

Money Laundering: Review of the Reporting System

1 July 2003

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KPMG
July 2003

**Review of the regime for handling Suspicious
Activity Reports**

Report of recommendations

KPMG LLP

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KPMG Forensic

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Contents

1	Introduction	7
1.1	Importance of the SAR regime	7
1.2	Structure of the report	7
1.3	Appointment of KPMG	8
1.4	Objectives of report	8
1.5	Uses of report	10
1.6	Sources of information	10
1.7	Caveats	11
1.8	Acknowledgements	12
2	Summary	13
2.1	The history of the regime and its aims today	13
2.2	Current successes	14
2.3	Current issues	14
2.4	Key challenges	17
2.5	Commitment to change	17
2.6	Summary of recommendations	18
2.7	Immediate next steps	20
2.8	Timetable of key events	21
3	History, aims and successes of the current SAR regime	23
3.1	Summary	23
3.2	The history of the regime	23
3.3	Recent developments	25
3.4	The aims of the SAR regime today	28
3.5	Existing successes of the SAR regime	30
4	Key issues and challenges across the SAR regime	32
4.1	Summary	32
4.2	Ownership of the SAR regime	32
4.3	Quantity of SARs and quality of reporting	33
4.4	Feedback to disclosing entities	36
4.5	Value added by ECB processes	38
4.6	Timeliness of processing SARs at ECB	41
4.7	LEA activities and use made of SARs	44
4.8	Cost of the SAR regime	47
5	Delivery of the aims of the regime and the recommendations of this report	49
5.1	Summary	49

5.2	Establishment of a Task Force to deliver the aims of the regime and the recommendations of this report	49
5.3	Government commitment to the aims of the regime	51
6	Focusing and defining the work of ECB	52
6.1	Summary	52
6.2	Structuring and strengthening the management of ECB	52
6.3	Establishment, staffing and role of separate ECB Data Management Centre	53
6.4	Increase in provision of electronic reporting of SARs	55
6.5	Automatic search and initial allocation processing at the DMC for SARs input into Elmer	56
6.6	Establishment, staffing and role of ECB Liaison Unit	56
6.7	Development of fewer intelligence packages by ECB	58
6.8	Establishment, staffing and role of Intelligence Development Unit	59
6.9	Proactive management of the backlog of work in progress	61
7	Improving the quality of reporting of SARs	63
7.1	Summary	63
7.2	Education regarding the SAR regime	63
7.3	Standardisation of reporting processes	64
7.4	Feedback to be provided to disclosing entities	66
7.5	Sectoral differences in compliance and enforcement	70
8	Improving the results from LEA use of SARs	71
8.1	Summary	71
8.2	Merging of FIUs on a regional basis	71
8.3	ARA Centre of Excellence to develop guidance and training on use of SARs	72
8.4	LEA access to and use of Elmer terminals	73
8.5	Monitoring LEA results and establishment of new service level agreements	76
8.6	LEA objectives to be set by the Home Office which impact upon the use of SARs	77
8.7	Use of information available through Elmer to advertise successes of the SAR regime	77
8.8	Use of successes derived from the SAR regime to support and assist resource allocation decisions	77
9	Summary of recommendations	79
9.1	Delivery of the aims of the regime and the recommendations of this report	79
9.2	Focusing and defining the work of ECB	79
9.3	Improving the quality of reporting of SARs	83
9.4	Improving the results from LEA use of SARs	86

Appendices

Appendix 1	Sources of information
Appendix 2	Foreign FIUs
Appendix 3	Proposed new SAR processes

Glossary

ACPO	Association of Chief Police Officers
Alert	Alert is the NCIS database which holds intelligence on Level 3 criminals and acts as the national flagging database whereby law enforcement register active investigations on, or their interests in, particular subjects.
AML	Anti-Money Laundering
ARA	Assets Recovery Agency
ARC	Asset Recovery Committee
ARS	Asset Recovery Strategy
BBA	British Bankers' Association
CART	The Carousel Asset Recovery Team
CEDRIC	HMC&E's Data Repository and Information Computer which holds information and intelligence on suspects or cases which fall within HMC&E assigned matters
CICFA	Concerted Inter-Agency Criminal Finances Action Group
CIO	Criminal Intelligence Officer
CJA	The Criminal Justice Act
CSV	Comma Separated Variable
DCC	Detroit Computing Centre
DMC	ECB Data Management Centre
DPA	Data Protection Act 1998
DTA	The Drug Trafficking Act 1994
DTOA	The Drug Trafficking Offences Act 1986
ECB	Economic Crime Branch at NCIS
Elmer	The database used by ECB to hold SAR information
FAQs	Frequently asked questions
FATF	Financial Action Task Force
FI	Financial Investigator
FIU	Financial Investigation Unit
FSA	Financial Services Authority
FSMA	The Financial Services and Markets Act 2000
HMC&E	Her Majesty's Customs and Excise
IDU	ECB Intelligence Development Unit
IO	Intelligence Officer
IR	Inland Revenue
IRS	US Internal Revenue Service
ISA	Intelligence Service Analyst

