from CTU activities. However, there are no measures for confiscation orders, cash seizures or money laundering investigations.

3.16 In relation to operational activity, the plan is predicated upon maximising the effective deployment of its investigation resource to the risks and priorities determined by the FFG (through the FFDP). Given that the FFDP recognises

[8] Conversely, there is no mention of inland cash forfeitures in the plan at all.

criminal finance-related activity as low priority (as outlined above), it is not surprising that it is reflected in the CI plan accordingly.

3.17 The indicative expectations in the FFDP (where they exist) are not reflected in the CI page of the E&C Strategic Dashboard, or in the 'measures for success' outlined in the CI Business Plan. The sum of the 'expectations' for the number and value of confiscation orders in the FFDP (across the regimes where these exist) are 57 and £38.75m respectively. This is quite different to the targets of 509 and £72.2m on the CI page of the E&C dashboard. The FFDP states that the planned level of activities in respect to cash smuggling and money laundering is 55 cases under CI investigation, and 15 successful prosecutions. This is not reflected in either the CI E&C Dashboard, or the 'measures for success' outlined in the CI Business Plan.

3.18 While not fully encapsulated within its business plan, CI has through the CFSF steering group outlined their intended response to the CFSF as follows:

"*CI would afford special attention in each investigation to the recovery of the proceeds of crime. CI will contribute to these targets by:*

- *working closely with Detection and Solicitor's Office to maximise the value and impact of cash seizures where forfeiture is ordered by the courts;*
- *embedding further a default requirement to consider restraint and to conduct confiscation proceedings, subject to a transparent decision-making process jointly with RCPO;*
- *implementing a default requirement on operational decision-makers to consider money laundering investigation in every CI case, but acknowledging that this is new territory in most direct tax cases;*
- *either through the Criminal Taxes Unit or by referral to ARA, making full use of powers to recover the proceeds of crime through taxation;*
- *working closely with overseas administrations and RIS to identify, freeze and recover the proceeds of crime held outside the jurisdiction; and*
- *taking risk-assessed opportunities to disrupt those seeking to steal large sums from the Exchequer, by means other than investigation and prosecution."*[9]

(How this was translated into frontline activity and delivery is considered below in Chapter 5 – Interventions.)

3.19 CI reports activity against some of the CFSF objectives within the E&C Strategic Dashboard (which monitors performance). Performance data is provided on the value of confiscation orders, CTU yield, number of POCA cases (cash seizures, but not value) and the percentage of Category A and B cases where a financial investigation is being undertaken. By its very nature, this focuses attention on (and attaches importance to) these areas within the command.

3.20 Encouragingly, there was almost universal recognition among the CI practitioners canvassed of the importance of addressing criminal finance asset recovery. It was felt that the importance of this was conveyed from the Director and senior managers down through the command chains to frontline investigators, and demonstrated through their actions (examples being the existence of Senior Manager leads on criminal finances both within the Operations (CI OPS) and CI SP&P divisions of the CI command, and the recruitment of financial investigators). There was a sense that the focus and profile of the subject had increased significantly over the past two to three years. However, this recognition in the CI Multi Functional Teams of investigators (MFTs) translated principally to the confiscation process: it did not always

[9] Minutes of the CFSF Steering Group Meeting on 12/07/2007

manifest itself in the mainstreaming of financial tools or processes as a means to drive and shape investigations.

SI business plans

3.21 Within SI the operational activity is focused in two main business streams: Structured Fiscal Attacks (which deals with Missing Trader Intra Community activity (MTIC), Excise and Inland Detection), and Civil Fraud and Avoidance (which incorporates CIF, Avoidance, Labour Providers Unit, and Insolvencies and Securities). There is a 2009/10 business plan for the Directorate. Before this, the Directorate was called the National Teams and Special Civil Investigations (NTSCI), which had in place a business plan for 2007/08, and a performance framework for 2008/09.

3.22 In the 2007/08 plan, apart from a recognition of contributing to closing the tax gap in broad terms, there is no reflection of the CFSF principles as relevant to the Directorate. Neither RIS nor CI are recognised as key partners in delivering of outcomes. The objectives, expressed as aspirations, are articulated in generic terms, without reference to specific regime or cross-cutting threat priorities.

3.23 The NTSCI business performance framework for 2008/09 is more detailed in linking key deliverables and associated outputs to the DSOs; but there is again a lack of embodiment of the CFSF principles.

3.24 The SI Business Plan 2009/10 outlines its objectives and measures against the HMRC six strategic objectives. The SI objectives are articulated in general terms, without reference to specific regime or cross-cutting threat priorities as set in the FFDP. The measures refer to reducing the tax gap through compliance yield, MTIC tax secured and revenue loss prevented, and the baselining of Inland Detection activities. Although there is a greater detailed yield and revenue forecasts for the year (broken down into types of core activities), these do not correlate to the overall reduction in the tax gap measure, and are not articulated as measures in their own right. There is no reflection of the CFSF principles as relevant to the Directorate.

3.25 There is an ‘expectation’ in the FFDP KPIs for SI to achieve a yield of £175m from SI Excise team activities. This matches the forecast year-end yield on the SI Drill Down in the E&C Strategic Dashboard, and in the SI Business Plan yield and revenue forecast.

3.26 On the E&C Strategic Dashboard within the SI drill down of activity, there is mention of cash seizures by Inland Detection (ID) and yield by SI business areas. There are no specific performance targets for these work areas, or breakdown to reflect CIF activity. Because ID was only formed on 01 April 2009, its activity in 2009/10 is being baselined, with the intention of setting targets for 2010/11 (which will include cash seizure measures).

3.27 Among those practitioners canvassed, while there was a sense that senior managers within the Directorate had an awareness of criminal finance, the majority felt that the importance of this was not disseminated to them through the SI command chains. The focus tended to be on revenue loss prevention and yield (in line with HMRC’s prime responsibility).

Internal Governance (IG) business plans

3.28 Internal corruption and criminality against the taxes, duties and benefits that HMRC administrates is allocated principally to IG to address if a criminal intervention is to be undertaken. IG, formerly within the Security and Business Continuity Directorate, has in the latter part of 2009 transferred to the CI

directorate (following a significant reduction and restructuring of the command). Within IG there is an intelligence resource to support the intervention teams through the provision of casework. While there are a few FIs embedded in the intelligence and criminal investigation teams, the restraint and confiscation work for their cases has historically been undertaken by the London based specialist CI financial team, although this is currently subject to review.

3.29 The IG Business Plan 2008/09 reflects no recognition of the CFSF principles or objectives. Measures for criminal investigations are largely based on processing casework within specific timescales. Similarly, although the IG business plan covering August 2009 to March 2010 articulates business objectives in line with the HMRC objectives (and details activity to address these), it fails to give any recognition to the CFSF principles. There are no financial/asset recovery performance measures for IG; nor is there recognition of the importance of recovering the proceeds of crime from those convicted, to demonstrate that they shall not benefit from the abuse of their trusted positions.

Recommendation 3
HMRC lacks robust, accurate performance information and integrated measures and targets for the panoply of its proceeds of crime activity. HMIC recommends that HMRC ensure and assures the accuracy of performance information to facilitate the requisite development of robust measures for directorate and cross-directorate business plans that demonstrate the mainstream use of financial asset recovery tools and processes (as envisaged by the CFSF).

4: Intelligence

4.1 Since 2005, RIS has undergone almost continuous restructuring to take account of the merger between the IR and HMC&E, and the demerger of responsibilities and assets to SOCA and the UKBA. The focus of this restructuring has had to be predicated upon a rationalisation and reduction in staff resource, and the consolidation of the workforce into a reduced estate. HMRC as an organisation (in recognition of finite resources) aspires to resource to risk, utilising this core fundamental principle to shape its activity. An effective intelligence capability that identifies the strategic threats, contributes to tactical solutions and develops appropriate prioritised operational interventions that counter the range of threats is essential in such an approach. In striving to achieve this RIS has sought to position itself so that it is reflective and responsive both to the changed HMRC responsibilities as a fiscal agency, and to its customers' demands.

4.2 Historically, the criminal intelligence command was formed around regime-specific national intelligence units (NIUs), which analysed intelligence flows to create pictures of criminality within their specialism. Their Grade 7 leaders had commodity coordinator function responsibilities. The NIUs were recognised as centres of knowledge within the Department, able to receive and provide intelligence, and develop casework intervention opportunities targeted at those judged to pose the greatest threat. While the quality of the pictures of criminality was variable across the regimes, there was a developed understanding of the peculiarities and dynamics of each of the regime threats. One drawback of this regime-centric focus, compounded by an absence of cross-regime fertilisation, was a lack of appreciation or ignorance of cross-regime threats posed by organised crime groups (OCGs), which attacked several HMRC regimes simultaneously. Therefore there was an inability to identify the most appropriate and effective intervention strategy.

4.3 There was a Financial NIU (FNIU), which had national coverage staffed by a resource of 74 officers. They undertook yearly financial intelligence requirements in order to inform their activity and meet customer expectations. Stakeholders commented on this being one of the more effective NIUs.

4.4 In August 2007 a review was conducted that provided the embryonic framework for the current RIS CIG operating model. The accepted recommendations led to the creation of a structure based on the National Intelligence Model (NIM): this separated strategic, tactical and operational, with the centralisation of criminal intelligence into a single command within RIS CIG. Multi-functional case development teams (CDTs) were created, which replicated the approach taken by CI in moving from regime-specific commands to teams of multi-functional investigators (MFTs). Subsequently, a tasking and coordination function was created that interfaced with similar bodies in other directorates in order to understand and meet customer demands, and then tasked the CDTs to provide the appropriate casework.

4.5 The review also considered the NIU structure. The work of the NIUs was deemed to be operational, with responsibilities of the Grade 7 commodity coordinators transferred to new tactical framework teams (TFTs), leaving them to manage operational delivery. The TFTs were expected to develop the ability to appraise and prioritise risks, and determine tactical solutions and corresponding resource requirements. The NIUs were disbanded and migrated into the CDTs. Much smaller, regime-focused centres of expertise (CoE) were created to take on some of the former NIU responsibilities. A financial CoE was not formed, and consequently much of the corporate strategic financial intelligence knowledge

appears to have been dissipated and lost. Furthermore, the responsibility to undertake the financial intelligence requirements lapsed with the demise of the FNIU.

4.6 By default the London CDT (staffed by remnants from the former FNIU) strives to provide some of their former functions by focusing on the development of money laundering casework, the provision of support to ongoing CI adopted projects and the identification of new financial threats. However, due to resource limitations and other priorities they are constrained in the main to only looking at financial intelligence derived from sensitive sources, from which they have produced some notable results.

4.7 With the senior management changes within RIS CIG in the latter part of 2008, there was recognition that a financial stream needed to be recreated. A Grade 7 was appointed as head of a proceeds of crime branch, which to date only has in its command the embedded SARs team at SOCA and the Money Laundering Regulations Intelligence Unit (MLRIU).

4.8 It is clear that this revised RIS financial structure has yet to meet its own and stakeholders' expectations, with much ground lost because of this. Overwhelmingly, practitioners and stakeholders comment on the inability of RIS to provide financial intelligence support for them. The new and ever-changing structure does not have sufficiently transparent financial pathways. This makes it difficult to place financial intelligence, since it is unclear who (if anyone) has responsibility for or expertise in the collection, analysis and dissemination of financial intelligence (as opposed to specific case development by CDTs in servicing their own requirements). While it is right that organisations should structurally develop to address changing responsibilities, it is critical that they do not lose sight of important and relevant services that still address stakeholders' needs.

4.9 A further source of frustration for practitioners in trying to make sense of this position was that the guidance in the *Enforcement Handbook* was out of date, and still refers to the FNIU as the focal point of contact in several incidences.

Consideration 1
Consideration should be given to updating the *Enforcement Handbook* to remove references to the FNIU, and to replace them with details of the SPOCs who now undertake the responsibilities.

4.10 The CFSF objective in relation to maximising seizures of cash and other negotiable instruments envisaged that this would 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*". While some practitioners think that much of the relevance of this has now diminished (with the passing of frontier cash intervention responsibilities to the UKBA), this ignores the significant inland seizure opportunities that exist and the relevance to the understanding of how serious organised crime operates financially.

4.11 The picture around intelligence flows is one of little systemic strategic governance, utilisation or control. In an attempt to start to address this, in April 2009 an Intelligence Management Unit (IMU) was set up. At the time of the inspection this unit was only handling intelligence flows from the Evasion Referral Team (ERT – ie internal referrals) and some hotline referrals, and is some way off being fully functional. It appears to also replicate in part the activities of the CDTs

in developing cases for adoption by CI. Intelligence flows are not fully identified, developed or exploited from a financial perspective.

4.12 The CFP sought to address this deterioration of service from RIS through the launch of one of its inaugural projects on Criminal Finances Intelligence, which aims to improve financial intelligence flows. The project working group in April 2009 quickly identified key issues in that *"...The old FNIU capability has been practically dismantled. The relationship with banks and other agencies appears to have diminished; the dissemination of SARs has been spread more widely (for good reason but with a subsequent loss of central co-ordination that has weakened the overall intelligence picture). Embedded intelligence resource has been reduced and there is now little effective debriefing of cash jobs. Consequently there is no coherent intelligence picture. We have no picture of where, for example, tobacco cash goes. The sterling repatriation report shows much more cash coming back than we can account for. There is a need to deploy intelligence officers into collection rather than case development….What is wanted is a complete picture of how money moves, cash, but also assets."* As outlined above, work is underway on this project but outcomes will take time to be achieved.

4.13 RIS Analysis is the designated project lead, and progress to date by the RIS Analysis and Intelligence team set up to focus on criminal finances includes:-

- An intelligence analysis report of how criminals retain, disguise and dispose of proceeds of crime;
- A number of cash-related intelligence reports;
- An ongoing review of POCA SARs;
- Work underway to analyse data from confiscation orders, with a view to improving intelligence flows;
- Work on risks in the MSB sector and their use to launder criminal finance; and
- Meetings with US Authorities with a view to undertaking a joint project on trade-based money laundering.

4.14 Sponsored strategic analytical reports have been produced in the period since the CFSF; and while these focus on a specific topic, they also occasionally look at the financial dynamics that have a bearing on the issue. Additionally, some of these reports have been on specific financial matters, like the Project Cedilla baseline cash assessment of September 2008, which focused on border issues and the smuggling of cash, and the May 2008 report on the role of MSBs in MTIC fraud.

4.15 Driven by the renewed emphasis created by the CFP, in 2009 a number of analytical reports were produced on financial topics. These reports have identified both some of the ongoing financial threats to HMRC and the intelligence gaps that still exist. The recent *Intelligence Assessment on Proceeds of Crime* highlights problems with the collection of financial intelligence. In a section on the necessity of conducting an assessment on the extent of criminals' use of trusts and banking platforms, it concludes: "*Due to data inconsistencies and information gaps we are unable to give an accurate assessment to which predicate offence type lends itself more to hiding assets. Central data collection of financial intelligence and better controls/guidance for data input to departmental databases is required for an accurate assessment*."

4.16 In March 2010 there were 675 staff within RIS CIG, of which 98 were trained financial officers. These were predominantly located in the eight CDTs, to support casework development. Within the Command there is generally an acceptable awareness of the importance of addressing criminal finance and asset recovery, which is principally led by champions who strive to continually promote the topic.

RIS Tasking & Coordination (T&C)

4.17 The current RIS CIG operating model correctly identifies the need for a T&C function to act as the focal conduit to interact with customers and so to understand and service their casework demands. This function attempts to ensure that the appropriate cases are available to be adopted at the right time, meet the HMRC priorities and target the most serious corresponding operational threats. This process is designed to prevent the ad hoc uncoordinated adoption of casework, which did not make the best use of intervention resources. Unfortunately, the RIS T&C team took a protracted length of time to come to fruition. While the Grade 7 leader was appointed to post early on, it took until May 2009 for a supporting team to be put in place. As a consequence, at the time of the inspection this was still very much a developing portfolio, with many issues to be resolved. There is a close working relationship with CI T&C, supported by regular meetings. With the subsequent creation within SI of a T&C function, they have been included in the RIS/CI meeting process.

4.18 RIS T&C use details of resource availability and case demand provided by CI to project a case requirement for the forthcoming twelve months, with a detailed delivery plan for the immediate three months. This is discussed and agreed with CI and kept under continuous review. Unsurprisingly, CI demand is predicated upon the regime priorities articulated in the FFDP, so investigations focused on money laundering feature infrequently.

4.19 While there is some limited flexibility in the process, because of the objective focus of RIS T&C on providing the correct type and quantity of criminal casework required by CI, they only task that amount to the CDTs, to develop to prevent resource wastage on work unlikely to be adopted. Not surprisingly, this process has suffered on occasions from sudden significant changes in demand from CI to reflect freed-up resource. This has caused issues with periods of inadequate casework supply leading to an uncoordinated but sanctioned CI self-generation, which by its nature cannot address the most appropriate operational threats that should be investigated. These occurrences add to the dissatisfaction expressed by practitioners at the quality of service from RIS, and thereby perpetuate the lack of confidence in the command. This however loses sight of the lack of reliable resource data provided by CI, which contributes to the issue.

