

Financial crime control in the united kingdom essay sample



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With respect to the question a synopsis of UK financial crime laws and a evaluation of the US and UK crime control the question is concerned with financial crime and the problem of the proceeds of the crimes that are hidden and that is concerned with the problem of money laundering. Croall (2001) explained that the regulation of white-collar crime involves complex issues which were not just limited to local policing and criminal justice but involved much bigger political and economic considerations.

Nawaz, McKinnon and Webb (2002) explain that money laundering plays a fundamental role to those who are involved in criminal activities such as white-collar crime, trade fraud, tax evasion without mentioning the many other financial crimes as the list is never-ending. Within the financial crime and drug trafficking context and due to the rapid increase of drug abuse in the 1980's the process of money laundering and indeed all financial crime and the very major scale of its consequences came to light.

It emerged from this scrutiny the actual scope of profits generated from financial criminal activities was vast. Governments therefore were pushed to act against financial crime, money laundering and criminals from amassing vast profits which could contaminate and corrupt the structure of the state at all levels. The proceeds of white-collar crime via money laundering is not a solitary act, but instead a procedure that is accomplished by three stages which are Placement, Layering and Integration (Raphael 2010, Nawaz et al 2002).

As white-collar crime and money laundering is a world wide problem, world wide co-operation is essential in processes to manage it especially in the

case of cross border transfers. The Criminal Justice International Co Operation Act 1990 gives the UK police and custom services powers to seize cash being bought into or out of the United Kingdom where the funds are the profits of crime (Raphael 2010, Nawaz et al 2002).

Any person assisting to retain the profit of crime is guilty of an offence and can be charged under the Criminal Justice Act 1988, The Drug Trafficking Act 1994 and the Prevention of Terrorism (temporary provision) Act 1989. Ownership and acquiring and exploiting criminal proceeds is an offence under the Criminal Justice Act 1988 and Drug Trafficking Act 1994 and Criminal Justice Act (International Co-Operation Act) 1990 (Raphael 2010, Nawaz et al 2002).

Transferring and hiding proceeds of any crime to evade criminal tribunals is against the law in the UK and it will be the object of a confiscation order under the Criminal Justice Act 1988, Criminal Justice (International Co Operation) Act 1990 and Drug Trafficking Act 1994 (Raphael 2010, Nawaz et al 2002). Failing to divulge information or misgivings about transactions that concern money laundering is in breach of the law under the Drug Trafficking Offences Act and Prevention of Terrorism (Temporary Provision) Act.

In the USA the Sarbanes-Oxley Act (SOA) of 2002 has implemented a set of domestic company procedures planned to guarantee precise financial disclosures for all companies and the company executives must endorse that they are “ responsible for establishing and maintaining internal controls” and “ have designed such internal controls to ensure that material information relating to the company and its consolidated subsidiaries is made known to

such officers by others within those entities, particularly during the period in which the periodic reports are being prepared” (Department of the Treasury 2010).

The SOA has 11 sections, that vary from extra company management tasks to various severe penal penalties for contraventions of the act and requires the Securities and Exchange Commission (SEC) to enforce these sections (Department of the Treasury 2010). The penalties include long jail terms and have been enforced many times in many well known cases.

The Financial Crimes Enforcement network of the US Department of the Treasury (FinCEN) and the Treasury Office of Terrorist Financing and Financial Crimes (TFFC) provide a network course of action calculated to assist in a partnership of information between US agencies with mutual investigating aims such as the FBI and the SEC and these investigative agencies also have vast powers due to the Patriot Act (US Department of the Treasury 2010).

The Act, with respect to anything that may be possibly be a threat to the USA and this includes financial threats, radically eliminated many limitations on all US law enforcement agencies’ capacity to investigate telephone interactions, e-mail exchanges, medical records, financial records, and many other records in the USA. Those who oppose the Patriot Act criticize its permission of search through which US police and FBI can search a persons home or business with no consent or even awareness of the search by the owner or resident (US Department of the Treasury 2010).

Opponents also criticize the Patriot Act as it can allow the FBI to investigate financial records, e-mail and telephone records without a court order, and it allows extended entrance of US law enforcement agencies to all financial business transactions and even library records. The problem about all the UK laws is the Serious Fraud Office (SFO) is supposed to implement all the laws concerning fraud of 30 billion pounds per year but is under manned, lacking resources and lacking in sufficient power to enforce the laws (Raphael 2010).

The Office of Fair Trading (OFT) is also supposed to enforce the financial crime laws but has a very poor history of controlling crime and enforcing the laws and the Financial Services Authority (FSA) has had all the functions of bank regulation removed from their control and the FSA now has been described as only having been left with the rear end of the previous FSA agency (Raphael 2010, Nawaz et al 2002).

There is no proper and logical and ordered crime policy in the UK as the Department of Works and Pensions are being employed to catch diminutive benefit crooks and they should be catching huge million and billion pound frauds (Raphael 2010). The Revenue and Customs Prosecution Office has been sent over to the Crown Prosecution Service and is still in a less than integrated form thus causing even more problems for prosecuting criminals (Raphael 2010). There is also an urgent need for thousands of properly trained financial persons inside and outside the disconnected police forces that are presently operating in the UK.

SOCA, the UK police arm set up to fight organised crime is not the arm that should be used to fight financial crime and a dedicated coordinated financial

enforcement arm must be implemented that uses all the different inter-agency departments resources to fight financial crime efficiently and this will only take proper organisation to achieve results immediately (Raphael 2010, Nawaz et al 2002). Raphael states the UK Fraud Advisory panel has advised that all the numerous failures in the present UK system should be examined and rectified before one more step be taken anywhere.

In conclusion, there must be a serious uniform response from all the UK organisations mentioned above to financial crime as the amounts involved are astronomical. Short term fixes such as plea bargains and large fines for financial crimes that are being used in the UK now are not the answer for the 30 billion pounds a year crimes taking place and the laws must create enough of a deterrent effect to stop financial crime and the laws must be implemented to the full extent and that is not the case now (Raphael 2010, Nawaz et al 2002).

Financial theft and fraud are crimes and civil law violations and should be treated as such. Interagency rivalries in the UK must cease forthwith and there must be an integrated policy that causes fear amongst those about to commit financial crime and they must know if caught they will face loss of reputation, seizure of all assets and prosecution and long prison sentences without plea bargains and the option of fines as is the deplorable case in the UK now.