JMLSG	Joint Money Laundering Steering Group
KPI	Key Performance Indicator
KPMG	KPMG LLP, its Partners and employees
LEA	Law Enforcement Agency (and other entities that receive SARs such as the Inland Revenue and Department for Work and Pensions)
LU	ECB Liaison Unit
ML	Money Laundering
MLAC	Money Laundering Advisory Committee
MLIT	Money Laundering Investigation Team
MLRs	The Money Laundering Regulations 1993
MLRO	Money Laundering Reporting Officer
MSB	Money Service Bureau
N2	The implementation of the Financial Services and Markets Act 2000 (midnight on 30 November 2001)
NCIS	National Criminal Intelligence Service
NCS	National Crime Squad
NTFIU	National Terrorist Financial Investigation Unit
OECD	Organisation for Economic Co-operation and Development
PEP	Personal Equity Plan
PMP	Project Management Panel
PNC	Police National Computer
PCA	The Proceeds of Crime Act 1995
PoCA	The Proceeds of Crime Act 2002
PTA	Prevention of Terrorism (Temporary Provisions) Act 1989
RAF	Recovered Assets Fund
SAR	Suspicious Activity Report
SB	Special Branch
SDEA	Scottish Drug Enforcement Agency
SMLU	Scottish Money Laundering Unit
SLA	Service Level Agreement
SPOC	Single Point of Contact
STR	Suspicious Transaction Report
TFT	Terrorist Finance Team

1 Introduction

1.1 Importance of the SAR regime

1.1.1 A wide variety of financial services companies and other entities provide Suspicious Activity Reports (“SARs”) to the Economic Crime Branch (“ECB”) at the National Criminal Intelligence Service (“NCIS”). ECB develops the criminal intelligence in these SARs and disseminates the results to a range of Law Enforcement Agencies (“LEAs”). SARs are fundamental building blocks in the identification of the flows of illegal and illicit money within the UK economy, including money used for the financing of terrorism and terrorist groups. As such, they provide crucial assistance in the identification, disruption and prosecution of crime in the UK.

1.1.2 This system has been in place for a number of years. During this time there has been significant change in the legislation, an increase in the number and range of entities which disclose to ECB, and a large increase in the number of SARs disclosed to ECB. Given the importance of the flow of information on suspicious activities and the effect of recent changes on the regime (including the Proceeds of Crime Act 2002 (“PoCA”) it is timely to review the effectiveness of the SAR regime.

1.1.3 All those to whom we have spoken believe that a strong and effective SAR regime would provide crucial support in prosecuting criminals and depriving them of the proceeds of their crimes. Those contributing to our review have been open with criticism, suggestions and recommendations for change.

1.1.4 KPMG has discussed the SAR regime with a variety of individuals from providers of SARs, ECB, LEAs and Government. We have tracked a number of SARs. We have identified a number of issues which hinder the effectiveness of the SAR regime. This report describes this work and provides cost effective recommendations where improvements to the regime can be made.

1.2 Structure of the report

1.2.1 This report is in nine sections:

Section 1 provides an introduction and background to the production of the report.

Section 2 provides a summary of our report and recommendations.

Section 3 briefly describes the history of the SAR regime through the changing legislative framework affecting the disclosure of suspicions to the authorities by financial services companies and other relevant entities. It also identifies the aims of the regime.

Section 4 sets out the range of issues and challenges inherent within the current arrangements for the reporting, processing and investigation of SARs.

Sections 5 to 9 contain KPMG’s recommendations, split between ensuring that the work and changes identified in our report are appropriately overseen and monitored (section 5), those that concentrate upon the work of ECB (section 6), those for improving the quality of the SARs that are provided to ECB (section 7) and those to help ensure that the

maximum benefit is derived by LEAs from their receipt of SARs (section 8). Section 9 summarises the recommendations and sets out a proposed timetable for implementing them.

1.3 Appointment of KPMG

1.3.1 KPMG were appointed to review and report on the effectiveness of the regime for handling SARs on 15 November 2002. This followed a successful application by NCIS to the Recovered Assets Fund (“RAF”) for funding for this review.

1.3.2 We conducted a review of a pilot sample of SARs and designed a questionnaire for completion by attendees at the National Financial Investigators Conference in November 2002. Our detailed work programme was then set out in a variation to the initial engagement letter dated 23 January 2003 following discussion with ECB and the Project Management Panel (“PMP”)¹ of the results of the pilot phase at its meeting in December 2002.

1.3.3 The key elements of our fieldwork prior to producing our report were agreed to be:

- Tracking a sample of 200 SARs from disclosing institutions to identify the processes and timing from recognition of a suspicious transaction to submission of the SAR to NCIS.
- Conducting a survey of the key work stages at ECB (input, validation and dissemination).
- Tracking a sample of 600 SARs sent by ECB to LEAs to assess their ultimate outcome.
- Obtaining detailed responses to questionnaires from 62 entities which provide SARs, including the 12 which provided those identified in the initial sample of 200, and the 57 LEAs which handle them.
- Following up and validating our fieldwork through meetings and workshops.

1.4 Objectives of report

1.4.1 The invitation to tender document noted that the UK Asset Recovery Committee (“ARC”) wished to commission “an independent review of the process used in the UK for the handling and dissemination of STRs.” It stated that the key objective of the report was to

¹ The Project Management Panel was established as a forum for KPMG to report back to stakeholders and interested parties on the progress of our work and to allow informed discussion of our initial and interim findings.

analyse and identify “how well the STR system works from ‘cradle to grave’ and whether there might be cost-effective ways to improve it”.

1.4.2 The aims of the review and subsequent report were placed in the context of the Asset Recovery Strategy (“ARS”), including *inter alia* “To:

- Make greater use of the investigation of criminal assets in the fight against crime.
- Identify and resolve issues to ensure that the UK has an effective STR reporting regime.”

1.5 Uses of report

1.5.1 This report has been prepared by KPMG using information and opinions provided to us by a range of entities and individuals, both within Government and a number of interested Government agencies, the various LEAs involved in the fight against financial crime, and the private sector. In many cases this information was provided on a confidential basis in the expectation that it could not be identified as being provided by particular individuals or organisations.