4.20 Of greater concern, by seeking to match CI demand and therefore only looking to develop that amount of casework to the appropriate standard, RIS T&C appears to have no picture of criminality or of the level of work proper for CI intervention that is not being adopted. Ordinarily this does not help the identification of increasing threats that need to be fed back into the process that allows FFG reprioritisation (which although it has generic relevance, applies particularly to financially-focused threats).

4.21 Some practitioners are frustrated because they feel that the T&C process does not sufficiently allow regional/localised priorities to be addressed. RIS T&C is aware of this problem and are seeking to understand and address these issues.

4.22 Suspicious activity identified by HMRC staff that is referred through the ERT process and assessed as meeting CI adoption criteria, is routed to the IMU which develops them further prior to submission to RIS T&C. If accepted these are routed to CDTs for further development. This intelligence flow process (ERT-IMU-

CDT-T&C) at times gives rise to duplication of effort. While this process is still bedding-in, there is scope for improvement.

4.23 By the very nature of their position, RIS T&C can champion the mainstreaming of financial awareness and the use of relevant tools in the casework tasked to the CDTs that they assure before referring for CI adoption. It is evident from the inconsistent and wide-ranging quality of the financial profiles that form part of the referred packages that RIS T&C do not fully embrace this role.

Recommendation 4
The development of intelligence to support money laundering investigations is not undertaken in all criminal intelligence casework. HMIC recommends that RIS T&C and IG Intelligence ensure that this is undertaken in all HMRC criminal intelligence development packages.

Case Development Teams (CDTs)

4.24 The CDTs primarily work on RIS T&C referrals, which do not necessarily have a confirmed CI sponsor at the time they are commenced. Through regular dialogue with RIS T&C staff (who in turn discuss potential adoptions with their CI counterparts), those referrals that are unlikely to be adopted for criminal investigation are soon discarded for criminal development, to avoid wasting resource. However, with the emergence of SI as a customer and participant in the T&C process, these rejections are now being packaged for their consideration.

4.25 On each CDT there is an NPIA-trained financial resource to support casework development. As of May 2009, there were 45 accredited FI/FIOs spread across the eight CDTs in the command, with a further four undergoing training. A referral template is completed for each case passed to CI for adoption. As part of its adoption criteria, CI expect financial profiles to be completed for targets within the referred cases, and this is built into the referral template. Therefore all cases referred for adoption should have financial profiles. If there is an urgent need to refer a case for immediate CI adoption then the quality of the profiles can be reduced to a bare minimum. However, even with urgent cases more effective prioritisation of resource within the CDT could address this issue to some degree.

4.26 Within the CDTs there was generally a good level of awareness of the importance of addressing criminal finance and asset recovery, with the message being reinforced by some team leaders. While most cases developed were tasked from a regime-centric standpoint, the CDTs in varying degrees also looked on some occasions to provide intelligence to support the investigation of money laundering, as well as the potential predicate offences. Occasionally this approach also incorporated limited lifestyle assessments of suspects in order to better inform the asset picture. However, more commonly there was limited development of money flows as a means to identify and inform the scope of the criminality and those involved.

4.27 The quality of financial profiles was examined during the inspection, based upon ten provided cases (which were not fast track examples). These were from several CDTs and covered a wide range of activity, and were assessed as either Good (two of the cases), Fair (five) or Poor (three). It was not known if any of the financial profiles had previously been rejected and therefore subject to revision. In four of the cases, money laundering was suggested as a possible offence in support of the predicate offences, although insufficient information was provided to support the rationale. Production orders were used in three cases, but no other financial orders were applied for in any of the cases. In some of the cases the profiles did not detail the information from system checks, but just stated that they had been conducted. Often the financial information was limited to the existence of bank accounts, properties and cars, without any underlining assessment or

detail of this information. In contrast, in Op Wizardry the financial profiles were comprehensive and informative. Consideration should be given to using this case as a basis for best practice for dissemination to all CDTs.

Recommendation 5
There is considerable inconsistencies in the scope and detail of financial profiles for criminal intelligence development. HMIC recommends that RIS CIG create a best practice model for the completion of financial profiles by all CDTs and IG Intelligence, to include the mandatory consideration and recording of the use of POCA financial tools.

4.28 To support the tackling of criminal finance, POCA 2002 provided new tools for use in the gathering of financial information through Production Orders (POCA POs), Account Monitoring Orders (AMOs) and Customer Information Orders (CIOs). The following table illustrates the use of these orders within RIS. It is clear that even given that these orders do not have relevance to all cases, as financial tools they have not been fully embraced within RIS or mainstreamed into the recognised approaches to intelligence development. The significant increase in the use of POCA POs is a positive step and should be built upon. This increase may be a reflection of a rise in FI/FIOs in RIS, from 33 in 2006 to a high point of 91 in December 2008. Nonetheless, it was surprising to find the prevailing view in a couple of locations was that they did not use POCA orders because this was perceived to be a role for the investigators, and that this approach would ensure that they would not be caught up in the evidential chain.

Type of Order	2007/08		2008/09		2009/10	
	Orders obtained	Cases on which orders obtained	Orders obtained	Cases on which orders obtained	Orders obtained	Cases on which orders obtained
AMOs	3	2	6	3	5	1
CIOs	1	1	0	0	0	0
POCA POs	17	10	71	19	150	14
PACE POs	1	1	4	3	25	4

4.29 The financial intelligence input into criminal intelligence training recognises that: "*Since the introduction of the Proceeds of Crime Act 2002 legislation many financial institutions have been reluctant to provide account enquiry checks as the information can be obtained from the new POCA orders such as Customer Information Orders and Account Monitoring Orders*." If this is a true reflection of the current approach taken by financial institutions, then the number of these orders obtained is a concern, and raises issues about whether this information is being actively gathered.

4.30 It was envisaged that once a case was adopted by CI the lead RIS CDT officer who developed it would stay with the case post referral, to assist the investigation with intelligence input and to debrief the intelligence uncovered by the investigators. While there are incidents where this is happening, it is not common practice nationally.

Evasion Referral Team (ERT)

4.31 The ERT based within RIS has a national remit to receive referrals of suspicious activity as identified by HMRC employees. There is a cross-directorate steering

group that oversees the process. This referral system is mandatory for amounts over £10,000, and discretionary for amounts below this but above £1,000.The ERT was designed as a post box facility that matches referrals against the adoption criteria of the enhanced intervention directorates. Apart from checking referrals against set standard intelligence systems, the team are not expected to undertake any intelligence enhancement of the referrals, even to inform the correct intervention. Usually not even clarification of referrals is sought, which results in poorly completed referrals just being rejected.

4.32The ERT does not have responsibility to police the level of referrals it receives, and therefore the team does not undertake any activity to promote or encourage referrals. It does not appear that this is undertaken by anyone within RIS, with reliance placed upon it being a mandatory process. Currently the referral process does not cover all HMRC activity.

4.33 Consequently, as is clear from the HMRC's own estimations of the tax gaps for the regimes it administers, the level of referrals to the ERT are but a fraction of the estimated losses to fraud. In launching this process it is clear that expectations were not properly managed. Confidence in the process was eroded very quickly, with stakeholders sceptical of its effectiveness. Some practitioners speak of not referring cases any more because they have previous experience of rejections, which convinced them there is little likelihood in their referrals being taken forward.

4.34There is a similar level of dissatisfaction by the recipients of the referrals, who complain of the system not correctly identifying referrals proper to them, and the frequent poor quality of the referrals, which necessitate rejection due to insufficient information.

4.35 The number of referrals into the ERT in 2008 was 4,662, and 4,062 in 2009. The referrals out by the ERT are shown in the table below. If a referral is rejected it is then referred to the next appropriate intervention.

Operational Directorate	Number of referrals by ERT 2009	Number of Referrals Adopted 2009	Percentage adopted 2009	Percentage adopted 2008
CI (Via CIG)	1,099	10	0.9	0.8
SI	852	189	22.2	27.5
LC CIF	1,201	135	11.2	12.0
LC CTE	3,264	3,095	94.8	93.3

4.36 While there is recognition within the ERT of the importance of asset recovery, there is limited scope for this to be applied to their work, given that the team does not seek clarification on the content of the referrals. The SARs database is checked by the team for any reports relevant to the referrals. The majority of referrals are usually generated from regime-specific interventions; this means that the suspicions are formed in this regard and therefore not normally from a criminal finance perspective. The only likelihood of receiving criminal finance referrals would be as a result of campaigns or projects that focused on proceeds of crime.

Suspicious activity reports (SARs)

4.37 SOCA is the UK's appointed Financial Intelligence Unit (FIU), and has designated authority to receive financial information provided by businesses, public bodies and individuals acting under a legislative requirement within POCA. These financial reports of suspicious activity (SARs) are recorded onto a SOCA

administered database (Elmer). To protect the integrity of the system an internet-based version called Moneyweb has been created, to allow the interrogation of the database by UK bodies with a law enforcement responsibility. There is a time delay of seven days before information entered onto Elmer appears on Moneyweb. HMRC is recognised as the biggest user of SARs information.

4.38 HMRC has embedded officers within the team at SOCA that administers this process. They are allowed to interrogate Elmer using sophisticated search tools not available on Moneyweb. The HMRC-embedded team is also responsible for the approval and policing of HMRC's use of Moneyweb. The HMRC team, staffed by 16 officers at its peak, is now reduced to three officers, which has caused a dramatic reduction in the services they supply to HMRC. A valid business case to increase the team to 10 officers using Asset Recovery Incentivisation Scheme (ARIS) funding has been drafted but at the time of the inspection was still awaiting consideration. This team has been placed within the RIS CIG Proceeds of Crime branch.

4.39 Due to the staff cutbacks the embedded team is no longer able to undertake proactive searching of Elmer to generate intervention opportunities. Instead they are only able to undertake tasked keyword searches on behalf of operational teams, which are run nightly. At the time of the inspection there were in excess of 800 HMRC officers that still had authorised extant access to Moneyweb. However, the embedded team was unable to track the usage of Moneyweb by HMRC officers, and therefore did not have a picture of the utilisation of the SARs by the Department.

4.40 A 'SARs processing current situation discussion paper' produced in July 2009 as part of the CFP Intelligence project concluded:

- "*There is no 'joined up' approach to the work, and we have nothing to suggest that there is any coherent overview of the intelligence contained in SARs as a whole.*
- *"..of the 215,000 referrals received per annum, [between 4,000 and 5,000] are developed into cases for action. We assess it as likely that prioritisation for action across the whole of received SAR reporting is far from optimised.*
- *"There is no overall feedback mechanism to assess how SARs are being used in HMRC or the results achieved. Further, there is no current analysis of which organisations are or are not putting in SARs on a consistent basis … thus there is no way at present that the credibility and usefulness of the SARs reporting regime to HMRC as a whole may be reliably assessed."*

With such a lack of corporate oversight there is no strategic picture of how the financial intelligence from SARs is being effectively utilised or controlled. It would clearly be beneficial to create an action plan to determine and take forward solutions for these issues.

Recommendation 6

HMRC does not maximise the potential benefits of SARs intelligence. HMIC recommends that RIS establish an effective governance, management, prioritisation and performance regime for the use of SARs.

4.41 The Centre for Research and Intelligence (CRI) within RIS Operations interrogates Moneyweb to create four to five thousand intervention opportunities

per year for compliance staff. SARs identified by them as having potential revenue recovery implications are developed into standard intelligence packages (SIPs). CRI does not actively look for SARs that are suitable for development for criminal intervention, as they erroneously assume this function has already been performed by others. Also, CRI does not send any of their SIPs to the ERT for consideration of enhanced interventions, as they see this as the responsibility of the compliance officer once they have confirmed the suspicion of evasion. In the period from February 2006 to January 2009 32,988 SARs selected by CRI and developed into SIPs have generated a financial yield of £32,657,792 through compliance activity. This is a positive, proactive approach to criminal finance recovery, utilising financial intelligence that would not necessarily have been achieved through routine compliance activity. These results are not reflected in the Home Office 'tin box' criminal finance asset recovery calculations, and therefore do not get external recognition.

4.42 However, it is of great concern that the SARs developed into SIPs by CRI are not being checked against the police PNC or HMRC Centaur intelligence databases, thereby creating the realistic possibility that ongoing criminal investigations could be compromised. From the few examples seen the packages created by CRI positively states that these systems have not been checked as there is no evidence of the subject being violent, which is completely oblivious to the main reasons for conducting these searches. CRI works on the premise that if a SAR is not flagged on Elmer to CI, SI or another agency then there is no interest in it and they can develop it. This flawed premise is based on the SAR having been considered by all other potentially interested bodies before CRI scrutiny, which is unlikely in the extreme.

4.43 If the instructions in the *Enforcement Handbook* relating to the recording of intelligence were followed it would mitigate this risk. The 2008 CJES review of Elmer identified that a number of teams who regularly use the Elmer/Moneyweb databases were not complying with these instructions, identifying that this was primarily due to a lack of direct access to Centaur. This is clearly still an ongoing issue that needs to be addressed.

Recommendation 7
PNC and Centaur checks are not conducted on all SARs derived SIPs. HMIC recommends that CRI management ensure that these checks are conducted on all SIPs developed from SARs and processed in accordance with the *Enforcement Handbook*.

4.44 Within IG they have a bespoke intelligence capability incorporating two FIs who consider SARs referred to IG, and give them a risk rating. Those assessed as low risk are not progressed any further. The others are developed for potential interventions where resources allow. Ordinarily there is no proactive work around SARs. Despite concerns that IG Intelligence were not receiving anywhere near the number of SARs that it perceives it should (given the number of employees in HMRC), SARs are not proactively run against any Departmental staffing database. The SARs database was only checked in relation to existing targets to augment intelligence development. A 2006 project in respect of a local office identified the existence of significantly more SARs than had been referred to IG. This unfortunately has not led to routine proactive intelligence-gathering in this manner. Furthermore, this project demonstrated the value of the SARs database in that results obtained within a week identified individuals who it had taken IG six months to identify using other intelligence methods.

4.45 Among non-financially trained frontline practitioners there was a variable level of knowledge of Elmer/Moneyweb and the benefits it can provide. This translated

into inconsistent use of the system to support case development, particularly in the investigation phase.

POCA consent request SARs

4.46 If a business or individual (although normally financial institutions) is asked to undertake a financial transaction about which they have suspicions, they are required by POCA to seek authority to proceed from SOCA, who has seven days to decide whether to refuse consent to the transaction going ahead. If consent is refused there is a period of 31 days in which a restraint order has to be obtained, otherwise the transaction can go ahead without any liability for the requester under the money laundering offence provisions within the Act (in relation to the transaction).

4.47 Where the transaction is related to an HMRC responsibility, SOCA passes the consent requests to either the embedded HMRC SARs team, or (in the case of direct tax requests) to the RIS CIG POCA Consents Team (RPCT). Tax credits requests are treated differently (based on a process detailed below), and are sent direct to the RIS Tax Credit Consent Team (TCCT). These teams organise the replies that SOCA adopts in their formal response to the requests. The merits of having one team as a focal point to receive these requests was considered by RIS when they restructured in 2007, but they concluded "…*Whilst it could be argued that engagement with banks and other institutions would be better limited to a single team the current system does not require any amendment. Current contact with the Direct Tax team results in more detailed profiles being established by the banks that prevent a number of specific threats such as attacks against the system involving tax credits*."

4.48 The HMRC SARs embedded team spend considerable time and effort to try and place within HMRC the consent requests they receive. There is no recognised referral system or process, and invariably the team are reliant upon good will to get these adopted. Operational case development is not geared to take these requests on. RIS T&C are not and do not want to be party to these, and rarely consider post-decision development of them into casework opportunities. The number of referrals has dropped significantly year on year (as shown in the following table), yet this is not being addressed through engagement with the financial sector. In reality, a significant number of consent requests are being allowed to proceed as there is no resource that can be found to deal with them. Such de facto approvals do not legalise the transactions, but undoubtedly will provide complications for any subsequent investigations. At the very least, it is likely that criminal finances are being allowed to be dissipated by this action, and this is a concern that should be addressed with some urgency. Unfortunately, while it is recognised within RIS and CI that the handling of these consent requests needs addressing, it is judged by some not to be a priority, particularly when viewed against other potential work.

Year	Number of Consent Requests received [10]	Number of Consent Requests refused
2006	919	45
2007	283	17
2008	195	15
2009	262	14

[10] Excludes Direct Tax and Tax Credit consent requests (detailed below at 4.51).

Recommendation 8
The HMRC team imbedded in SOCA have refused less than 10% of POCA consent requests it received in each of the last four years. HMIC recommends that HMRC develop a strategic policy on the handling of POCA 'Consent' requests, implement a formal national referral process, and ensures details of all refused POCA consent requests are recorded on Centaur. HMIC further recommends that HMRC should engage with the financial sector to understand and address the drop in POCA 'Consent' referrals.

4.49 In relation to the direct tax consent requests sent to the RPCT detailed in the table below, the team will only refuse consent if they are able to get CI to guarantee that they will take action. The team check intelligence systems to aid their decision, but do not undertake any intelligence development on the requests. Consequently, very few requests are refused, which raises the same concerns as mentioned above for the HMRC embedded team.