1.5.2 Our report is strictly private and confidential and is provided on the basis that it is for the information of NCIS only. It is prepared solely for the purpose of our terms of reference dated 15 November 2002 (as varied by our letter of 23 January 2003). It must not be relied upon for any other purpose. Our report must not be copied or disclosed, other than to UK Government or UK Government Agencies, or otherwise quoted or referred to, in whole or in part, without our prior written consent. We recognise, however, that our report is likely to be used as the basis for implementation of our recommendations by a number of parties and anticipate that such consent will be granted (at the request of NCIS) provided the recipients acknowledge that the report was not developed to address their own specific circumstances.

1.6 Sources of information

1.6.1 We have used a number of sources of information in producing our report and recommendations. We have also subjected our analyses and findings to a range of challenge processes.

Project Management Panel

1.6.2 We have held five meetings with the PMP² since the project began. These gave us the opportunity to report on our progress and our interim findings and analyses, and to debate the issues as they emerged.

Meetings with stakeholders

1.6.3 We held 29 initial meetings with interested stakeholders in the SAR process in late 2002, prior to beginning our detailed review. These meetings provided information on the operation of the system, aspects which were not satisfactory, and the potential areas for improvement.

² 16 December 2002, 31 January 2003, 28 February 2003, 17 April 2003 and 15 May 2003.

Questionnaires

- 1.6.4 We designed and submitted two general and two specific questionnaires to a variety of recipients to obtain information across the population of disclosing organisations and the LEAs.
- 1.6.5 Full details of the questionnaires which we circulated may be found in Appendix 1. We followed up the questionnaire responses with nine meetings with disclosing institutions and nine with LEAs.

ECB: survey and meetings

- 1.6.6 We designed a survey to help determine the actual time taken to process individual disclosures for the three key work stages within ECB, namely the inputting of information from SARs onto Elmer (the ECB SAR database), verification of that data, and matching (when possible) that data to information held on Elmer and Alert (the NCIS database of intelligence relating to Level 3 crime) together with dissemination of the data to the relevant LEAs. This was completed for SARs worked on by any six ECB staff (two in each work stage) for 15 different days during the survey period.
- 1.6.7 We held 17 meetings with ECB staff to understand their process and methodology. This built upon KPMG's understanding of ECB and Elmer developed in mid-2002 in an earlier project undertaken for ECB on their internal procedures.

Workshops

- 1.6.8 We held three three-hour workshops to discuss our preliminary recommendations³. These were attended by individuals from disclosing organisations, from ECB, from the range of LEAs and other interested parties (including the Home Office, HM Treasury and the Financial Services Authority ("FSA")).

1.7 Caveats

- 1.7.1 There are inevitably a number of caveats which attend a report of this kind.
- 1.7.2 The work which we have conducted is not an audit of the processes in place either at the disclosing organisations, at ECB itself, or at the range of different LEAs concerned. We have in part relied upon information and opinions provided to us by the range of participants, which we have accepted in good faith, although we have of course subjected them to challenge and discussed them in a range of meetings and workshops.
- 1.7.3 We have been reliant on obtaining responses to questionnaires for a significant portion of our fieldwork, albeit some were followed up with meetings to discuss the information. We have not received full responses to our questionnaires in all cases.
- 1.7.4 Many LEAs do not have management information systems which track what happens to SARs after they are received from ECB. This has hampered our analysis and assessment of the manner and efficacy in which the LEAs process the SARs. This has hindered our analysis of the progress and assessment of individual SARs and limited the responses

³ Quality of reporting, 18 March 2003; The role of NCIS ECB, 19 March 2003; The handling of SARs by LEAs, 4 April 2003.

which we have received in relation to the population of SARs processed by the relevant LEA.

- 1.7.5 Our review has considered a system of SAR reporting and review which has itself been changing in the course of our work. The introduction of PoCA has changed the disclosing environment, and there have been ongoing developments in process and procedures at both ECB and the LEAs.

1.8 Acknowledgements

- 1.8.1 We have received significant assistance from a number of individuals at a range of organisations in producing our report and recommendations. These include a number of organisations responsible for disclosing SARs to ECB, and the range of LEAs responsible for using SARs once passed on to them from ECB. Their contribution includes both the provision of responses to our questionnaires, and attendance at one to one meetings and our workshops. We have benefited from the involvement of staff at ECB, both in completing our surveys, in attending meetings with us and in their contribution to our workshops. Individuals from other stakeholders in the SAR process have also contributed to our work, including the Home Office, HM Treasury, the Association of Chief Police Officers (“ACPO”), the FSA, the British Bankers’ Association (“BBA”) and other industry bodies. The members of the PMP have made a valuable contribution to our fieldwork as it has progressed and provided significant challenge and input to the development of our recommendations.
- 1.8.2 We are very grateful to all these individuals for sparing their time for us and for their contributions to our work.

2 Summary

2.1 The history of the regime and its aims today

2.1.1 The objective of the report is to make cost effective recommendations for improving the Suspicious Activity Report (“SAR”) regime. It follows a “*cradle to grave*” review of the operation of the regime in all its aspects, including an assessment of the current performance of the regime against its aims.

The history of the regime

2.1.2 The SAR regime was initially established by the Drug Trafficking Offences Act 1986, which created a legal obligation to report drug money laundering suspicions to a law enforcement “constable”, and introduced powers to restrain and confiscate criminal assets. The new SAR regime thereby imposed an obligation on the private sector to co-operate with a drive to investigate and recover the proceeds of drug-related crime.