4.50 A process initially brokered between the former Inland Revenue and financial institutions to address tax credit fraud has been continued by HMRC and latterly extended to ITSA fraud. This makes use of the consent request procedure. The financial institutions identify suspect accounts and submit SARs to SOCA with tax credit highlighted within the text. They take steps to close the accounts, and therefore seek consent to repay the account balances to the account holders. In reality they are keen to close fraudulent accounts and return the funds held within them to HMRC. The TCCT, if satisfied the funds in the account are from fraudulent claims, refuse consent to the account balances being returned to the account holders and provide the financial institutions with an indemnity against any client action for recovery, thereby allowing them to return the funds direct to HMRC. This pragmatic solution is a workable process devised to deal with thousands of referrals without having to seek restraint and instigate civil recovery proceedings in each case (as is the normal procedure for refused consent requests).

4.51 While the sole focus of this activity is to recover the sums fraudulently obtained from the Department, little is done by the team to develop refusals into investigations. While the tax credit information is referred to those that administer the tax credit system (to prevent further payments being made), the information in relation to the ITSA refused requests is not passed to anyone else in HMRC, and neither type of refused requests is recorded on Centaur. This does little to discourage further fraudulent claims being submitted.

The table below shows the direct tax, tax credit and ITSA consent requests received by HMRC,: statistics were not available separately for each regime. The vast majority of the refusals are for the tax credit and ITSA requests, as outlined above.

Year	Number of Consent Requests received	Number of Consent Requests refused
2007/08	1,876	1,111
2008/09	1,704	1,015
2009/10	1,843	1,387

Money service bureaux (MSBs)

4.52 In response to the Money Laundering Regulations 2007 (MLR 07) and HMT's *Financial Challenge to Crime and Terrorism 2007*, HMRC produced the MSB Action Plan, its strategy to contribute to the deterrence, disruption and detection of money laundering and terrorist financing. The action plan articulates that "*HMRC has a unique dual role in helping to tackle Money Laundering and terrorist financing:*

- *"As a supervisor under the Money Laundering Regulations 2007 and the Transfer of Funds Regulations 2007, HMRC will register all MSBs, subject them to a fit and proper test and seek to maximise their compliance with the Regulations.*
- *"As a law enforcement agency, HMRC will seek to take appropriate and effective enforcement action against MSBs that fail to comply with the Regulations, or facilitate money laundering or terrorist financing.*"

4.53 The Action Plan laid out "*HMRC's intended response in all areas of operation in order to address the security concerns around MSBs while having as little impact as possible on the vitality and dynamism of the sector*" by focusing on:

- illuminating money laundering and terrorist financing risks in the MSB sector;
- the 'fit and proper' test;
- risk-based and intelligence-led supervision and enforcement, including tackling criminality;
- engaging the private sector;
- collaboration and sharing of financial intelligence; and
- policing the perimeter: Tackling unregistered MSBs.

4.54 In relation to money laundering, the Action Plan articulates:

- *"HMRC will work with Revenue & Customs Prosecutions Office and others to track progress in disrupting money laundering within the MSB sector by establishing systems that will identify those MSBs as well as any customers that have been prosecuted and associated recoveries of criminal assets….*
- *"HMRC will work with RCPO and other Law Enforcement agencies such as SOCA and the inter-agency National Terrorist Financial Investigation Unit (NTFIU) to robustly investigate and prosecute those MSBs which commit or facilitate money laundering and terrorist financing offences.*
- *"We will deal with such offenders and persistent offenders by referring them for criminal action in order to send a strong deterrent message or when the conduct involved is such that only a criminal sanction is appropriate. HMRC reserves complete discretion to conduct a criminal investigation in any case and to carry out these investigations across a range of offences.*
- *"We will work with RCPO to set the take-on criteria for such cases and place the use of criminal prosecutions within a range of other sanctions and interventions designed to tackle money laundering and terrorist financing.*
- *"We will work with RCPO to actively prosecute such criminal cases that meet the criteria and this will achieve a wider impact of deterrence upon their successful conclusion. We will work with RCPO to ensure that these cases have all the relevant material and appropriate investigatory support".*

4.55 Following the RIS restructuring in 2007 there was a belated recognition that RIS were in danger of losing the intelligence picture on MSBs. This led to the creation

within RIS CIG of the Money Laundering Regulations Intelligence Unit (MLRIU) in Liverpool in April 2009, which encompassed the activity of the pre-existing Money Laundering Regulation Team based in Chester. This unit, initially staffed with 12 officers, consists of three teams:

- MLR Criminal Intelligence Team;
- MLR Project Team; and
- Fit and Proper Test Team.

4.56 In recognition of an intelligence gap on cash following the transfer of the existing unit in Dover to the UKBA in 2009, a cash team was formed within the MLRIU, which replaced the project team (whose duties were subsumed within the unit). The remit of this team is to seek opportunities for cash forfeiture and assist HMRC units with POCA cash seizures, money laundering regulations and cross tax offences.

4.57 Save for one officer transferring from the Chester team, the rest of the MLRIU were pre-surplus staff with no previous experience in this subject. This necessitated a programme of training and upskilling, which not surprisingly had an impact upon the initial effectiveness and output of the unit. At the time of the inspection it was apparent that the MLRIU had yet to fulfil their contribution to some of the aspirations in the MSB action plan (as outlined above), with a lack of clarity about their range of outputs and customers.

4.58 Of particular note is that there is no recognition of the need to identify, gather or refer money laundering intelligence for development into criminal casework for CI, despite the MSB Action Plan expectations. Any such intelligence received was submitted to SOCA for action under the SARs regime, in accordance with the statutory duty under the MLR 07. There was little recognition in the wider organisation of this unit as a potential intelligence source to contribute to criminal interventions. Outside of the MLRIU, there was no obvious effective and proactive systemic identification or development of MSB intelligence to produce criminal investigation interventions, save for a few bespoke projects involving the London CDT and RIS/CI Belfast. It is clear that no priority has been given to making the most of this potential rich source of intelligence.

4.59 Specialist teams within the Excise, Customs, Stamps and Money Directorate (ECSM) are tasked with the audit of the MSB sector's compliance with the regulatory regime under the MLR 07. Any incidents of serious non-compliance are referred to the MLRIU, which looks to identify suitable cases for passing to CI through RIS T&C for prosecution of regulatory breaches only (with a target of four cases per year). These cases would not be considered for development into money laundering prosecutions, even if there were intelligence available to support this line of investigation. The main focus of the MLRIU Criminal Intelligence team is to support regulatory compliance.

4.60 At its inception, the CFP recognised these vulnerabilities and focused one of its inaugural projects on MSBs, in order to bring about outcomes against the MSB Action Plan.

CI SP&P is the designated project lead, and progress to date includes:

- Taking forward the publication in an appropriate format of the MSB register, (which has encountered stiff internal opposition). A protocol has recently been agreed for release of the register. The lack of publication and therefore access to the data had been a source of tension with some police forces, and been detrimental to effective joint agency working;
- Consultation with internal policy owners;

- Work on a task force approach to MSB regulation;
- Presentations to representatives of the MSB community on HMRC's role as regulator and enforcement;
- Development of proposals to improve cash forfeiture performance, and engagement with internal and external stakeholders who can deliver outcomes;
- Ongoing development of a cash referral and adoption form that will facilitate data collation for performance management purposes; and
- A strategic assessment of MSBs and their links to criminality in Northern Ireland.

4.61 HMRC have produced a few strategic analytical assessments on activity relating to MSBs (examples below), particularly towards the latter half of 2009 (prompted by the CFP). These assessments serve to identify threats, intelligence gaps and issues and so provide a clear picture for HMRC to address. Save for the CFP, it is not clear what priority will be afforded to building upon these assessments, in order to determine and bring about activity to address the issues identified.

Examples of strategic analytical assessments include:

- *The Assessment on Organised Criminal Attacks and Fiscal Fraud* (December 09), which concluded that: "*Money laundering continues to be a significant assigned matter for HMRC. It cuts across all commodities and types of fraud, with Money Service Bureaux (MSBs) continuing to pose a serious reputational threat to the Department by facilitating cash based criminality. Neither HMRC nor SOCA has a published figure for the scale of money laundering in the UK*…"
- *The Role of MSBs in MTIC Fraud* (May 2008) highlighted the key role MSBs have in MTIC fraud, a number of MSB intelligence gaps, and that there had been a significant drop in the number of SARS received from the MSBs. It concludes that HMRC's regulation of MSBs is not sufficiently robust to counter the threat from MTIC fraudsters.
- *Risk Assessment of HMRC's Control of Money Service Businesses* (December 09) identifies that "*SOCA receives in excess of 200,000 suspected money laundering related SARs per year… The difficulty is sifting out those that may be of interest to HMRC in relation to MLR 2007… the MLRIU indicates that, although SARs are received they are not aware of anything coming from the embedded team. This apparent intelligence loss may result from the fact that to date there is no regular dialogue between the two teams. It is known that there are current staffing issues within the embedded team and this may be a contributory factor in the communication difficulties."* This underlines the point that the MLRIU do not proactively interrogate Elmer/Moneyweb to identify suspect MSBs of which they were previously unaware.

4.62 In Northern Ireland, an MSB project has been developed out of a successful investigation into an MSB and its customers, and has recognised best practice in a collaborative joint agency taskforce approach (SOCA, PSNI and HMRC RIS/CI) that used a range of criminal and civil interventions. Cross-agency MSB intelligence is pooled and developed to identify suspect MSBs and the criminality that use them, against which the requisite multi-agency response is delivered. This has the hallmarks of a successful project that HMRC should consider deploying on a wider basis.

Fiscal Crime Liaison Officer (FCLO) Network

4.63 The network consists of 20 officers located in 17 countries stretching across Europe to the Far East, underpinned by a management and support capability in RIS London. This is shortly to be increased to 26 officers in 19 locations, who will cover 50 countries. Their prime focus is to advance HMRC's agenda with host nations and seek engagement that contributes to the Department's objectives. It has been determined that FCLOs do not need to be trained FIs/FIOs: if a specific requirement necessitates the expertise of an FI then the resource would be supplied to support the FCLO. There are currently two FIOs in the London office to support the network.

4.64 There are no generic FCLO post business plans, leaving the FCLOs to work to strategic goals or individual country action plans where they exist. It is up to individual officers to determine whether they create bespoke post business plans or not. Allied to a lack of performance measures, this invariably means that FCLOs are left to determine their own priorities, which are dictated by the history of the post and largely reactive to demand. This results in a mainly commodity-focused approach, with no real priority given to criminal finance in the majority of posts. There are no financial intelligence taskings from RIS T&C.

4.65 The biggest hurdle that the FCLOs face in seeking engagement with the host on financial matters is the fact that they are not accredited as part of the UK FIU: SOCA is the UK FIU, and this incorporates their own overseas officer network. SOCA has refused to extend accreditation to the HMRC FCLOs, which leaves them dependent upon effective interaction with their SOCA counterparts. Where this does not exist, it has an impact on the timely flow of relevant financial intelligence to HMRC. There are further difficulties if there is no SOCA officer stationed in a country where there is FCLO coverage. In Singapore, for example, it took HMRC and SOCA a year to agree and sign a memorandum of understanding (MOU) that allowed HMRC to receive SARs from the host country. Where the host country is inflexible and will only deal with the recognised FIU, this effectively stops HMRC FCLOs from pursuing financial issues and developing financial intelligence. As a positive step forward, in some countries bi-lateral agreements have been agreed, with hosts covering the exchange of financial information as a pragmatic solution. Nonetheless, the lack of accreditation creates significant barriers to the FCLOs effectively identifying and pursuing criminal finances generated as a result of attacks on tax, duty and benefit systems.

4.66 In general terms the FCLOs should have an awareness of the host country's legislation relating to criminal finance, and an understanding of the infrastructure that addresses it. They have sought to establish relationships with the appropriate agencies. However, apart from in a very few posts, there is not much discussion between FCLOs and host countries about asset sharing. Exceptionally, having identified that Dubai was a major conduit and destination for the proceeds from MTIC fraud, HMRC was a driving force in the instigation and advancement of the asset-sharing agreement negotiations. By contrast, at the time of the inspection there were ongoing asset-sharing treaty discussions led by the Home Office with five countries. HMRC had not sought engagement in or contributed to these discussions, and has therefore missed an important opportunity to ensure that asset recovery of criminal finances generated from attacking the taxes, duties and benefits administered by HMRC has a sufficiently high profile and recognition by the relevant hosts in those countries.

Recommendation 9
HMRC's proactivity in driving negotiations with the Dubai Authorities to develop an asset-sharing treaty is commendable. HMIC recommends that HMRC adopt a similar proactive approach to other external stakeholders responsible for the negotiation of international asset-sharing agreements/treaties, to ensure that their interests are recognised and covered.

4.67 It is encouraging that there appears to be a growing number of requests from HMRC operational investigation teams for the identification or confirmation of overseas assets, and the registering of restraint and confiscation orders. However, a lack of publicity about what is possible for each FCLO post leads to wasted resource and unrealistic expectations by operational teams on requests that cannot be serviced. Publication within the relevant parts of HMRC of what is achievable in broad terms for each post would assist everyone in the process.

4.68 In Dublin, the FCLO has been designated as a competent authority for direct tax purposes, and this allows direct, real-time engagement by the FCLO with relevant host agencies, thereby identifying intervention opportunities for the UK. This is the only FCLO post that has this competent authority status and it has commendably produced demonstrable benefits, which warrant consideration of extending accreditation to other FCLO posts where appropriate. Through direct FCLO engagement, access to the host's SARs has recently been negotiated, which has initially produced more than 100 intelligence leads. Based on FCLO involvement, joint intervention opportunities have been facilitated more effectively between HMRC operational teams and their counterparts.

Consideration 2
Consideration should be given to extending the competent authority status for direct tax purposes to other appropriate FCLOs.

4.69 To underpin the FCLO relationship with their hosts, FCLOs need an up-to-date knowledge of developing threats, trends, capabilities and case law. Without an effective mechanism to provide this support to them they are at a distinct disadvantage, and currently this hampers the way they work and their engagement with their hosts. As an example, the relevant intelligence from SARs was not being disseminated to the FCLOs, and similarly they did not receive intelligence from the European cash declaration database – even though CRI has access to and interrogates this.

4.70 FCLOs are generally not aware of or involved in the utilisation of civil processes within their host countries as a vehicle to recover criminal finances stolen from HMRC. They are not normally aware of insolvency practitioners acting on behalf of HMRC to recover funds in country. FCLOs are engaged in facilitating compliance activity to prevent revenue loss, with action against MTIC fraud being a noteworthy example.

Specialist covert intelligence

4. 71 Within CHISOPS there is a financial strategy that Source Management Unit (SMU) team leaders have a responsibility to ensure is reflected within their unit's activity. They have a key role between strategic management and operations and therefore are best placed to champion focused attention on proceeds of crime asset recovery. There is variable attention paid to criminal finance asset recovery across the SMUs, since they are predominantly regime-focused on criminality. Some team leaders insist that financial considerations are appropriately reflected in all CHIS authorities. However, there is no central financial taskings for SMUs to reinforce the importance of this consideration.

4.72 There was a significant lack of consideration by operational investigation staff of tasking CHISOPS from a criminal finance asset recovery perspective. While they would use any financial intelligence that materialised from sources, this was very much as a by-product to evidencing the predicate criminality. There is considerable scope for increasing the use of this specialist resource.

4.73 Within Specialist Teams (ST) there is recognition of the high priority of criminal finance asset recovery, and this is reinforced by team leaders. Practitioners proactively look for money laundering investigation opportunities, which are conveyed to the operational teams. Warrant applications are guided by the case evidential strategy to which they contribute, and look to ensure the financial aspect is incorporated.

IG intelligence

4.74 IG has its own dedicated intelligence resource to identify internal corruption and develop criminal intervention opportunities. All referrals are logged and subjected to basic intelligence checks, and prioritised using a RAG matrix. Fifty percent of the referrals are normally assessed as green, and these are referred for IG civil intervention, or to local managers to resolve. For these referrals not all financial checks are conducted to inform the assessment, and they are not normally considered by an FI unless they are derived from SARs. Financial checks are conducted by an FI on all referrals assessed as amber or red.

4.75 While all cases should be considered for money laundering offences, none of the intelligence staff (apart from the FIs) has been trained on what constitutes a money laundering offence, and therefore they would be unlikely to identify it. Hence in reality none of the referrals assessed as green (save for those derived from SARs, and so assessed ordinarily by FIs) are properly considered for money laundering offences. Emphasis is placed on pursuing the predicate criminality and as such asset identification is not prioritised, and seen more as the investigators' responsibility. Performance measures are focused on processing times of referrals, and take no account of criminal finance asset recovery.

4.76 If the referral adopted for development is financially based (that is, derived from SARs or from other financial intelligence) a financial profile is also developed. This is not the case for all other referrals. There is no standard format for what should be incorporated in the financial profile, and the CDT template is not used for this purpose. Lifestyle is looked at to some degree in financial profiles, but not for referrals without financial profiles.