2.1.3 In the course of the last 17 years there have been a series of step-changes in the regime as part of an increasing emphasis on the fight against money laundering, as follows:

- 1987: the creation of what has become National Criminal Intelligence Service (“NCIS”) and the Economic Crime Unit (now Economic Crime Branch, “ECB”) for receiving, processing and disseminating disclosures of suspicious transactions.
- 1988 to 2002: the widening of the SAR regime to cover suspicions of laundering the proceeds of any crime, including offences involving the financing of terrorism, through various statutes, culminating in the Proceeds of Crime Act (“PoCA”).
- 1989: the creation of the OECD Financial Action Task Force and the promulgation of its Forty Recommendations for combating money laundering internationally.
- 1993 onwards: the creation of a regulatory regime for monitoring the private sector’s anti-money laundering processes and disclosure obligations. This operates through Regulations, Guidelines and regulatory action, and is due to be extended further later this year⁴.
- 1999 onwards: an increasing focus by law enforcement on carrying out money laundering investigations and prosecutions, sparked by the El Kurd money laundering convictions where the nature of the predicate offence(s) was not established.

The aims of the regime today

2.1.4 The SAR regime supports the operation of the Criminal Justice System and the Asset Recovery Strategy, and works alongside the UK’s international commitments to combat money laundering. It has a number of aims which impact upon, and are shared by, a wide range of stakeholders across the private sector, NCIS, Law Enforcement Agencies

⁴ To, *inter alia*, lawyers, accountants and dealers in high value goods.

(“LEAs”) and policy makers. These aims have evolved as the regime has and today, they are to:

- Deter and displace money laundering and predicate offences.
- Detect money laundering and predicate offences, identify the proceeds and contribute to the investigation of these crimes.
- Assist in disrupting money laundering and predicate offences through depriving criminals of their assets, taxation and other interventions including prosecution and conviction of offenders.

2.2 Current successes

2.2.1 Our review has shown that there are issues with the current SAR regime. However, there is also evidence that the SAR regime can and does assist in initiating and assisting with criminal investigations carried out by LEAs. Our work has highlighted some considerable achievements against the aims, including:

- We tracked a sample of 600 SARs disseminated by ECB between January 2000 and June 2002. Of these, 36 contributed to a positive law enforcement outcome (i.e. prosecution, confiscation, cash seizure, etc) and a further 29 are being worked on as part of existing investigations. These total 11% of our total sample and 34% of the 193 SARs in our sample where the ultimate disposition of the SAR could be identified by LEAs.

2.2.2 A number of different LEAs have experienced significant successes through the use of SARs:

- Between January and March 2003 one revenue agency made cash seizures of £2.5m under PoCA as a result of intelligence from financial institutions and SARs.
- The anti-money laundering unit of one urban police force used information from SARs in eight recent restraint actions totalling £71m.
- A revenue agency informed us of 16 recent cases linked to SARs, including four that have already led to settlements totalling £9m of which one alone led to a £6m settlement. This case was initiated from a SAR after £6,000 was paid into a Personal Equity Plan by an individual with limited earning power.

2.3 Current issues

2.3.1 However, despite these and other successes, the SAR regime is falling short of achieving its aims. There are problems inherent in all aspects of the regime related to and affecting each group of participating stakeholders.

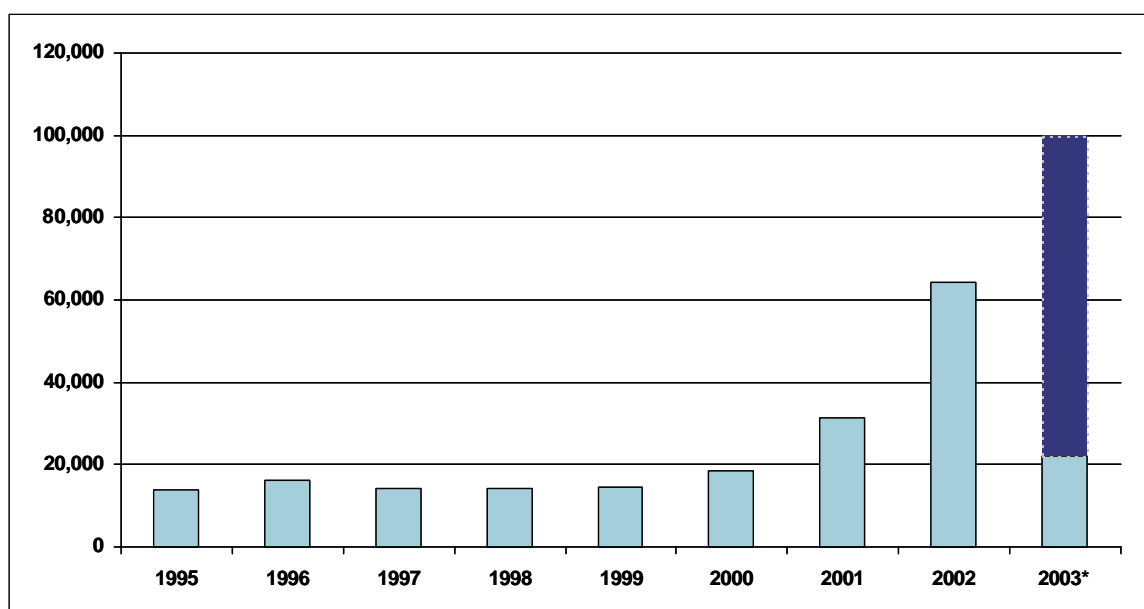
Ownership of the SAR regime

- 2.3.2 There is no ownership of the SAR regime as a whole and a lack of overall management of the various inter-related processes and activities within the stakeholders, some of whom demonstrate silo behaviour.