4.77 Commendably, an FI of their own volition has championed the use of financial tools within IG. Having identified a skills gap, this FI proactively developed a seminar in conjunction with the CI training team, which was delivered to relevant IG staff in early 2009 to raise awareness levels. This champion has led the way on the consideration and utilisation of POCA production orders within IG intelligence.

4.78 Within the constraints of fewer staff, the focus of activity is not surprisingly upon addressing the referrals received. There is a dearth of proactive intelligence generation to identify internal corruption. As highlighted in paragraph 4.44, financial intelligence sources are therefore not being effectively exploited in this manner.

Tax credit intelligence

4.79 Within the tax credit regime there is a risk (intelligence) resource that processes suspect claims for challenges by frontline staff. Claims that produce high scores against an automated risk matrix are referred to them to consider. Work is profiled on the basis of the actual claims and not on claimants, who are not

ordinarily tracked even if they are high risk due to previous behaviour. An intelligence picture against a claim is only constructed from the supporting material supplied by the claimant themselves, allied on occasions to very basic intelligence checks like DWP systems, PAYE and Experian. Ordinarily, internal HMRC databases and intelligence databases like PNC, Centaur and Elmer are not used to inform the intelligence picture, and financial or asset profiles are not created for suspected fraudsters. For the worst offenders officers may try to visit claimants at their home to gauge lifestyle, but this is not common practice. If a claimant who makes a fraudulent claim has no funds then the monetary penalty can be wiped out or not imposed. Some referrals are made to the ERT, if the claim is more than £50,000. A limited number of tax credit staff have had POCA training, but not frontline staff, who are not looking for or identifying evidence of money laundering, and do not ordinarily have the ability to recognise it. The main performance measure for the regime is to reduce error and fraud to not exceeding 5% by 2010/11. (For 2007/08 it was 8.6%, with a monetary equivalence of £1.7 billion.) This measure is translated to frontline staff by assessing the number of cases handled and the turnaround time. There are no such measures for criminal finance asset recovery.

Inland Detection Control Centre (IDCC)

4.80 The Inland Detection Control Centre (IDCC) within SI Directorate was formed in April 2009 to tackle the low-level criminal threat within the tobacco, alcohol and oils regimes, focusing on seizure activity. The IDCC processes all intelligence passed for Inland Detection intervention. They disseminate the intelligence to the operational teams and monitor the action taken. Basic checks are undertaken by the IDCC on all intelligence received, but they inconsistently check Centaur, PNC, Moneyweb and Experian, depending on the information. They do not look to enhance or build up intelligence which is not within their remit, but just undertake basic checks.

4.81There is no financial profile in the packages the IDCC pass to the ID operational teams. At the moment they do not get cash seizure opportunities passed to them, although the operational teams will pick up cash while at premises as a by-product to the main reason of their visit (which is to seize duty free goods). There are no financially-trained officers at the IDCC. There was a lack of knowledge of the ERT process, and no referrals are made to it for cases where a greater intervention is appropriate. At the time of the inspection the IDCC gave no priority to the financial aspects of referrals received – although this is likely to change following the final transfer of staff to the UKBA, and the changing responsibilities that will be reflected in 2010/11 performance measures.

5: Interventions

Criminal investigations

5.1 The structural transformation within HMRC since 2005 has had a significant impact on the Criminal Investigation Directorate (CI). The powers and very differing approaches of the former HMC&E and IR to criminal investigation did not initially gel upon merger. The transition into a unified CI command was hampered by the legal process in harmonising the powers for the new Department, which prevented the use of former HMC&E criminal powers for former Inland Revenue matters. The substantial investigation training commitment needed to upskill the former IR officers drew upon experienced frontline operational investigative resources, which not surprisingly had an impact on outcomes. At the same time, the transfer of 715 CI officers to SOCA saw the loss of a wealth of investigation experience, and this has taken some time to rebuild and realign to the Department's new focus as a fiscal authority.

5.2 The creation of the UKBA brought further upheaval to CI over a protracted period that did not end until December 2009 (with the transfer of 290 CI investigation staff). Following this reduction the Directorate now has 1,186 specialist investigators. During the transition phase, CI was obliged to criminally investigate frontier interventions referred by UKBA that met nationally-agreed criteria. Much of this work related to drugs importations, for which the Department had transferred the responsibility to SOCA at the time of that de-merger.

5.3 HMC&E and now HMRC have embraced the NPIA training for financial investigators and intelligence officers. The Department has recognised the value of this specialist training for law enforcement from the start, and has contributed to and used it to form their own trained cadre of financial officers. With the SOCA de-merger CI lost 27% of its FIs, which reduced their strength to 142 officers (as at March 2006). This prompted a conscious effort to recruit and expand the resource, and by December 2008 the number of FIs had risen to 296. The need to mentor the new recruits through two years of training had an impact on their ability to service CI's financial responsibilities. The subsequent transfer of CI staff to UKBA saw a further loss of trained FI resource.

5.4 Historically, there has been recognition of the importance of addressing criminal finances within the criminal investigation specialism. There was a Senior Manager lead on criminal finance and a branch of investigators that focused on money laundering investigations within the former HMC&E, which continued into the newly formed HMRC. Within the former IR, there was a national team dedicated to undertaking restraint and confiscation on all criminal investigations where appropriate, and a small, specialised money laundering investigation team. Since the creation of multi-function teams in the current CI structure, money laundering investigations are now within the remit of all MFT investigators. In restructuring, the current Directorate formed two separate business streams, for operations (CI OPS) and strategy, professionalism and planning (CI SP&P). Within each stream there are senior manager leads for criminal finance.

5.5 Currently there is a generally a good recognition among operational CI staff of the importance of addressing criminal finances through confiscation, which is underlined by messages from senior managers throughout the command chain. It was CI SP&P who recognised that the CFSF had failed to deliver outcomes, and it was their corrective action in launching the CFP that has kick started HMRC's approach to addressing criminal finance.

5.6 At the time of the inspection CI categorised its investigations into three classifications. Category A represented investigations that targeted organised criminal attacks against HMRC systems, predominantly by organised crime groups (OCGs). Category B represented investigations into evasion conducted by legal source businesses and individuals who committed the frauds as a by-product and as a consequence of opportunity provided by their legitimate trading activity (this category also included singleton tax credit fraud). Category C represented investigations into referred frontier interventions from the UKBA. During the latter part of the inspection, and with the transfer of relevant frontier responsibilities to the UKBA, CI moved away from this categorisation. However, because the casework examined for this inspection was based on the old categorisation, as were the comments recorded during interviews with frontline practitioners, this report is similarly based on the original A, B and C categories. While the responsibilities for much of the Category C work has transferred to the UKBA, comments about the processes, procedures and approaches to this work still have a relevance to CI because they retain responsibility for investigating revenue-related frontier interventions, and so are likely to continue some of the practices and processes in the new system.

5.7 CI have an electronic investigation casework management system (Chiron), which is being rolled out in phases. Ongoing problems with this system have prevented its full utilisation so that the amount it is currently being used varies by CI office and by type of case: smaller cases tend to use Chiron fully, while the larger cases use a mixture of Chiron and hard copy records. In this report, comment on a process or procedure applies equally to either the electronic or manual system (unless expressed otherwise).

5.8 Current CI policy dictates that for all investigations adopted there should be a consideration of a financial and confiscation investigation from the outset. Therefore each case should have a case officer, disclosure officer, an FI for the financial investigation and an FI for restraint and confiscation where warranted. Every criminal investigation should have a financial case strategy/plan, which should be a living document that evolves during the progress of the investigation. This policy reflects the CFSF, which states: "*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."* This ideal remains aspirational when faced with the reality of a limited resource environment that forces harsh prioritisation, with the result being that lower level casework (predominantly Category C casework) by design does not get the level of financial input that it should.

5.9 For all categories of casework there was little evidence found of recorded case financial plans. To address the absence of these, an aide memoire has been recently developed by CI SP&P for operational team leaders, to assist them in meeting this responsibility. The existence of such plans will help to maintain the focus of MFT investigators on this aspect of their work and underpin the mainstreaming of this approach. Within the drill-down pages for CI on the E&C Dashboard there is data on the financial investigations undertaken within their casework (in hand or completed during the year). From the March 2010 edition it reports that for the year 2009/10 there is an achievement rate of 82% for Category A cases, while for Category B cases this is 60%. No data is provided for Category C cases, but given the determined financial stance towards this level of casework, it is very likely to be substantially lower than the other categories.

5.10 CI has its own T&C function that works closely with RIS CIG T&C. It oversees all CI MFT pre-knock activity and determines its continuance, calculates available resource to adopt new casework, and provides casework requirements to RIS

CIG. These requirements are articulated in line with the priorities set by the FFG in the FFDP and therefore are predominantly regime specific. Referrals passed by RIS T&C for adoption are assessed to determine whether they are to a suitable standard and meet CI requirements. In normal circumstances operational CI MFTs do not have the authority to adopt or generate casework themselves. CI T&C are therefore are in a pivotal position to determine the shape of the cases adopted. They are able to call for money laundering intelligence development in their taskings of RIS T&C, thereby establishing it as the norm for all referrals: but currently this does not happen systemically. Similarly, when placing adopted referrals with the MFTs they can ensure there is a requirement to investigate money laundering by MFTs in conjunction with the predicate offences, or as an alternative to them.

Review of CI financial resource (Pacesetter)

5.11 Before April 2009, FIs were generally embedded within CI operational teams, where they would use their expertise as called upon for casework progression. This principally translated into obtaining financial production orders as directed by the case team, and undertaking restraint and confiscation. Their role was not, however, focused upon driving the investigation from a financial perspective. As trained investigators, the FIs would also take on the full range of investigative duties, including the key roles of case manager, case officer and disclosure officer. This provided an understanding of investigation techniques that assisted them in determining how they could most effectively use their financial skills. However, taking on such roles did not make the most effective use of their financial skills.

5.12 In 2008 a review was undertaken of the CI financial resource structure and utilisation to determine how to make the most of this specialist resource. This review produced two possible operating models; these were considered by CI Senior Managers, who recommended a preferred option to the Criminal Investigation Board (CIB) for implementation from April 2009. During this inspection it has not been possible to establish whether this model has been definitively signed off CIB, with contrary views expressed by many practitioners. In the interim, elements of the preferred model have been rolled out. However, there has not been an effective proactive engagement with staff to promote the positives of the new structure and (more importantly) to address their concerns with it. This can only serve to hinder and impact the effective use of the new structure by MFT investigators.

5.13 Analysis of statistics from January 2009[11] reveals that 17% of FIs spent less than 50% of their time on financial activity, while 70% spent over 70% of their time on financial activity (as is required to maintain their NPIA financial accreditation). Only 34% of FIs spent more than 50% of their time on money laundering investigation activity, while 19% undertook no such activity at all. Only 32% spent over 50% of their time on confiscation activity, while 29% undertook no such activity at all. For cash seizure activity only 4% spent more than 50% of their time on this activity, while 87% spent less than 20% of their time, and 38% undertook no such activity at all. This data provides ample evidence to support the need for a change to the different method of working that will ensure the appropriate usage of this specialist resource.

5.14 The new structure essentially removes the embedded FIs from the investigation teams and ringfences them in a separate management command, which manages their activity and determines their allocation to criminal investigation casework. In this way it will be possible to maximise the use of the financial expertise without it being diverted to other investigative duties. This helps the FIs to maintain their NPIA financial accreditation by devoting the required 70% of

[11] Based on a sample of 209 FIs.

their time on financial work. Additionally, locating the FIs together should help with the development of best practice and with mutual support, and will enable a flexible deployment of this resource that can meet pressures in demand on an individual case basis.

5.15 The new structure commendably recognises and rightly prioritises action against criminal finances, and demonstrates the commitment of the Directorate in this regard. The focus on financial activity by FIs should lead to an improvement in CI outcomes against criminal finance and asset recovery. Due to resource dynamics it will take time for the organisation to move to this structure nationally, and there is recognition that one size does not fit all. However, this transition process has led to the creation of hybrid operating models. There needs to be appropriate oversight of the implementation of this new structure so that senior managers can judge its effectiveness in producing the expected outcomes and undertake a meaningful post implementation review.

5.16 Among frontline investigators there is almost universal recognition and acceptance of the benefits of the concept of ringfenced restraint and confiscation teams. The key issue for them was whether FIs should be embedded within the investigation case teams in order to fully influence case direction and progression, and to undertake real time evidence evaluation. There was overwhelming support for embedded FIs from investigators, as they were primarily dependant upon them for financial upskilling and current knowledge. With the removal of embedded FIs under the new structure it is clear that processes need to be put in place that ensure effective communication provides a continuous, up-to-date level of financial knowledge that can meet the needs of the MFT investigators.

Mainstreaming the investigation of money laundering

5.17 A CFSF key objective states that a means of addressing criminal finance is: "*Identifying opportunities to further undermine criminal financial gains by pursuing money laundering offences in addition (or as an alternative) to other offences*". In 2007, as part of the CFSF steering group CI undertook to translate this objective into activity by "*implementing a default requirement on operational decision-makers to consider money laundering investigation in every CI case, (but acknowledging that this is new territory in most direct tax cases)".*

5.18 The *Enforcement Handbook* provides investigators with the following clarifying guidance: "*While stand alone money laundering offences can be prosecuted it is normally the case that the underlying offence, if identified, will normally be proceeded with, as it represents the conduct which gave rise to the criminal proceedings. While the investigation of money laundering should be considered in each case, it is likely that to satisfy the test for charging, the subject needs to have done more than just simply consume the proceeds of his crime. The investigator should specifically look for evidence of any significant attempt to transfer or conceal ill-gotten gains. In these circumstances, RCPO are much more likely to propose money laundering charges in addition to the predicate offence charged."*

5.19 Current CI policy dictates that an FI will be appointed to all cases at the outset. A key responsibility for this FI is the pursuit and furtherance of a money laundering investigation in the terms outlined above. A separate FI should also be appointed to deal with restraint and confiscation. Limited resources have a significant impact on CI's ability to deliver this policy aspiration, and forces them to prioritise activity to the most serious cases. While operational managers strive to appoint an FI at the outset of Category A and B cases, this has not always been possible. Those appointed will be tasked to consider both the financial investigation and restraint and confiscation, but with the focus being invariably on the latter, especially if they are appointed some time after the case has been

adopted. Until circumstances force the need for a second FI for restraint and confiscation, such appointments are rare. This has diluted the attention the FI gives to the investigation of money laundering. For Category C work, which was largely investigated by specifically formed investigation teams (RITs), they were constrained by design to focus on the predicate offence that prompted the frontier intervention. In most regions there was insufficient FI resource to fully service all the Category C casework, since the available resource was focused on confiscation. Therefore this rarely led to the consideration of investigating money laundering by the RITs, particularly as many of the investigators did not understand what constituted the offence and had received no training on the subject. Such was the constraint of casework pressures in some locations that they did not extend investigations to encompass repeat offending in relation to the predicate offence, or to look at lifestyle offences as defined in POCA.

5.20 The guidance allied to the commodity-focused priorities and resource pressures has inevitably determined the manner in which operational work has been tasked, developed and investigated. This has prioritised the predicate offence over money laundering (which has been relegated to at best secondary consideration), and shaped this behaviour into a commonly-held approach amongst many MFT investigators. In one case, a referred pure money laundering case was investigated for predicate commodity offences only, abandoning the money laundering aspect until Counsel instructed otherwise. Of the Category A and B cases examined in the file audit, half were not considered for the investigation of money laundering (contrary to the 2007 policy mentioned above at 5.19). Within these, some cases displayed clear grounds to support money laundering investigations. This was in part explained by MFT investigators who felt the Revenue and Customs Prosecution Office (RCPO) was generally opposed to money laundering charges. However, it was encouraging to note in some locations there is a developing willingness to proactively consider money laundering investigations both alongside and in lieu of predicate investigations.

Use of financially-related orders

5.21 CI have only started to systemically capture performance information on the use of financial orders since April 2008. It is clear that there is limited effective assurance of this information before it is submitted to the central team (MIST) that collects and collates the data. As there is no specialist criminal investigation expertise within MIST, they are not in a position to challenge the quality or accuracy of the information provided from a technical standpoint. From the significantly differing versions of statistics provided to HMIC on the use of these orders it is apparent that this data cannot be wholly relied upon. What is apparent, however, is that consideration and use of some of these orders is not mainstreamed into criminal investigation activity.

5.22 While for some of the orders there are limited circumstances in which opportunities to use them occur, this was not normally a determinative factor in not using them. The inspection looked in particular at the use of Restraint Orders, Production Orders, Customer Information Orders (CIOs) and Account Monitoring Orders (AMOs) under POCA 2002; Financial Reporting Orders (FROs) under the Serious Organised Crime and Police Act 2005 (SOCPA); and Serious Crime Prevention Orders (SCPOs) under the Serious Crime Act 2007 (which could be utilised from a financial perspective). The following table details the data provided by volume of orders and the corresponding number of operations where they were used.