The growth in SAR reporting

- 2.3.3 The combination of recent events (in particular, 11 September, Abacha, the advent of N2 and the explicit Financial Services Authority (“FSA”) regulatory focus on money laundering arising from its new statutory objectives, and the enactment of PoCA⁵) and the work of ECB to promote awareness of the SAR regime has led to a massive growth in the numbers of SARs being reported. This is shown in figure 2.1 below.

Figure 2.1: Numbers of SARs received annually



* Q1 actual and estimate for full year

Source: NCIS ECB/KPMG

- 2.3.4 After a stable period of six years between 1995 and 2000 of around 15,000 SARs per annum, the number of disclosures doubled to over 30,000 in 2001 and more than doubled again to 63,000 in 2002. Our current projection for 2003 is that ECB will receive at least 100,000 SARs this year. This is based on the experience of the first three months of the year, when 21,433 SARs were received, and on industry and government estimates that PoCA will lead to a significant increase in SARs. The expansion of the regulations to include accountants, lawyers and others later this year will also lead to a rise in the number of reports, particularly those made by audit firms and those relating to fraud. The likely number is unknown although some predict that this will lead to hundreds of thousands of extra reports in years to come.

⁵ The relevant provisions of which came into force on 24 February 2003.

Quality of reporting

- 2.3.5 Good quality SARs have contributed to a number of LEA successes. Although the volume of SARs is increasing rapidly, the quality of a significant number of SARs remains poor both in content and in the form (e.g. handwritten) in which they are submitted. These poor quality SARs do not deliver what is desired and needed by the LEA community to recover assets or investigate money laundering or predicate offences.

Feedback to disclosing entities

- 2.3.6 There is currently very little feedback provided to disclosing entities by either ECB or LEAs, in relation to the quality or results from specific SARs provided by that firm, or more generally on both typologies and ECB and LEA requirements.

Value added by ECB processes

- 2.3.7 ECB does not have the right number of staff with the right skill sets to manage the more complex SARs. LEAs do not generally inform ECB of their key priorities or the successful use made of SARs. ECB cannot therefore ensure that the most appropriate SARs are developed through the “fast-track” system, i.e. those which are processed and disseminated to the relevant LEA within 24 hours of receipt. ECB do not run a search against either the Police National Computer or the Customs and Excise Data Repository and Information Computer. The intelligence package produced for LEAs does not therefore often include all the relevant information related to that SAR.

Timeliness of processing SARs at ECB

- 2.3.8 The nature of the process at ECB, exacerbated by the significant number of poor quality SARs provided by disclosing entities, has led to significant delays in disseminating SARs which are not fast-tracked. There is now a work in progress backlog of c58,000 SARs which have not been disseminated to the LEAs, and the non fast-tracked SARs currently being disseminated by ECB are on average ten months old. LEAs indicate that this delay severely limits their ability to carry out successful investigations⁶. The extent of the work in progress and the constant increases in its size have had the effect of diminishing ECB staff morale.

LEA activities and the use made of SARs

- 2.3.9 LEAs do not generally use the intelligence available through the Elmer system when conducting investigations. There are variations in the levels of commitment and resource applied by different LEAs to the SAR regime and some accord it a very low priority. LEA management information relating to the results from SARs is poor. There is no agreed best or standard practice at LEAs for taking forward developed SARs.

Financial costs and benefits of the SAR regime

- 2.3.10 Determining the overall sums spent by either disclosing entities or LEAs on the SAR regime with any accuracy is extremely difficult. On a very rough estimate, and subject to very strong caveats, we believe that disclosing entities may spend around £90m each year in ongoing compliance costs (although a proportion of this would be spent regardless of

⁶ This is not the case for revenue agencies for which timeliness of dissemination is less important.

the SAR regime), ECB's annual running costs are c£6m, and the amount spent in relation to SARs annually by LEAs is of the order of £5m. Although the figures may not be accurate, we believe the order of magnitude of the difference between the private and public sector to be correct. In addition, competing priorities at LEAs mean the available resource is concentrated in a small number of LEAs and that, in many cases, relatively low levels of resource are devoted to SARs.

- 2.3.11 The figures available from LEAs of their successes using SARs are limited because of poor management information. Rough estimates that we have received from three of the largest users of SARs indicate that in the period since January 2001 at least £11.5m has been recovered and £70m restrained as a result of the use of SARs. This obviously only includes a short period during which the PoCA confiscation provisions have been in place. These amounts are significantly greater than our estimate of the amount of public sector spending on ECB and at LEAs in relation to the SAR regime over the same period.

2.4 Key challenges

- 2.4.1 The key challenge is to reproduce the regime's successes across a wider population of SARs and the wider community of LEAs that handle them. This will require changes across all contributors to the regime and those that regulate it to improve both the quality of SARs entering the system and the use that is put to them.
- 2.4.2 The extra impetus given to SARs, and financial investigations generally, by PoCA creates greater potential for the SAR regime but brings issues with it which also need to be addressed. NCIS has shown flexibility and applied extra resource in adapting to meet the challenges, but there still remains a considerable amount of work to complete. It may therefore appear to ECB and law enforcement that they must tackle an ever-increasing number of SARs equipped only with the resources and processes designed to deal with a much lower level of disclosures.