Type of Order	2008/09 number of orders	2008/09 number of operations	2009/10 number of orders	2009/10 number of operations
POCA Restraint	93	not known	71	not known
POCA/ALL Production Order	471/875	80/148	1,493/2,047	166/290
POCA CIO	4	2	33	1
POCA AMO	42	6	105	16
SOCPA FRO	1	1	2	2
SCPO	7	2	11	1

5.23 Within MFTs, the stance of investigators ranged from champions who were progressive in the use of these financial tools to assist the development of their investigations, to those who were so locked into a mindset of only progressing predicate offence investigations through the use of traditional methods and powers that they dismissed these financial tools as being the sole preserve of FIs, and therefore of marginal relevance. The most commonly held approach was a general awareness of the existence of these orders but an inexplicable lack of consideration for using some of them. This in part was attributable to limited understanding of the orders, in itself a reflection on the level of training they had received.

Recommendation 10
HMIC recommends that a case financial plan is created and maintained for all criminal investigations that highlights opportunities for money laundering investigations and the use of POCA financial tools to be pursued in the case. If money laundering is not pursued, this decision must be signed off by an operational assistant director.

5.24 The FIs were far more aware and knowledgeable about these orders and would in the main rightly consider the predominant purpose of their applications to determine which legislation and orders should be utilised. Despite this, however, there were a few occasions where there was again a lack of consideration of using some of the orders, for no apparent reason. With the new FI structure much will depend upon the ability of the FIs to mainstream the use of these orders into driving the investigations from a financial perspective. While the FIs have established themselves and gained acceptance in the restraint and confiscation role, they have yet to achieve the same level of acceptance and recognition in their role of shaping and driving the investigation from a financial perspective. There was evidence that they will face a challenge from some case officers and case managers who see it as their preserve to direct the investigations, and who view the FIs as a specialist resource to respond to the direction set for the investigation by the MFT investigator.

5.25 As the investigation of money laundering offences was not always conducted from the outset, some of the orders under POCA were not available for use. However, this limitation was not usually a factor in the MFTs's failure to consider using these orders.

5.26 The CFSF states that "*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". The *Enforcement Handbook* provides the same guidance, save for changing "in order to maximise the potential for asset recovery" to "and there is a risk of dissipation", thereby diluting the important emphasis of using this tool. The ability to apply for a restraint order was widely recognised by all investigators: but as the statistics show, they are not consistently used. Although under POCA restraint can be obtained from the outset of an investigation (before arrest), this is rarely considered. The overwhelming view of investigators was that the investigation of the criminal activity took primacy, and that applying for restraint at this stage would prematurely reveal the existence of the investigation and therefore be to its detriment. If the FIs thought differently, this would invariably be considered as secondary. While it is right that a judgement is made on a case-by-case basis, in some locations the above stance has become the default position, without a proper assessment.

5.27 Although restraint orders are considered at the arrest and charge phase of an investigation, there is a conservative approach towards using them, particularly in large, complex cases that take a number of years before reaching trial. Investigators have learnt that the judiciary do not favour maintaining orders for such lengths of time (particularly if it impacts upon a viable business), and this discourages consideration of their use in the first place. A number of investigators also commented that their attempts to apply for restraint orders were frustrated by RCPO, who required actual evidence of dissipation before agreeing to the application. This defeats the purpose of the order and is not a prescribed prerequisite within the Act. If this practice is widespread CI should resolve it, through strategic engagement with their prosecutors. It was exceptional for restraint to be considered within Category C casework, since by design the focus of activity was on investigating and evidencing the predicate offence. Not surprisingly, this has allowed the dissipation of assets.

5.28 Production orders are well known and used by investigators, who mainstream them in their investigation activity. In the main the MFT investigators use production orders under PACE for evidence gathering. While investigators were aware of the facility to obtain production orders under POCA, there was not a full appreciation of what this order could provide differently to the PACE order. Many believed it to be more restrictive and for use by FIs, and therefore dismissed it. It was evident that generally their familiarity with the PACE order prompted the lack of consideration of the POCA order. However, it is clear that MFT investigators have not always been best served by consistent legal advice from RCPO on the matter when they sought guidance. It was encouraging to find in some locations that MFT investigators were proactively considering the predominant purpose of their application, and using this to determine which legislation they used. The FIs consistently adopted this approach and given that their focus was invariably in relation to confiscation, they overwhelmingly applied for POCA production orders.

5.29 The production order statistics in the table above do not entirely accord with the evidence gathered during the inspection, and it has been difficult to obtain reliable data for the use of production orders. The latest CI-assured statistics (as used above) differ from the E&C dashboard for 2009/10, which reports a total of 1,775 production orders for the year (as opposed to the 2,047 stated above). On the face of it, the substantial rise demonstrated in the statistics in the use of POCA production orders both year on year, and as a percentage of all such orders is very encouraging: but it is unclear what is the cause of this rise, as it differs from the views expressed by practitioners during the inspection.

5.30 CIOs are a tool that can particularly assist early case development with the identification of accounts used by suspects to support their activity. However, the statistics suggest that these have only rarely been used. While there was a substantial year-on-year rise in the number of CIOs obtained (as detailed above), in reality for 2009/10 all the 33 orders were obtained for a single case. While

investigators showed a general awareness of the existence of the order, there was no real enthusiasm to use them and thus little consideration given to applying for them. Those investigators canvassed who required such information preferred to use intelligence channels with the financial institutions to obtain the information (where the institutions were prepared to provide it). There was therefore an overall lack of appreciation of the benefits that this order can provide.

5.31 AMOs are an effectual tool to monitor money flows and aid investigators' understanding of a fraud. They provide for the early identification of new or previously unknown transactions and accounts used by the fraudsters in real time, thereby furthering the investigation development and providing potential leads both to the dissipation of criminal finances and to evidence of money laundering. Given that this tool has been in existence for more than seven years, it appears to have been underused by investigators. However, the statistics above show a positive year-on-year increase in both use of these orders and the number of cases in which they were used. There was a general awareness among most investigators of this tool but limited consideration of it as a means to aid case progression. Some MFT investigators felt that this was a tool for use by FIs only and as such relied upon them to advise when to use it. From the file audit there were opportunities where AMOs could have been used but were not considered.

5.32 FROs are primarily a tool for use post-conviction, to monitor the financial activity of those found guilty in an attempt to prevent re-offending. The Offender Management Unit (OMU) is the focal point to manage these within CI, but as FROs are likely to require a lot of resource, the limited operational capability of the OMU may have an impact on its ability to fully administer these, and this might influence the number of applications. Case officers and case managers should consider the benefits of these in conjunction with the CPS, particularly where there is a realistic risk of re-offending, or the dissipation of proceeds of crime. The FIs assigned to the cases are well placed to judge whether an application for an order is appropriate. The statistics above show that they have been applied for only rarely. While there was an awareness in most parts of frontline operations of this order, there was very little consideration given to using it. The *Enforcement Handbook* articulates the standard operating procedures for seeking an FRO and advises that case officers and FIs should routinely consider the use of FROs in all cases. This is not happening.

5.33 The consideration of the use of SCPOs should come towards the end of the investigation in the event of a successful prosecution. This is a relatively new tool (the legislation was passed in 2007), and can be effectively utilised from a financial perspective. The *Enforcement Handbook* provides the following guidance for investigators: *"case officers should routinely consider the use of SCPOs in all their cases .. [although]… given the potential resource implications associated with the monitoring and enforcement of SCPOs, HMRC will only look to obtain SCPOs in the most appropriate cases"*; *"In every case and in conjunction with the OMU and RCPO, the case team should consider whether an SCPO should be sought as part of the case strategy for each defendant"*; and *"the case team will be responsible for drafting the SCPO having consulted with the OMU and RCPO*". From the statistics above this order has only been used in three cases in two years. During the inspection there was a limited awareness of the existence of this order, with an overwhelming lack of consideration of using it from a financial perspective. There is little compliance with the *Enforcement Handbook* guidance.

5.34 The use of search warrants is a basic tool of the MFT investigator, and applications are normally made under PACE for evidence gathering. There is a widespread awareness of the ability to apply for search and seizure warrants under POCA, yet the inspection found a conservative approach to using this tool

among MFT investigators. While in part this was due to a lack of proper consideration, there was also an insufficient understanding of the difference between the warrants and the benefits they convey. This was not an issue for FIs, although at their conference there was recognition by them that this was an underused tool that was not promoted sufficiently.

5.35 Photographing or videoing premises during searches conducted under a PACE search warrant has become common practice among MFT investigators in a number of locations. Overwhelmingly, this is conducted solely to record evidence of assets, which is not necessarily of evidential value in relation to the predicate offence under investigation. Save for one location, investigators did not know and did not think to consider the legal basis under which they undertook this activity, presuming they were covered by the PACE warrant. In one office, the legality of this approach has been questioned, and a local policy devised that stipulates that warrants under PACE and POCA are simultaneously obtained and executed to allow this activity to be conducted. Although pragmatic and well intentioned, this approach does not have legal opinion from independent counsel supporting it, and has been subject to some judicial criticism. CI needs to examine this issue and determine a legally-supported policy, which should then be actively disseminated to all investigators.

Recommendation 11
HMIC recommends that CI establish whether the simultaneous execution of search warrants under POCA and PACE at the same premises represents best legal practice. Whichever approach achieves legal approval should be actively disseminated to all investigators.

Case decision record

5.36 An important foundation for all investigations is the record of key decisions made. These are recorded in either a manual case decision log or on the electronic Chiron chronology (CDL). The *Enforcement Handbook* advises: "*The recording of why various lines of enquiry and important tactical decisions were, or were not pursued is critical … The purpose of a CDL is to ensure that an accurate and timely record is maintained of all significant decisions made during an operation and the rationale behind all decisions explained. The log is not a record of all actions in an investigation……A CDL must also include all decisions concerning any financial investigation (restraint and confiscation), and will be transferred to the appropriate financial team post-conviction. Only one CDL is to be kept at any time*" . In the list of criteria that should be considered when deciding on entries in the CDL, "*a record of any applications made*" is included. Within the manual CDL, this is repeated in the guidance notes. The *Enforcement Handbook* also advises *"Negative decisions must … be recorded: failure to do so often create more issues than any other type of decisions";* and when an FI is appointed to the case *"their appointment should be recorded on Chiron / in the Case Decision Log".*

5.37 There is inconsistent application of this guidance. FIs are not always ensuring their appropriate decisions are recorded in the CDL. Invariably, such decisions, if recorded, were made in their daybooks or file notes of which the MFT case officer or manager were not aware, thus diluting the effectiveness and credibility of the CDL process. In one location FIs were maintaining their own CDLs in compliance with a perceived policy, but contrary to the *Enforcement Handbook* guidance.

5.38 The lack of recording of financially-related decisions is a concern. The appointment of FIs is not always recorded. On the few occasions where decisions to apply for the above orders were recorded, the rationale was usually limited, and sometimes insufficient. There was an almost universal failure to record

negative decisions. If any of the above orders were considered but a decision made not to apply for them, this was not recorded in the CDL or anywhere else.

Recommendation 12

Investigators fail to fully record all appropriate operational decisions in CDLs. Therefore, HMIC recommends that HMRC ensure and assure investigators record both positive and negative decisions, in accordance with the Enforcement Handbook's requirements.

Confiscation

5.39 The CFSF states: "*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*." This is translated into one of its key objectives, and is interpreted by the *Enforcement Handbook* into the following guidance to investigators: *"Nearly all HMRC criminal investigations will require a confiscation investigation…in order to determine whether confiscation proceedings are appropriate….has the offender obtained property, or a pecuniary advantage, as a result of or in connection with his or her criminal conduct"*; *"In theory a confiscation investigation can begin whenever a person is suspected of benefiting from criminal conduct, although in practice it will normally take place at the start of a related criminal investigation"*; and *"the criminal investigator and the FI should consider a confiscation investigation at the earliest possible opportunity, for example at the outset of a proactive investigation or on arrest"*.

5.40 CI policy in reflecting this guidance stipulates that a confiscation investigation should be considered in every case, with appropriate officers appointed at the adoption of all cases. It is apparent that the biggest obstacle to achieving compliance with the policy and guidance is the lack of resource. While HMRC have a very high ratio of FIs to MFT investigators in comparison to other law enforcement agencies, the criminality they address is virtually all acquisitive crime that requires specialist FI input. On Category A and B cases there were instances where FIs were not appointed at the outset, and often some way into the cases purely due to a lack of available resource, with the resultant impact on asset identification enquiries. CI expects that the flexibility in the new financial structure (which allows for brigading of FIs and placement of work nationally if necessary) will in part alleviate this issue.

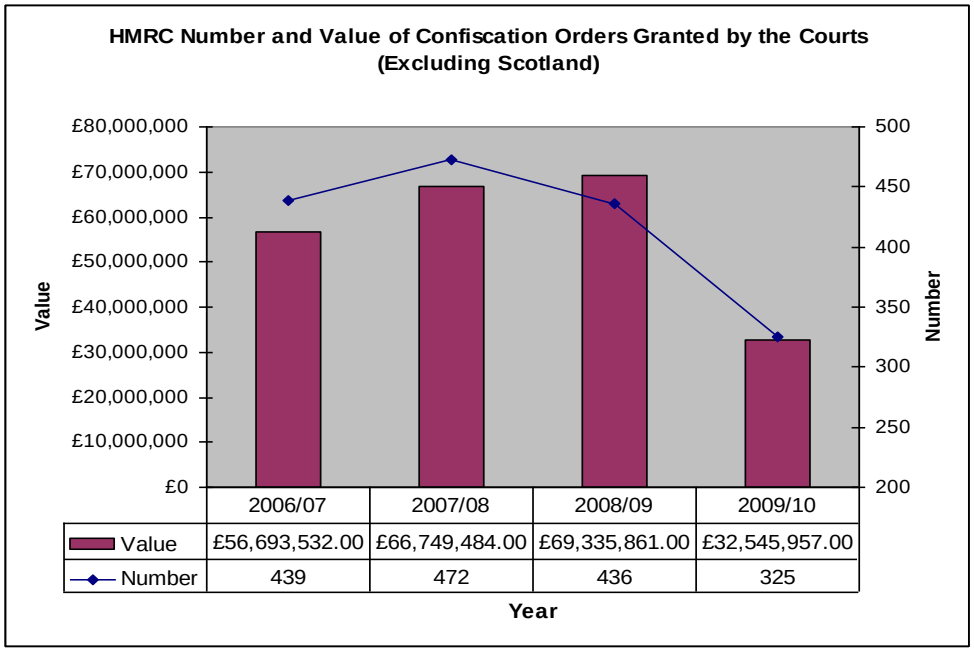
5.41 The lack of resource has forced prioritisation and shaped behaviour, particularly towards Category C casework. Where historically certain types of cases have produced negligible outcomes for asset recovery or proved difficult to obtain asset evidence within the likely case trial cycle (eg young cigarette smuggling couriers or overseas nationals smuggling drugs), it is now common practice not to deploy resource to undertake confiscation enquiries. Any confiscation undertaken would be limited to what possessions were found on the offender when stopped at the frontier, and in some locations these cases would be left for the non-financially trained case officer to undertake. This pragmatic practice is likely to create missed opportunities for asset recovery. It was found that this approach also extended to not undertaking premises searches for certain types of cases, thereby relinquishing the opportunity to find financially-related material to support confiscation enquiries.

5.42 In practice, in Category C cases, activity is restricted to addressing the intervention in hand; therefore account is not usually taken of repeat offending, other revenue related criminality or money laundering. This has ramifications in asset recovery terms, because offenders sometimes held further assets over and above the confiscation orders imposed for the single intervention. Although much of this work and staff transferred to UKBA in December 2009, there will still be a flow of frontier revenue-related intervention casework for HMRC to address, and

it is likely that these embedded practices will continue to be used to process the cases.

5.43 The following table shows the number and value of confiscation orders obtained, and demonstrates that HMRC is a significant contributor to the Home Office criminal asset recovery agenda. These statistics are reported on the E&C Dashboard and are used as performance measures to monitor activity. The drop in volume of orders in 2009/10 is in part a reflection of the transfer of frontier intervention work to the UKBA during the year. The drop in the value is viewed as being attributable to a number of factors, but primarily:

- In 2008/09 there was one order for £26 million: if this is excluded, the figures show a decline over the past two years. This is partly due to working through the system of large complex cases in the earlier years shown.
- There has been a growing development in defence tactics that have sought to robustly challenge, frustrate and nullify the confiscation proceedings: and for the larger, asset-rich cases this has significantly drawn out the court process. There is a growing challenge to identify and locate assets, with third party ownership being used increasingly to frustrate FIs' attempts to link assets to defendants.



5.44 MFT investigators recognise that confiscation is part of the investigative process. However, there is wide variance in how this is translated into asset identification activity in support of the appointed FI. While the majority of MFT investigators were alert to asset identification opportunities and proactively advised the case FI of these, many placed insufficient emphasis on seeking to identify the totality of realisable assets at an early stage, especially if the assets were hidden, overseas or liable to third party claims. This has particular relevance in the current landscape in which offenders are well versed in first dissipating their assets internationally and obscuring them by placing them under the notional control of others, and second in manipulating and drawing out the legal process in order to challenge the imposition and realisation of confiscation orders. In one case a confiscation order for £26 million was made by the court, but only £200,000 approximately has been realised against it. The offender continues to extensively use the legal process to challenge the order and has introduced substantial third party claims to frustrate recovery. Ordinarily, there were few early lifestyle assessments of suspects to determine the likelihood of hidden assets, and thus to provide avenues for further financial enquiries.

5.45 In order to pursue the identification of money flows and assets overseas the investigators are primarily using the Mutual Administrative Assistance (MAA) and Mutual Legal Assistance (MLA) processes, with the assistance of FCLOs. There has been a noticeable increase in this activity, which was borne out by the fact that 18.8% of the confiscation orders obtained in 2008/09 (equating to £33.95 million) related to overseas assets. Unfortunately, the difficulties and complexities of overseas engagement mean that such enquiries become easily thwarted when there is no FCLO in country. In such circumstances there is a lack of consideration and utilisation of other avenues (eg FIUs, international law enforcement agencies, use of host legislation) to pursue the identification and realisation of assets.

5.46 The *Enforcement Handbook* envisages that:*"In cases where there is significant benefit, but no assets are thought to be held, FIs will need to consult with RCPO about the merits of seeking a nominal confiscation order. This means that the case can be revisited at any time in the future should the offender acquire wealth."* There is little evidence of compliance with this guidance, save for a period of time when it was routinely applied without proper consideration to Category C cases in some locations (this stopped when it provoked criticism by the courts). While CI has recognised the concept of revisiting both the determined benefit and available assets in cases where confiscation orders have been obtained, and the Directorate has expressed the desire to undertake such enquiries, the lack of resource prevents any such systemic activity being undertaken.

5.47 At the time of the inspection there were £240 million of un-enforced HMRC confiscation orders. RCPO have the responsibly for enforcement of these. There is clear evidence that the actual realisation of assets to satisfy confiscation orders obtained is increasingly drawn out, problematic and difficult. Although beyond their legal and corporate responsibility, CI have seconded four investigators to the Asset Forfeiture Division (AFD) in RCPO to assist them with the realisation of assets. Further projects are underway where investigators are becoming increasingly involved in asset realisation to enforce confiscation orders. These are commendable initiatives, which seek to re-enforce the effectiveness of the legislation and validate the efforts of the investigators in obtaining the orders.

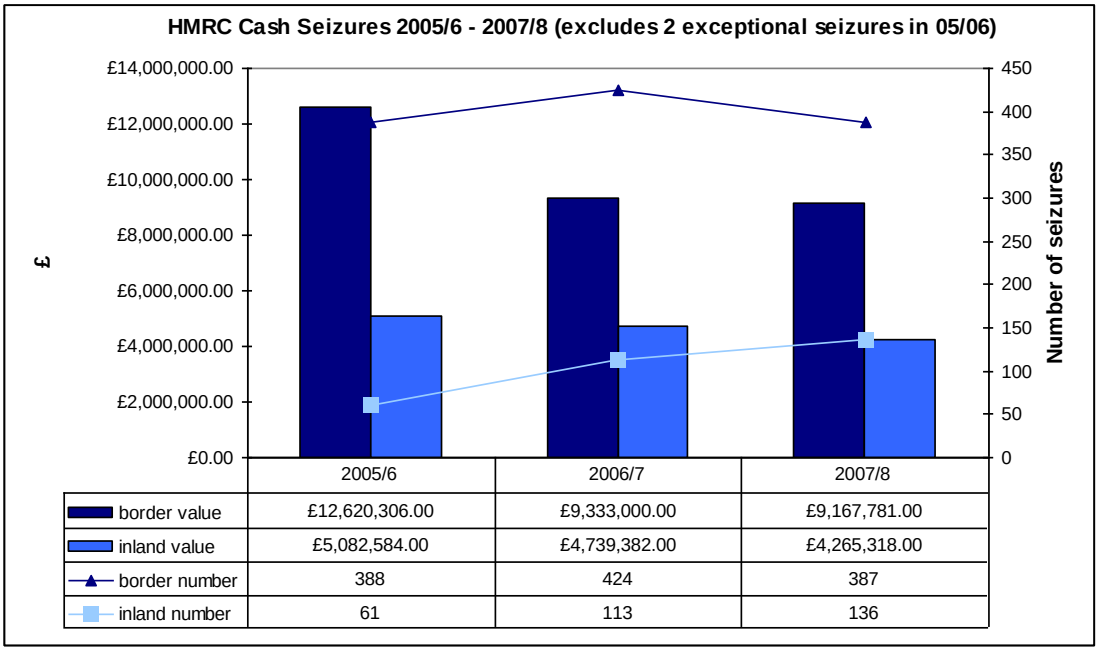
Recommendation 13
HMIC recommends that HMRC engage with the CPS to identify the most effective use of their provided resource to maximise the realisation of the un-enforced confiscation orders.

Cash seizures

5.48 During the inspection HMRC was responsible for progressing cash seizures at the frontier. The transfer of this responsibility to the UKBA was completed in December 2009, with the move over of CI RIT investigation staff. Inland cash seizures have historically formed a significant part of the total cash seized, and the responsibility for this still sits with HMRC, who is also the regulator of MSBs. Maximising cash seizure opportunities was recognised as a key objective within the CFSF and taken forward within one of the projects launched under the CFP. Activity is recorded on the E&C Dashboard in the CI drill-down section in terms of the number of new POCA cases only, without details of value. The SI drill-down section reports details by value of cash seizures made only. There are no performance measures for either directorate for this activity within the E&C Dashboard.

5.49 The total combined value of frontier and inland cash seizures has dropped year on year since 2003/04, and this has drawn criticism of HMRC by the PMDU. The table below demonstrates this trend in the last three years for which segregated

statistics are available. For inland seizures the value is reducing but the number of seizures has increased.



5.50 Cash seizures are progressed to forfeiture by HMRC's solicitors within the Criminal Finance Litigation Team (CFLT). The following table details the outcomes (which are for frontier and inland combined).

Year	Number of Seizures Referred to CFLT	Value	Number of Cases where Forfeiture Obtained	Value of Forfeitures
2003/2004	560	£31,512,977	--	--
2004/2005	899	£24,520,977	--	--
2005/2006	468	£21,760,425	372	£18,116,944
2006/2007	571	£15,574,106	291	£13,756,015
2007/2008	506	£13,361,286	319	£10,785,421
2008/2009	525	£11,911,606	313	£10,610,718
2009/2010	442	£12,185,681	201	£5,325,580

5.51 Inland cash seizure opportunities are principally derived as a spin-off from within existing criminal investigations, as a by-product of predicate activity by ID, or unrelated intelligence referrals. Within CI there has been difficulty on occasions in getting potential cash seizure opportunities adopted, including when identified through existing casework. There have been occasions when these opportunities have been passed to the police to deal with: for instance, in one example where a significant opportunity was identified in one CI region it was passed directly to the police without any consideration of passing it to colleagues in HMRC in the appropriate region. HMRC over the course of two years had passed cash seizures to the value of £4.5 million to police forces, for which they received little recognition and no ARIS funding. In August 2009 instructions were issued by senior CI management to operational managers that case spin-off cash seizures were to be dealt with from within their own resources unless prevented by a specific operational reason (and this had to be authorised at assistant director

level and recorded in the CDL). For joint agency working there was an expectation that the division of ARIS funding would be detailed in the MOU.

5.52 The lack of resource limits CI's ability to deal with non casework-related cash seizure opportunities like those generated by POCA consent requests, which would require the prioritisation of these over existing Category A and B cases. While there has not been a significant flow of cash seizure opportunities linked to MSBs, with the creation of the cash team within the MLRIU such new opportunities if developed will only add to this tension. From the examples seen where cash seizures that do not form part of an existing investigation were adopted, they were not routinely looked at to develop into money laundering cases**.**

5.53 At the time of the inspection ID's prime function was to detect duty free oils, tobacco and alcohol goods in free circulation within the UK. There is an appreciation of the importance of seizing cash but this is secondary and a by-product of the predicate activity to which such seizures must be linked. Currently they do not have the capacity to undertake MSB-related activity, and are not resourced to do so. SI has aspirations to do more and will set numeric quantative targets for 2010/11. They must guard against these targets driving perverse behaviour in order to achieve them.

5.54 Where frontier cash seizures were unable to be maintained due to claims that the cash originated from business activity, a project (Operation Jumbo) was set up to use this information by referring it to HMRC compliance colleagues charged with auditing the businesses' activity. This has commendably produced positive outcomes in identifying tax evasion. This project has negotiated appropriate pathways with the UKBA since the transfer of responsibility in order to continue this beneficial activity.

Criminal Taxes Unit (CTU)

5.55 A 2006 Home Office review recognised that the UK tax system was a potentially powerful tool that could be used against serious criminality to disrupt and recover criminal finances. In early 2007, HMRC used funding from ARIS to implement this initiative by setting up the CTU, the prime function of which was to work jointly with other law enforcement agencies, supporting their investigations by applying tax powers through criminal and civil interventions. This unit deals with all levels of criminality on cases usually initiated by SOCA or the Police. The two principal aims of the CTU are to tax more effectively the taxable income, profits and gains derived from illegal activities; and to minimise the harm caused by crime, in accordance with the wider governmental harm reduction agenda. It uses existing tax powers to recover any unpaid taxes and bring individuals and their businesses into the tax system, with the aim of increasing tax yields and reducing the profitability of crime. It is worth noting that this approach is founded upon the effective utilisation of specialised HMRC consultancy support, and informed through benchmarking with international agencies.

5.56 The CTU has undertaken an extensive programme of engagement with other law enforcement agencies to highlight the benefit they can add to investigations, in order to gain recognition as an intervention tool for routine consideration. They have negotiated a number of MOUs with police forces and have attended police surgeries to provide specific advice. The greatest impact has been achieved in cases where either prosecutions had failed or it had not proved possible to pursue the predicate criminality, but where the CTU could intervene to impact the criminals' activity through taxation.

Case Study

A renowned organised crime group (OCG), which had over the years proved resilient to traditional police methods, had acquired a significant number of businesses that conducted activity using limited companies. The true ownership of these businesses was obscured by the appointment of a front director to the limited companies. A police referral to the CTU resulted in the provision of expert advice on tax-related criminal charges. The CTU further assisted the investigation through the evidencing of the evasion of Value Added Tax (VAT) and Corporation Tax losses arising from the non declaration of profits by the businesses, resulting in losses of in excess of £250,000. The principal pleaded guilty to charges of Cheating the Revenue, Fraud and Money Laundering, for which he was sentenced to four years imprisonment. The front director, convicted following a trial, was sentenced to two years and nine months imprisonment. This resulted in the disruption of the OCG.

5.57 The case adoption policy of the CTU is determined first by HMRC's prosecution policy, and then on the ability to recover assets and facilitate harm reduction. If there is no prospect of recovering any criminal finances then the case would not ordinarily be adopted. The CTU also receive referrals from within HMRC if prosecutions have failed or proved impossible to pursue. In total, between April 2007 and December 2009 the CTU adopted 20 criminal cases. In one location some best practice has been developed through effective close working with the local CI office. The CTU team leader has attended CI case meetings and provided possible CTU intervention options to support the CI casework. This has produced spin-offs for the CTU to pursue. The CI office has an FI seconded to the CTU on a yearly rotating secondment, which has assisted the collaboration between the units and provides a greater awareness and appreciation of each other's capabilities.

5.58 Through their engagement with other law enforcement agencies the CTU has achieved national recognition, which has produced an ever-increasing flow of referrals. At the time of the inspection the CTU was operating at optimum capacity within its allocated resource of eight criminal investigators and 18 civil investigators, and was forced to pick which referrals it took on. Within HMRC there was a limited awareness among investigators and intelligence officers of the CTU's capabilities, which had an impact on the level of internal referrals. If this is addressed through improved communication, the likely increase in referrals will add to the existing tensions around ability to adopt cases due to the capacity limitations of the available resource.

5.59 The CTU looks to identify and preserve assets either for confiscation purposes in criminal cases or to satisfy civil taxation debts. In appropriate cases they have used civil 'freezing' orders to prevent dissipation of assets where they exceeded £50,000. These orders are also considered if criminal restraint orders are about to be lifted due to the case not proceeding or being lost at trial, in order to secure the assets for outstanding tax liabilities. Up to December 2009, the CTU had successfully applied for eight such orders, with a value of £3,445,000. In criminal investigations in which they have assisted other agencies and where there are outstanding taxation liabilities, the CTU are developing a policy to actively seek compensation at court at the time of the confiscation process.

5.60 For civil interventions the CTU primarily uses the discovery provisions under the Taxes Legislation to determine taxation liabilities. The table below details the results for cases settled in this manner. This process effectively underpins other agencies' investigative activity by removing criminal finance, and thereby preventing its reinvestment in criminal activity. The CTU also use the CIF procedure in appropriate cases: this is discussed in the CIF section below.

Period	Number of settlements	Value of Settlements
2007/08	5	£347,443
2008/09	9	£993,900
2009/10	42	£1,936,811

5.61 The CTU has demonstrated its worth and has proved to be a successful initiative. This is reflected in the Government's 2009 strategy paper on tackling organised crime. It refers to '*Building on success – the role of the Criminal Taxes Unit'*, and states: "*Building on the work already underway through the OCPB and in HMRC, we will increase the referral of serious organised criminals to HMRC for tax investigation. In order to establish the most effective means of doing this, we will run a pilot involving ACPO, SOCA and HMRC from autumn 2009. The aim will be to identify how best to target organised criminals through tax investigation, in a way that meets the objectives both of law enforcement (harm reduction) and of HMRC (closing the tax gap). Assuming the pilot is successful, this approach will be mainstreamed to core HMRC business by 2010.*"[12] If this approach is to be mainstreamed in this way it is crucial that the CTU is appropriately resourced so it can achieve the successful outcomes of which it is capable.

IG criminal investigations

5.62 There is little perceived emphasis placed upon criminal finance by the senior managers within IG, which creates an inconsistent approach within the Command. It was left to a few champions to promote the use of financial tools and the investigation of money laundering. At the time of the inspection there were four FIs in IG Criminal Investigation who seek to promote this approach and raise awareness levels among the investigators: but invariably this approach is pursued as secondary to the predicate criminality, if at all. The restraint and confiscation process for all IG criminal investigations is undertaken by the London CI FI resource (RCU), although this was subject to review at the time of the inspection. An IG FI should be appointed to an investigation at the outset: but in reality this is dependent upon resource availability. It is policy to notify the RCU of all case adoptions at the outset in order to facilitate the appointment of an FI R&C officer: however, this does not happen consistently.

5.63 There are no available statistics on the use of financial orders and warrants within IG investigations. However, the view among practitioners was that PACE was predominately used for production order and search warrant applications. Aside from the rare use of an AMO, the financial orders (as detailed in paragraph 5.22) were not generally considered or used.

5.64 In March 2009 a reasoned business case for an holistic IG financial capability was submitted to senior managers to address the approach taken towards criminal finance. The report highlighted that IG was not exploiting all possible

[12] Home Office (July 2009),*Extending Our Reach:A Comprehensive Approach to Tackling Serious Organised Crime*, p.48.

financial opportunities, and detailed the following (based on criminal cases as at March 2008):

No. of cases at completion/at prosecution stage/in progress (pre charge)	55
No. of suspects in relation to these cases	147
No. of these cases referred to RCU	31
No. of cases classed as Non – Acquisitive Crime	10
No. of cases where money laundering charges used	0
No. of Restraint Orders applied for in last two years	2
Amendments to a restraint order	1
Confiscation Cases dealt with	9
No of suspects in relation to these cases	27
Total of Confiscation orders achieved	£368,533
Average Confiscation Order Achieved (per defendant)	£13,649

The paper also set out the following points in relation to this data:

- Of the 24 cases not referred to the RCU, at least four should have been;
- Restraint was used rarely and only post-arrest;
- There were indications that four cases should have had money laundering charges preferred: but as of March 2008 none had been on any case;
- Three related cases, which have a potential combined benefit of £370,000, were compromised from a confiscation perspective when a basis of plea was accepted without consultation with the RCU that resulted in "criminal lifestyle" provisions being ruled out. As a result only one confiscation order (with a value of £3,800) was achieved; and
- Confiscation from the nine concluded cases over the last two years have resulted in orders to the value of £368,533. The potential confiscation from these cases at their outset was £1,409,483. A potential £1million failed to be recovered due to a number of factors which, if identified earlier, could have reduced this total loss.

5.65 It appears that no decision was taken upon this paper, due mainly to the significant restructuring within IG that followed its submission, and encompassed a 27% reduction of staff numbers in the Command. There has been no structured action to implement process improvements to address the issues highlighted in the paper. Since the inspection IG criminal investigations have now been placed within the CI Directorate, and therefore should be subject to the principles and support of the new CI financial structure.