2.5 Commitment to change

- 2.5.1 The package of recommendations taken together offers an opportunity to enhance significantly the performance of the SAR regime. It is therefore vital that all the recommendations in the report are taken forward together and they are not diluted or removed unilaterally by any stakeholder.
- 2.5.2 The implementation of our recommendations will require short-term increases in resources, both of people and money, at ECB and within LEAs. Delay in providing these resources will inevitably delay the overall improvement in the SAR regime. In particular, the benefits of increasing the quality of SARs and speed of processing of information through ECB to LEAs will be substantially reduced if LEAs do not also commit resources to using SARs for disruption and investigations.
- 2.5.3 A number of our recommendations are dependent upon various changes and enhancements to existing computer systems at NCIS. During our discussions with both the management of NCIS and its IT systems developers, no significant issues have been identified in implementing what we suggest. However, a clear IT implementation plan will be required to derive the benefits from these proposed enhancements and more IT systems developers may be required in order to achieve all the changes envisaged in the report together with the other improvements currently under way at NCIS.

2.6 Summary of recommendations

2.6.1 The report sets out 21 recommendations aimed at improving the SAR regime. The principal recommendations are summarised below.

Establishment of a Task Force

2.6.2 We recommend the establishment of a small Task Force comprising public and private sector stakeholders to be accountable for the delivery of the aims of the regime and the recommendations of this report and to ensure a “joined up” approach across the various stakeholders. It should operate until the current issues in the regime have been addressed.

2.6.3 The Task Force should be chaired by a senior Home Office official, and should report to a Government Minister to ensure ownership by a single lead Government department. It should comprise individuals with sufficient authority to implement the necessary changes. It should promote the successes of the SAR regime, encourage collaboration between stakeholders, and monitor and respond to resource needs.

2.6.4 We also recommend that a clear public Government commitment should be made to the aims and objectives of the SAR regime and to the implementation of these recommendations.

Focusing and defining the work of ECB

2.6.5 We recommend a series of fundamental changes to the structure and processes of ECB. This will enable it to meet the aims of the regime, to deal with the backlog of c58,000 SARs in a pragmatic way, will streamline the development of SARs and will help ensure that LEAs receive SARs in a timely fashion with the right intelligence to investigate.

2.6.6 Our main recommendation in this area is that the LEAs should be given near immediate access to all SARs that have been allocated to them, but that only a minority of these should be developed into full intelligence packages by ECB and then investigated by the LEA. This selection will be based partly on the LEA’s local knowledge and partly on the ECB’s own recommendation.

2.6.7 This change should be supported by:

- Increasing and focusing the management resource of ECB and enhancing the staff mix by bringing in greater industry and financial investigation experience.
- Increasing the amount of electronic reporting of SARs (including via email with an attached standard form) by making this mandatory for the regulated financial services sector and for lawyers and accountants.

2.6.8 We also recommend that ECB should be divided into three parts:

- A Data Management Centre: equipped to carry out rapid and efficient data processing, based outside London (to reduce costs) and staffed by data entry personnel to input and check SARs and to search core databases automatically. It should also carry out initial, automatic allocation of SARs to LEAs and act as the

repository for the intelligence contained in SARs not actioned by law enforcement (including auditor disclosure and fraud SARs).

- A Liaison Unit (“LU”): to act as the fulcrum for the regime between the disclosing entities and the LEAs. It will act as the public face of ECB and the conduit for communicating LEA requirements to the private sector. It will review and allocate all SARs within Elmer and recommend which SARs should be developed further.
- An Intelligence Development Unit: to develop fewer intelligence packages for LEAs than before but with higher quality information. It will carry out tactical analysis of the Elmer database and provide strategic analysis to support the wider UK approach in respect of anti-money laundering.

2.6.9 We recommend that ECB sends out details of the existing work in progress backlog to the relevant LEAs based on limited searches of Elmer and Alert. Each LEA will be responsible for deciding which (if any) SARs they want to be developed, and the remainder will be held on Elmer as “intelligence only”.

2.6.10 NCIS may also need to obtain further legal advice in some areas in order to ensure that in carrying out our recommendations it continues to meet its legal obligations in respect of, for example, data protection.

Improving the quality of reporting of SARs

2.6.11 We recommend that significant emphasis should be placed on improving the quality of SARs that enter the process in order to increase the likelihood of them achieving a positive law enforcement outcome. This should be done through:

- Education by ECB LU, regulators and trade bodies on the aims and needs of the SAR regime.
- Use of standard prescribed reporting forms by industry type to meet the different needs of different parts of the regulated sector. The forms should allow disclosing entities to identify any potential high impact SARs and those (such as fraud reports) which they do not believe should be investigated by an LEA.
- Providing feedback to disclosing entities through:
 - Periodic reports on individual performance and the outcomes of SARs disclosed.
 - Rejection of poor quality SARs which are either incomplete or contain no obvious stated reason for suspicion.
 - Information on money laundering typologies and LEA intelligence needs.
- Encouraging regulatory interventions by the FSA and other regulators (on the basis of enhanced information from NCIS) aimed at even compliance and increasing the quality of reporting.