Assurance

5.66 At the time of the inspection, assurance within CI was principally through the use of the Enforcement Management Assurance Framework (EMAF). This was primarily used by operational managers to focus on operational activity and individual performance. The framework does not sufficiently cover criminal finances generically and is dependent upon each manager to enhance it to cover risks in this regard. To support and inform their assurance activities there is a CI risk register, which for 2009/10 records the following under operational risks:

Risk Description	Risk Consequence	Action to Mitigate risk
Financial Investigation techniques are not used appropriately (EMAF Generic Risks 5, 7 & 10)	• Failure to maximise opportunities for the removal of criminal assets • Failure to reduce crime and other associated harm • Failure to disrupt funding for further criminal activity • Wider intelligence opportunities may be missed	• The use of financial information in criminal investigation and an investigation strategy. The Proceeds of Crime Act 2002 (POCA) is the primary legislation used in financial investigation • JARD training compulsory for all new FIs • Money Laundering investigations • The use of financial information in the intelligence products • Awareness of the legislation within the Human Rights Act regarding the right to privacy & the associated considerations • FIs utilise Elmer, the Financial Investigation Support System and the Joint Asset Recovery Database (JARD) and work closely with the RCPO

5.67 Operational managers did not uniformly appreciate that their assurance responsibilities extended to identifying weaknesses in systems, processes or practices. There had been no consistent assurance on the use and mainstreaming of available financial tools within their commands. Regionally-based branch assurance managers (BAMs) undertake bespoke commissioned assurance activity. They collate the operational EMAF returns for their regions, but do not challenge, examine or identify generic trends within these. They have not undertaken any assurance on the use and mainstreaming of financial tools, and invariably did not recognise this as a risk that would prompt their attention.

Civil investigations

5.68 The main civil intervention used to address evasion where a criminal investigation has not been undertaken is the Civil Investigation of Fraud (CIF) process. Cases with more significant expected yield (tax, interest and penalties) are passed to specialist teams within the Specialist Investigations Directorate (SI, formerly NTSCI). Smaller cases are passed to specialist teams within the Local Compliance (LC) Directorate. There are also specialist national trade-specific teams that use this process irrespective of the value of losses as part of their range of interventions (eg Labour Providers): these teams are located within SI. The CTU within CI also use this process in support of their joint working with other law enforcement agencies.

5.69 A cross-directorate CIF steering group, chaired by CEP, has oversight and governance of the process. There is a QA/QC mechanism that underpins the CIF process whereby specific reviews are undertaken as directed by the steering group to test and improve the process and its utilisation. An Operational Framework document is the basis for CIF assurance. Throughout the investigations there are various time and risk-driven assurance reviews.

5.70 CIF was introduced in September 2005 by HMRC following the merger of HMC&E and the IR, which both had inherent civil processes to address evasion. CIF is intended to tackle suspected serious fraud and evasion by using a cost effective civil investigation that encourages disclosure and cooperation by the inducement of a reduced financial penalty. Additionally HMRC explicitly tells the

taxpayer that they will not seek a criminal prosecution for the tax fraud which is the subject of that investigation. CIF places the onus upon the taxpayer to produce a comprehensive report on the nature, scale and value of the fraud perpetrated against all taxes and duties administered by HMRC. The civil investigators audit this report to assure its completeness and accuracy. The process was undertaken within SI from the outset, and in July 2006 it was extended to the specially formed LC teams.

5.71 Before the introduction on 01 April 2009 of a new, non-retrospective penalty regime (which harmonised penalties across direct and indirect tax regimes), there were inherited tax-geared penalties for relatively small scale direct tax evasion cases. The pre-April 2009 processes for indirect tax and duty evasion were PN160 for VAT and Notice 300 for Customs. These schemes have many of the hallmarks of the CIF procedure. The PN160 scheme was primarily used by Cross Tax Evasion (CTE) teams, which were located within LC until their disbandment. The Notice 300 scheme has been rarely used. CEP are the scheme owners and maintain oversight to ensure process improvements and efficiency. Governance is through a steering group chaired by CEP.

5.72 In varying degrees it was not possible to fully assess the effectiveness of the above civil investigation processes by comparing amounts actually recovered against sums identified as due, because HMRC did not keep sufficient performance data. This key performance indicator would help HMRC judge the effectiveness of the process. Based on a piece of work commissioned by HMIC for the year 2008/09, the table below details settled cases and amounts recovered. It is of concern that 37% of the cases could not be traced through to recovery action. This situation is caused by the fact that once the arrears have been identified and agreed, the cases are passed for collection to a different directorate, Debt Management and Banking (DMB), and the investigating teams lose sight and ownership of the cases. Within DMB, debts are not recognised, nor is their collection prioritised, based on the nature of the debt. Thus an important element in underpinning the deterrent effect of these processes is lost.

2008/09 Settled CIF and PN160 Cases						
(A)	**(B)**	**(C)**	**(D)**	**Based on Amounts in (D)**		
Stream	**Averaged Penalty Rate**	**Total Due (Arrears, Penalties and Interest)**	**Amount Traced through to Recovery**	**Collected**	**Active Debt**	**Written Off**
SI CIF	21%	£30.0m	£25.8m (86%)	£22.6m (88%)	£3.2m (12%)	NIL (0%)
LC CIF	21%	£59.5m	£31.8m (53%)	£25.9m (81%)	£5.3m (17%)	£0.6m (2%)
LC CTE	32%	£12.5m	£6.9m (57%)	£2.6m (38%)	£1.5m (22%)	£2.8m (40%)
Totals		**£102.0m**	**£64.5m (63%)**	**£51.1m (79%)**	**£10.0m (16%)**	**£3.4m (5%)**

5.73 Within the three directorates that administer CIF there is a uniform commitment to pursue and obtain payments on account during the process, which could take a number of years. This focused desire is highly commendable and demonstrates an active drive to recover the proceeds of taxation crime. The consistent objective of all teams is to collect the arrears by the time of the agreed contract settlement with the taxpayer, leaving DMB to collect the penalty and interest elements

(which of themselves could be considerable). Notably the CTU keeps its cases open post-settlement and engages with DMB to monitor the collection process. If DMB encounters problems the CTU looks at other options (such as bankruptcy).

5.74 The value of settled cases in the table above compares favourably to the £81 million achieved by HMRC in cash seizures and confiscation orders obtained for the same period. The actual amounts recovered under CIF are significantly better in percentage terms compared to those recovered against confiscation orders (between April 2006 and December 2009, only 37% has been recovered against confiscation orders obtained by HMRC).[13] This is in part due to the fact that CIF is undertaken against legal source businesses and individuals who have an established legal trading presence which they intend to continue, as opposed to the OCGs that are prosecuted for predominantly attacking HMRC systems to steal money. It is also due to the fact that the prime consideration in applying these various civil procedures is the ability of the alleged offender to pay. However, assessment of assets is invariably basic and will not identify those determined fraudsters who have taken steps to hide their proceeds. In taking this approach, a sector of the fraudulent that appear to be without funds can go unpenalised in any way for their behaviour.

5.75 The amounts recovered through CIF and PN160 do not count towards the Home Office 'tin box' and receive little external recognition in terms of the recovery of the proceeds of crime. A post implementation review (PIR) of the CIF process in its draft findings dated 22 July 2009 found CIF to be an effective tool for dealing with past dishonest conduct and behaviour, but not an effective tactical approach for real time investigation and disruption either in the areas of Excise, Environmental taxes and Customs Duties (transactional taxes), or at the organised crime end of the serious non-compliant.

5.76 The amount written off above (for a variety of reasons) is in percentage terms (5%) at a higher level than is the case for all debts (1.2%) that are subject to write-off by HMRC. This is likely to be a reflection of the nature of the taxpayer and how the debt arose (tax evasion), and therefore warrants a more aggressive prioritised debt collection regime for this type of debt. This would underpin the deterrent impact, and therefore the effectiveness of the CIF/PN160 processes. The PIR noted the need for a collaborative partnership with DMB in order to recognise enforceable debts in cases as a result of these processes are established as a priority for debt collection, and makes a recommendation to address.

Recommendation 14
The draft CIF PIR recommends that DMB establish a process to prioritise debt recovery action for debts as a result of tax evasion, including related penalties and interest. HMIC recommends that such a process is established and rigorously assured.

5.77 The CIF process is undertaken in three directorates, and there appears to be little effective co-ordination, cross-fertilisation or communication, which prompts concerns for consistency of application of the CIF process. Practitioners talk of no dissemination of best practice or discussions with counterparts to ensure equitable and consistent application of the processes within directorates, let alone across them. The QA/QC process does not appear to have validated with any confidence the consistent application of these processes nationally underpinned by systemic adoption of best practice. The PIR found inconsistencies in the approach to CIF by SI and LC, and these were also referred to by external practitioners. This creates the potential for external practitioners to either select

[13] RIS Analysis Intelligence Assessment (January 2010) *Proceeds of Crime – How Criminals Conceal, Retain and Spend their Profits.*

the CIF team who they believe are likely to give the most favourable outcomes, or attempt to play one team off against another to secure a better outcome. There is no single mechanism to ensure effective equality of treatment, so it is difficult to say that a settlement in one region that attracted a penalty would be treated the same in another region for the same penalty value and taxpayer behaviour.

5.78 Based on the above data for 2008/09, imposed penalties for CIF cases are on average 21%, while PN160 cases are slightly higher at 32%. While the processes are predicated upon taxpayer cooperation (rewarded by discounts in penalty levels), there has been no objective view taken of when the penalty level ceases to have any real deterrent impact in discouraging similar future behaviour. There is no systemic post procedure monitoring of offenders for any of the processes to determine whether the penalty levels imposed acted as a deterrent to continuing evasion. There has been no evaluation of these processes on a value-for-money basis against automated civil or tax-geared penalties applied through routine compliance activities. In the civil processes of the former departments, repeat offenders would automatically be subject to criminal investigation: but this is not a feature of the CIF or PN160 processes, which limits their deterrent impact.

Consideration 3
Consideration should be given to instituting a process for monitoring the post event behaviour of individuals who have been subjected to the CIF process to ensure improved compliance, and to inform an assessment of the deterrent effect of the CIF procedure.

5.79 The new, harmonised cross-tax penalty regime introduced on 01 April 2009 (which replaces PN160 and similar schemes, but not CIF) is yet to fully bite, as it is not retrospective. However, at this early stage and despite the written guidance there did not appear to be a clear understanding by practitioners of how to use the new process, thereby prompting similar concerns around the consistency of application and oversight.

POCA Part 5 Civil Recovery

5.80 This section of the act allows enforcement authorities to recover through civil proceedings property obtained through unlawful conduct, whether or not any proceedings have been brought for an offence in connection with the property. The intention was to enable action to be taken against criminals who had built up a significant asset base derived from illegal activity for which there was little prospect of a successful prosecution. Within the *Enforcement Handbook* there is no guidance (save for cash seizures which also comes under this part of the act) for officers to consider this route in tackling criminality. Among practitioners, where cases had either resulted in not guilty verdicts, or the investigation had been terminated before proceedings came to trial, there is inconsistent consideration of this process as a means to recover assets derived from criminal finances. This was due mostly to a lack of training and knowledge. This inconsistent consideration of alternative processes also extended to HMRC's own regulatory interventions.

5.81 The authority to undertake this process lies with the RCPO (now part of CPS), which has reservations about its use because it considers that Parliament has already given HMRC a raft of alternative civil recovery powers and remedies, including compensation. In reality, this process will be sparingly used by HMRC to recover assets, and as such is indicative of the consideration given to it. Encouragingly, the SI Directorate is proactively looking to commence interventions using this process and have trained three officers accordingly.

Financial recovery projects using insolvency powers

5.82 HMRC has undertaken two significant projects that focus on the recovery of criminal finances by using innovative approaches outside the mainstream departmental processes for asset recovery. These projects have become an integral part of the strategic response to the particular threats posed, and have also sought to reduce the losses they generate.

Financial Recoveries Task Force (FRTF)

5.83 MTIC fraudsters conducted financial movements of money through the banking system as a means to authenticate trading activity, in an attempt to add a veneer of legitimacy to contrived fraudulent transaction chains whose sole purpose was to steal money from the Government by attacking the VAT regime. Through the effective combined efforts of HMRC's E&C directorates, many of the fraudsters were financially forced offshore, where they predominantly used the First Curacao International Bank (FCIB) based in the Dutch Antilles to conduct money movements and act as a conduit through which the proceeds of the frauds were laundered. Following interventions as part of a criminal investigation by the Dutch Authorities (prompted and heavily supported by HMRC), they appointed an administrator to take control of the bank, which immediately froze the accounts of the fraudsters.

5.84 CI set up the FRTF in January 2007 in direct response to the asset recovery opportunities and complex international challenges arising out of the effective closure of the bank, with the following key objectives:

- The recovery of US$240 million in funds temporarily frozen in FCIB accounts operated by suspect MTIC traders;
- The identification and pursuit of additional criminal/civil asset recovery opportunities stemming from analysis of the bank's US$980 billion MTIC-related financial transactions;
- The provision of evidential support to HMRC's MTIC extended verification programme (EVP), seeking to prevent the theft of a further £3 billion as a result of suspected fraudulent reclaims of VAT yet to be repaid; and
- The co-ordination of evidential support to both Dutch and UK criminal prosecutions, with a clear focus on restraint and confiscation opportunities.

The FRTF worked with SI specialist insolvency experts to maximise the use of civil recovery processes in order to secure the frozen funds. The team effectively used the selective deployment of private insolvency practitioners (IPs) in this regard where appropriate. These IPs, working on a no-win no-fee basis, have delivered a significantly higher return on costs when compared to confiscation order recoveries.

5.85 The scope of the project reflects commendable ambition insofar as it relies upon the creation of new, co-operative relationships between the criminal and civil investigative arms of the Department, international engagement through complex and difficult negotiations, and the delivery of a bespoke hardware platform capable of supporting a working simulation of a functioning internet bank. This has resulted in excellent achievements, which include:

- The recovery of US$40 million, with another US$150 million in the pipeline;
- A very significant contribution to the complete protection of over £1 billion within the EVP, with an increasingly strong prospect of protecting the whole sum, despite realistic early forecasts of substantial losses; and

- Notable support to other law enforcement agencies' investigations, which has delivered recoveries in excess of £1 million for the Metropolitan Police, and a £10.7 million confiscation order in a recent Trading Standards case.

5.86 Unfortunately, progress in some areas has been slow, due to matters outside HMRC's direct control. This is particularly the case in respect of the FRTF's aspiration to identify and recover a significant part of the £2.2 billion known to have been sent from FCIB to the United Arab Emirates. The inability of current mutual legal assistance conventions and the FATF framework to provide a robust and effective platform upon which to base a wide range of criminal and civil interventions has frustrated HMRC's recovery attempts.

SI Excise Project

5.87 Following recognition in SI of the difficulties experienced by CI in effectively addressing the threat from Excise alcohol fraud through criminal investigation and prosecution, SI commenced a two-year project seeking to address the top ten alcohol fraudsters through the aggressive use of civil insolvency powers. The primary aim was first to stop the significant ongoing losses to the fraudsters, and then to seek to recover assets to offset against these losses. The team also looked to work with and support criminal investigations by recovering assets through the use of insolvency tools in preference to the confiscation process. The team has an embedded FI, and an intelligence officer on secondment. Based on its first year of operation this project has proved to be a successful initiative and compares favourably to other intervention options where the processes are either more expensive, less effective in recovery, or more prolonged. A case where £7 million is due to be realised (which would not have been recovered through normal Departmental debt recovery processes) cost £100,000 to undertake and prevented further substantial losses.

Case Study

An OCG whose principal has a long history in the alcohol trade, and a prolonged involvement in excise duty evasion, had despite unsuccessful attempts to prosecute him, continued to flourish. He developed a considerable global financial investment infrastructure based on the income from the alcohol activity. The Department's standard compliance efforts had little effect on the activity of the group that was responsible for considerable ongoing losses against HMRC's tax and duty regimes. The case was adopted by SI under this project. A comprehensive phased case strategy was developed to stop the losses and recover the assets. Initial research identified the companies where there was an interest, and focused on the working capital of these businesses and the alcohol supply chains that fuelled the losses. Interventions against the key businesses involved in the evasion of excise duty were undertaken and evidence of losses established. Initial assessments were levied for losses in excess of £6 million against which a minimum of £3 million in assets secured. Further assessments of up to £20 million are impending. Utilising HMRC's regulatory function, a bonded warehouse that stored the duty free alcohol which was diverted for sale in the UK without payment of the excise duty and vat, had stringent terms of operation placed upon it which effectively stopped the trading activity that gave rise to the losses. Use of insolvency tools including provisional liquidation, worldwide freezing orders and bankruptcy have prevented the dissipation of assets that would have been lost if traditional company winding up procedures were undertaken. Directors are being pursued through civil processes so that they are held personally accountable for company debts, which will allow action to be taken against their personal assets. Within the next phase which is ongoing, the overseas assets are being targeted with a view to recovery, by in part the use of direct tax obligations to establish further liabilities to charge against identified assets.

5.88 Both of the projects above have elements that are founded upon high-risk strategies that would be extremely costly if incorrectly applied. This has ensured that an overly conservative approach has been taken in the limited use of these processes. While clearly not appropriate for all or routine cases capable of resolution through other interventions, these processes nonetheless have the capacity for wider use in other regimes. Consideration is being given within SI to an extension of the Excise project to other commodities: this should be supported.