Improving the results from LEA use of SARs

2.6.12 We recommend a number of changes to the ways in which LEAs handle SARs in order to bring the success rate to the level of the most successful agencies and then to improve it further. In identifying recommendations to meet what we recognise are the varied and differing requirements of the range of LEAs, we have sought to ensure that they are flexible. This will allow a differing emphasis to be placed on them by different LEAs depending on their individual circumstances. We propose that:

- Certain provincial Financial Investigation Units (“FIUs”) should be merged on a regional basis for the purposes of receiving and actioning SARs.
- The Assets Recovery Agency Centre of Excellence should develop guidance on best practice for Financial Investigators handling SARs. Training modules for both FIU and non-FIU officers should be established, making use of the skills and experience of NCIS and other LEA training bodies.
- LEAs should have access to Elmer terminals (within important access limits) to view their SAR queue, recommend SARs for development, and to enable direct searching of any SARs, although they will only be able to view the full details of intelligence only SARs. LEAs should be required to record their progress with individual SARs and provide feedback on cases directly on Elmer, making Elmer a more effective tracking mechanism for ECB.
- ECB should re-negotiate LEAs’ service level agreements and report on LEA results achieved. This should be used to help ensure a greater dialogue between NCIS and LEAs on issues of joint concern regarding the processing of SARs.
- The Home Office should include money laundering and the proceeds of crime issues within the relevant annual plans for LEAs and question the use of SARs in meeting LEA PoCA objectives.
- The information contained within Elmer relating to successes arising from the use of SARs should be widely advertised by all stakeholders.
- The successes derived from the SAR regime should be used to support and assist LEA resource allocation decisions.

2.7 Immediate next steps

2.7.1 We believe that the first priority in implementing our recommendations is the establishment of the Task Force. This body will drive and monitor the processes for taking forward the other recommendations. We would anticipate that this could be established with the right members reflecting the range of stakeholders within three months of this report. The Government commitment and backing to the SAR regime and the implementation of the recommendations in this report could be integrated with and made public at the time of the formal establishment of the Task Force.

2.7.2 Alongside the establishment of the Task Force, the Home Office work on the definition and publication of the standard form should be continued and completed. Once

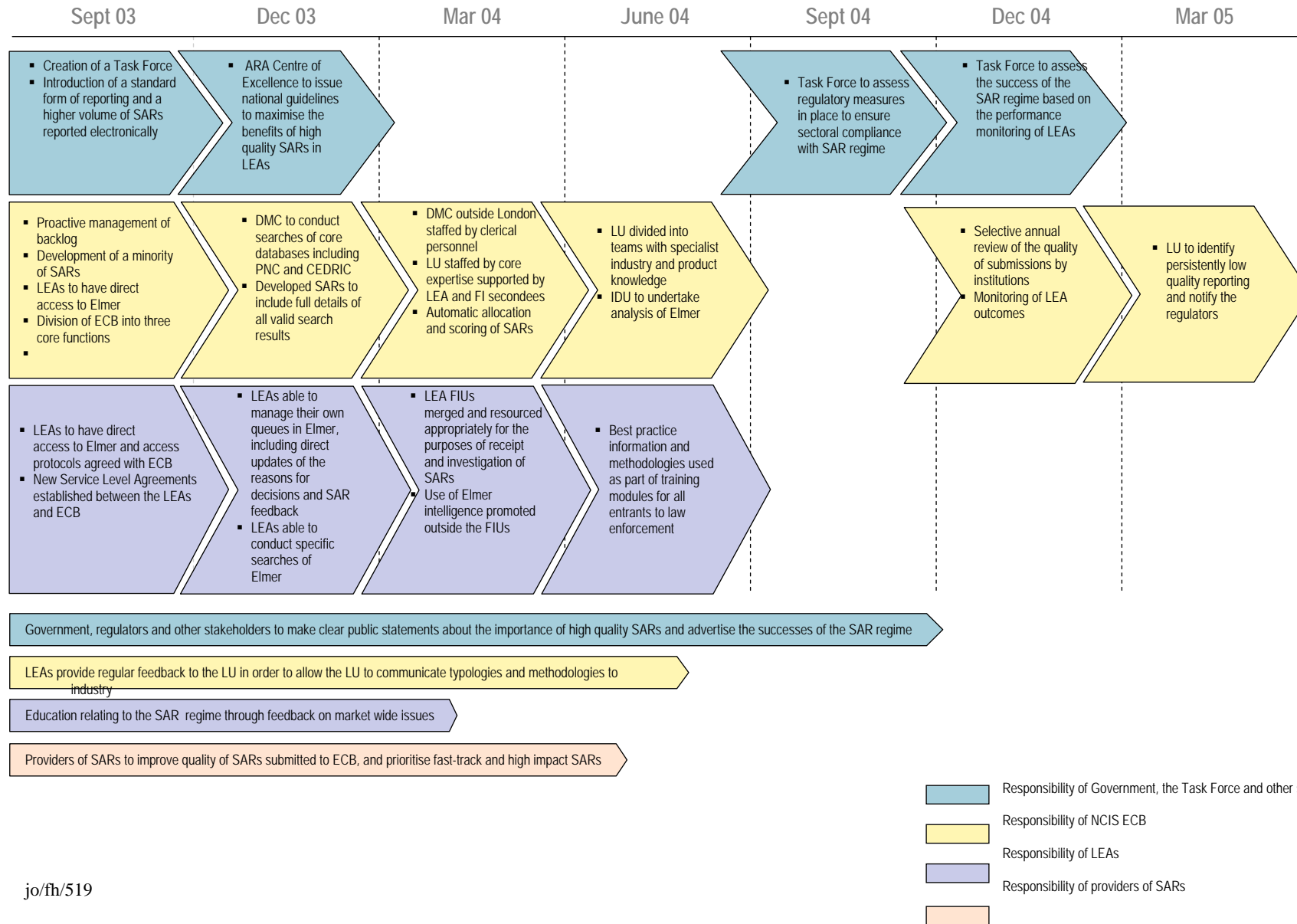
introduced this will help ensure that a greater proportion of SARs are reported in electronic form (even if by email with an attached document in the first instance) and therefore reduce ECB inputting time.