5.89 At times, issues within these projects have been addressed through new and innovative methods that have the capacity to benefit HMRC through wider application if they are mainstreamed into routine activity. Disappointingly, to date there has been no structured dissemination of this information to inform learning and best practice in the wider business.

Post event activity

Offender Management Unit (OMU)

5.90 The OMU was established in 2009 within CI SP&P, and due to resource limitations is not yet fully operational. It has been included in the CFP projects to drive forward delivery. During its first year the OMU seeks to undertake a series of projects to test the effectiveness of the range of available post conviction sanctions. The main roles of the OMU are:

- To act as a centre of best practice to assist HMRC colleagues identify the most appropriate way of managing their offenders/subjects of interest, encouraging the best use of sanctions and tools to disrupt further offending;
- To have overall responsibility for managing HMRC's SCPOs, keeping central records of their use and ensuring monitoring and enforcement actions are conducted; and
- To have a role in respect of FROs. The Senior Officer OMU is now the specified officer for the purpose of the order. The OMU will maintain a register of the orders with key dates and will inform the case officer, RIS SPOC and RCPO lawyer if the order is not complied with by the specified date.

5.91 As detailed in paragraph 5.22, the use of these post-conviction sanctions has been very limited, and their benefits were not universally understood or appreciated by MFT investigators (who traditionally viewed the case as finished after conviction, and moved onto the next one). Investigators do not have a clear understanding of who has responsibility for addressing breaches of these orders, and what priority if any should be given to tackling any re-offending; therefore they are not maximising the impact of these orders against criminal finances.

Debriefing

5.92 Within the *Enforcement Handbook* there is guidance for Intelligence and Operational debriefing, as well as references to debriefing in respect of specific commodity-led activity. The guidance on intelligence debriefing states: *"Debriefing is a mechanism to capture important facts and information about significant departmental events. It ensures that information is disseminated quickly and accurately to Enforcement staff and other key customers…Intelligence debriefing will inform strategic, tactical and operational intelligence assessments and products. It will increase the success rate of Enforcement interventions by improving the timeliness and quality of selections and targeting through intelligence service delivery."* This activity is underpinned by Intelnet, a web-based intelligence, information and knowledge-sharing system. The *Enforcement Handbook* further advises that NIUs are accountable for the collation of all information relating to their relevant commodity, and the setting of debriefing parameters. With the disbandment of the FNIU (and no recognised replacement created for it), this process for debriefing financial intelligence has also fallen by the wayside.

5.93 The operational debriefing guidance in the *Enforcement Handbook* is focused on four specific operational events and is drafted in those terms to inform future operational activity. CI and RIS practitioners speak of no systemic debriefing and a lack of awareness of any national debriefing policy. There is inconsistent application of the guidance to debriefing, with at best local initiatives at some sites within CI and RIS. Within those debriefs that do occur, the financial aspect is not systemically covered.

5.94 Within SI there is no debriefing of CIF cases and practitioners were unaware of any process to do so. Within ID there is a standardised intelligence feedback

mechanism to debrief all operational activity. Encouragingly, there is a drive at senior levels to establish this as a systemic process, with a view to it becoming HMRC's best practice model for debriefing and organisational learning. There is recognition that while much has been achieved, there is more progress to be made.

6: Training and best practice

6.1 The *Enforcement Handbook* is the main written guidance for intelligence officers and criminal investigators. It covers the processes and procedures that underpin intelligence and investigation activity. Unfortunately, the handbook is not always up to date, which undermines its credibility and results in practitioners preferring to rely on peer guidance for advice. A lack of current knowledge because of insufficient training (new and/or refresher) also causes practitioners to rely upon peer guidance. However, while in the main peer guidance has proven to be an effective mechanism for upskilling practitioners, it nonetheless creates the potential for outdated or incorrect procedures being disseminated, followed and further replicated.

Training

NPIA accredited (FI/FIO)

6.2 NPIA-accredited financial training is now recognised and adopted by law enforcement agencies as the standard for specialist financial investigators and intelligence officers. This ensures cross-agency consistency of application and sharing of best practice. While the main law enforcement agencies were reluctant at the outset to accept the NPIA training, CI immediately recognised the benefits and in 2003 seconded a trainer to cement their commitment to the development of this training. This facilitated the establishment of a successful working relationship between the NPIA and CI, which continues to the present day. NPIA values very highly the CI contribution, which covers every aspect from the creation of training packages to the delivery of the training to all agencies. An example of this is the 'cash search of premises' DVD that CI developed, and that the NPIA now want to adopt and to roll out to other agencies. Therefore HMRC's commitment to underpinning specialist financial training is highly commendable and worthy of note.

6.3 Each part of the NPIA financial course has pre-course study and an exam. The exam is pass/fail entrance for the four levels; the first level is to become an FIO, and completion of the second level results in the participant becoming an FI. After the training course, the new FI is allocated to an established FI, who acts as a mentor to assist them in obtaining accreditation. When they are back in the workplace they have temporary accreditation until they submit their portfolio (which has to be submitted between 12 weeks and 12 months after completing the course) to the NPIA, which assesses and assures it. Once the person's portfolio/PDP is signed off they enter into the monthly Continuous Professional Development (CPD) programme, which is a prerequisite to maintaining their accreditation. There are two aspects to the CPD: activity assessment (of which some is tested by the NPIA), and provision of work-based summaries in which the FI submits details of the work they are conducting. Five percent of the FIs are then visited in the workplace to assure the work-based summary. There are further courses on restraint and confiscation, money laundering, cash detention and internet research for FIs. However, the commitment in time and resource needed to produce accredited FIOs/FIs has in the past severely impacted HMRC's trained cadre's ability to service the operational demands of the organisation – especially following the dramatic reduction in numbers following the transfer of responsibility to SOCA, and the subsequent recruitment and training to rebuild the capacity.

6.4 FISS is the NPIA's online workspace, and acts as a complete training base for FIs to manage their CPD and PDR submissions. It also provides a number of services for FIs to train themselves and share best practice. It has a case law

database, a resource library, links for other organisations, articles on current developments in the financial arena and a forum for the exchange of views, all of which are searchable, dated and kept up to date. Within HMRC FIs comment favourably about this facility, which they use as the primary source of information and knowledge; this kind of resource is not available through HMRC's own information channels for non FIs/FIOs. In the past, some embedded FIs have disseminated up-to-date knowledge from FISS to their MFT colleagues and thereby upskilled them. An article placed on FISS about the work of the FRTF prompted contact from other agencies, which directly resulted in the positive outcomes detailed in paragraph 5.83 above.

HMRC mainstream financial training

CI

6.5 Financial training for frontline MFT investigators has been limited, with no refresher events. Investigators were largely dependant for current financial knowledge on peer guidance from FIs. In the absence of a recognised systemic process there was inconsistent dissemination of relevant financial information by managers. Investigators had little confidence in intranet updates, which were viewed as being limited and ineffective. Most had received POCA training shortly after the 2002 legislation was introduced: but there have been no refresher sessions since then.

6.6 For new recruits there is a one-day classroom event as part of the investigation foundation training course. This covers the basics on financial tools and money laundering, with a subsequent practical exercise on POCA cash seizures. The day is designed only to create an awareness of the subject, and is insufficient for regular practitioners.

6.7 At the time of the inspection an upskilling course on criminal finance had just started to be rolled out to operational team leaders and managers at SO to Grade 6 levels. This course, which was not mandatory, includes elements on financial orders and civil/criminal approaches. This is a good, informative course that has drawn justifiable praise from attendees, who were prompted to consider more routinely this aspect of their team's work. Given the lack of up-to-date training for experience MFT investigators at lower grades, consideration should be given to rolling out this training, suitably adapted, to them as well.

Consideration 4
Consideration should be given to making the financial refresher course for SOs to Grade 6 mandatory for operational criminal investigation staff at those grades, and to delivering the training course, appropriately adapted, to all operational criminal investigators below the rank of SO.

6.8 There was no internal validation of any of the financial training given to investigators to assess if it had met the business objectives and needs. The CI training team did not see this as their responsibility. There has been no recent financial training needs analysis for CI staff.

Consideration 5
Consideration should be given to undertaking a validation of the financial training provided to investigators to ensure it meets the business needs.

RIS

6.9 Like CI, RIS have their own training team. The position in RIS CIG in relation to financial training mirrored that in CI, but without the managers' criminal finance refresher course. Within the CDTs the officers were largely dependent upon the

FIOs/FIs in the teams for peer guidance and upskilling. Within CHISOPS and FCLOs there had been no bespoke proceeds of crime or money laundering training, and this was reflected in staff awareness levels, which were largely reliant on training received in previous posts. There was a consistent desire among practitioners to have financial refresher/upskilling training.

6.10 For new recruits there is a half-day session on the intelligence foundation course that provides an overview at an awareness level of money laundering, POCA, and financial tools. Practitioners felt that this training was not sufficient to allow them to create financial profiles. Within the current CHISOPS and FCLO training courses there are no sufficient financial elements. There has been no recent financial training needs analysis of RIS staff.

Consideration 6
Consideration should be given to identifying the business need for, and if appropriate, delivery of relevant financial refresher training to RIS CIG staff.

SI

6.11 Within SI, and particularly in ID, there had been no proceeds of crime training: accordingly, knowledge of this area was limited. However, given that most financial tools were not available for use by practitioners, this has only had a very limited impact on outcomes. SI has aspirations to take on more cash seizure work, but no up-to-date bespoke training has been provided, leaving practitioners dependent upon either peer guidance or training received in previous posts.

6.12 New ID recruits undertake a two-week basic training course, which principally covers law, safety and process. Criminal finance does feature but at a basic awareness level only. SI are likely to undertake POCA part 5 work in the future and have appropriately trained a few officers to undertake this work.

IG

6.13 The level of financial training provided to IG Intelligence and Investigation practitioners was similar to that within CI and RIS, with most frontline officers dependent upon either training gained in previous posts or on FI peer guidance. The financial knowledge levels were lower than within RIS and CI (apart from the few FIs), which may have been attributable to the fact that IG was until 2009 in a different directorate and therefore did not necessarily receive the same disseminated financial information that the other commands did.

6.14 One FI proactively identified a skills gap that, if addressed, would have likely increase the usage of financial tools within IG. Commendably, the FI developed a seminar in conjunction with CI training to address this, which was delivered to IG managers in early 2009. Among frontline practitioners there was a desire for financial refresher training. This requirement can be addressed through the recommendations above for CI, given that IG are now within that command.

Best practice

6.15 There is no established national process for the dissemination of best practice within CI and RIS. At an operational level there were ad hoc mechanisms and vehicles which were used inconsistently and which informed at best localised individuals and teams. This in turn had an impact on the benefits that could be accrued at a tactical and strategic level. Within SI there were embryonic processes for the dissemination of best practice, but these were not fully tested. Some SI practitioners were not aware of any such mechanisms and did not receive any disseminations of best practice.

6.16 The CFP recognised this issue and has attempted to address it through a project that focuses on the sharing of best practice. CI SP&P is the designated project lead, and progress to date includes:

- Work on an E&C tasking and coordination process;
- Consideration of a workshop for practitioners on civil interventions available and systems utilised;
- A health check of financial work within criminal investigations; and
- Ongoing development of case financial strategies and profiles with internal stakeholders, and how current guidance can be improved.

However, even within the CFP itself there was recognition that it should be formed to build best practice into strategic and tactical interventions, but this was not happening because key elements were not in place.

6.17 There is limited engagement with external agencies for the purposes of extracting relevant best practice for use within HMRC. Within CI there is some work with SOCA and through the Asset Recovery Working Group (ARWG) to gain information for use in this manner, driven through the CFP.

6.18 Within the new CI financial structure there are regular meetings of financial SO team leaders, with CI SP&P financial policy leads also in attendance. This group (SOFI) have undertaken to disseminate best practice to FIs within CI. To aid this, consideration is being given to setting up a shared workspace for FIs as the vehicle for delivery. However, this does not extend to the dissemination of relevant material beyond the FIs to MFT investigators.

Recommendation 15
There is no established national process for the dissemination of best practice within CI and RIS. HMIC recommends that HMRC implement an effective national process for identification and dissemination of best practice, both within and (where appropriate) across directorates. Specifically, HMRC should conduct debriefing of the FRTF and SI Excise projects and disseminate the identified best practice to the wider HMRC.

7: Relationships

Financial sector

7.1 Many HMRC officers from across several directorates engage with the financial sector, primarily for case-specific operational purposes. There is no overview or control of this engagement, either through a co-ordinating mechanism within HMRC, or within individual directorates. This gives rise to inconsistent and uncoordinated contact, which risks undermining HMRC's position with the financial institutions. There is no apparent engagement strategy, nor an established cross-directorate process to underpin the activity. Educating the sector about the emerging trends and strategic threats that the Department faces invariably takes place along narrow business lines (if at all), without consideration of the wider ramifications for HMRC.

7.2 This issue was recognised in the November 2007 intelligence report, *HMRC's exploitation of SARs: Intelligence-led contacts with financial institutions*. This identified from an intelligence viewpoint that:

- there are clear intelligence dividend benefits from closer engagement with the financial sector;
- previous engagement with the financial sector has been uncoordinated; and
- the Department should establish a clear mechanism, supported by strategic direction, for the establishment of all future intelligence-led engagement with financial institutions.

The report also made the following recommendations:

- Intelligence-led contacts with financial institutions should be co-ordinated, appropriately tasked and subject to an assessment of risk;
- All intelligence-led contacts with financial institutions should have a clear audit trail, which establishes the necessity and proportionality for the dissemination of typologies by the Department to the financial sector;
- An audit trail of previous intelligence-led contacts with financial institutions should be established, to identify any potential risks to Department; and
- The Department should engage more closely with financial institutions to increase SARs exploitation.

7.3 The report envisaged that this should be achieved through either the formation of a dialogue team to be tasked with establishing and maintaining intelligence contact with the financial sector, or the establishment of a cadre of suitably qualified and experienced officers from across Departmental disciplines, coordinated through RIS to establish and maintain intelligence contact with the financial sector. There has been little discernable progress to implement the report findings, with a lack of momentum shown by all directorates on taking the lead on this issue.

7.4 CI employs a financial consultant with extensive experience in the financial sector to advise them at strategic, tactical and operational levels. This commendable initiative has already produced significant beneficial outcomes for the Department, and has proactively shaped activity within CI and RIS. It is likely to lead to the recruitment of further financial specialists. The consultant, through attendance at regular bank internal security/ due diligence meetings, uses these forums to identify emerging financial threats to HMRC and is able to educate the sector on taxation fraud risks and trends.

Revenue and Customs Prosecution Office (RCPO)

7.5 During the inspection it was announced that RCPO, the independent prosecutors of HMRC's criminal investigations within England and Wales, was to be merged with the Crown Prosecution Service (CPS), although initially ringfenced within that organisation. The comments of HMRC practitioners evidenced below refer solely to RCPO: however, they retain relevance for the engagement with the CPS in the future.

7.6 The creation of a casework standards group (which is essentially an RCPO/CI practitioners' forum) has proved to be a good way to disseminate messages and discuss topics between the two organisations. The forum has resulted in RCPO providing legal bulletins to investigators. The knowledge and use of this forum by frontline investigators is however limited, and therefore not fully used by them to resolve operational issues capable of generic impact across wider casework.

7.7 For HMRC's criminal investigations RCPO appoints a casework lawyer and a separate AFD lawyer to advise on restraint and confiscation when required. In a significant number of cases there is a high turnover of case lawyers, which resulted in a lack of consistency in approach, having a negative impact on the investigation progression. This was especially prevalent in the AFD that used a high number of short-term contract barristers, who each spent approximately six months on a case. While CI had engaged RCPO on this issue, due to the impending RCPO/CPS merger no effective resolution had been put in place. CI should seek early strategic engagement with the CPS on this issue.

7.8 There was a widespread belief among investigators that RCPO was reluctant to pursue standalone money laundering charges, with the emphasis always placed on predicate offences. This belief was sufficient to have shaped and dictated CI behaviour in the progression of casework. This was also particularly in evidence in Northern Ireland, where the Public Prosecution Service (PPS) as prosecutor was consistently viewed as being ready to discard money laundering charges at the first opportunity; the investigators have therefore refrained from proactively pursuing this avenue, as they viewed it as a waste of resource. In order to address these perceptions, CI have to establish if there is an evidential basis for them; if founded, they must address this through escalated strategic engagement with the prosecution authorities.

7.9 Among criminal investigators there was a lack of appreciation of the role of the Department's own solicitors, the independent legal advisers (ILAs), who not only advised at the pre-charge phase of investigations but could also advise on generic issues with RCPO. This was in part attributable to the practice of seeking early pre-charge engagement with RCPO on large complex cases, thereby negating the use of ILAs. There was also a lack of recognition by investigators that RCPO as independent prosecutors had their own strategic business objectives that did not necessarily always coincide with HMRC's strategic objectives, which could give rise to issues in the progression of casework. There was a resigned belief among CI operational team leaders that once post-charge cases came under the control of RCPO, they had little effective control of their resources, as RCPO determined the scope and ambit of the prosecutions.

Appendix A: Change within the compliance administration for the UK's direct and indirect taxes