- 2.7.3 ECB should prepare a detailed plan of how it will respond to our recommendations and this should be presented at the first meeting of the Task Force. Its first task should be to act to remove the work in progress backlog and to allocate it by electronic batch transfer (after limited searches of Elmer and Alert) to individual LEAs (e.g. by cutting it to CD-Roms). The individual LEAs should then decide which (if any) SARs they wish ECB to develop into full intelligence packages based on their experience and local knowledge. The remainder should be held on Elmer as intelligence only and be available to be searched.
- 2.7.4 In addition to the work in progress being removed, the number of SARs processed and disseminated by the ECB should be reduced in the short-term by ECB reviewing all SARs as now but identifying only a minority for further processing and the development of an intelligence package. We recommend that, going forward, packages should be produced in much fewer cases (i.e. only for those SARs where LEAs have requested it, taking account of the recommendation of NCIS).

2.8 Timetable of key events

- 2.8.1 We would expect the proposed changes to structures and processes, including all the changes recommended to Elmer, to take between six and 12 months to implement. The recommendations that flow from this, including, for example, reporting on progress against the aims of the regime, may take a further 12 months to be fully in place.
- 2.8.2 Figure 2.2 on the following page sets out the key milestones for implementing the recommendations of this report over the next two years.

Figure 2.2: Timetable of key events



3 History, aims and successes of the current SAR regime

3.1 Summary

3.1.1 This section of our report provides background to the SAR regime, a discussion of its aims and some details of existing successes derived from the use of SARs:

- A brief history of the legislative background to the regime and those international developments which influenced it (section 3.2).
- An indication of the various recent developments which have affected the implementation and practice of the regime (section 3.3).
- An outline of the aims of the SAR regime as it stands today (section 3.4).
- An indication of the existing successes arising from use of SARs (section 3.5).

3.2 The history of the regime

3.2.1 The framework providing support to the SAR regime has developed through a series of Acts of Parliament, associated Regulations, external reports and recommendations. These have built upon one another as understanding of the scope of money laundering activities and the need for wider legal tools to combat them has developed. The initial focus was on the proceeds of drug trafficking and terrorist finance, but this has been widened to capture the proceeds of other forms of criminal activity and all assets of those identified as having a criminal lifestyle.

The Drug Trafficking Offences Act 1986

3.2.2 The Drug Trafficking Offences Act 1986 (“DTOA”) first codified the requirement for individuals to report suspicions by creating a potential criminal liability for those who knew or suspected that their clients or customers were involved in laundering the proceeds of drug trafficking and failed to disclose this to the authorities. It established the first drug money laundering offence, although the legislation was primarily used by LEAs in relation to the related predicate drugs offences. It also permitted the confiscation of assets, property and other benefits which derived from drug trafficking. There has therefore been a regime in place relating to the reporting of suspicion of money laundering for 17 years.

The Financial Action Task Force

3.2.3 The Financial Action Task Force (“FATF”) was established by the 1989 Paris G-7 summit following recognition of mounting international concern over money laundering and the threat it posed (initially) to the banking system and individual financial institutions. FATF produced its Forty Recommendations in 1990⁷, setting out an international framework for Anti-Money Laundering (“AML”) efforts and a set of recommended counter-measures. Recommendation 15 states “*If financial institutions*

⁷ The FATF Forty Recommendations are available at www.oecd.org/fatf.

suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities”.

- 3.2.4 The Forty Recommendations were updated in 1996 to reflect changes in money laundering techniques and methodologies and are currently the subject of a further comprehensive review to ensure that they mirror the increasing use by professional money launderers of non-financial businesses and professions. FATF’s role was expanded in October 2001 to include terrorist financing, and it has provided guidance and special recommendations in relation to this subject.

Further UK legislation relating to money laundering and confiscation

- 3.2.5 The provisions of the DTOA in relation to both the offence of money laundering and the requirement to report suspicions were developed by subsequent legislation:

Figure 3.1: Money laundering and confiscation legislation prior to 2002

Year	Statute	Provisions
1986 1987	Drug Trafficking Offences Act (DTOA) Criminal Justice (Scotland) Act	Confiscation provisions for drug trafficking offences, first drug money laundering offence and first offence for not reporting suspicions.
1988	Criminal Justice Act (CJA 1988)	Confiscation provisions for all non-drug indictable offences and specified summary offences.
1989	Prevention of Terrorism (Temporary Provisions) Act (PTA)	New offences for financial assistance for terrorism.
1990	Criminal Justice (International Co-operation) Act	Mutual legal assistance, further drug money laundering offences and drug cash seizure on import or export.
1993	Criminal Justice Act (CJA 1993)	Other forms of money laundering offences (including terrorism related) and enhancements to all crime confiscation provisions.
1994	Drug Trafficking Act (DTA)	Consolidating the drug provisions and removing mandatory confiscation.
1994	Criminal Justice and Public Order Act	Bringing forward the date from which CJA 1993 confiscation provisions apply.
1995 1995 1995	Proceeds of Crime Act (PCA) Proceeds of Crime (Scotland) Act Proceeds of Crime (NI) Order	Further alignment of all crime confiscation provisions with DTA 1994; notably use of assumptions in criminal lifestyle cases.
1998	Crime and Disorder Act	Amendment to CJA 1993 for confiscation orders on committal for sentence.

- 3.2.6 The scope of potential money laundering offences was therefore widened over the period since 1986 beyond drug trafficking to include all other criminal activity. The scope for

confiscation upon criminal conviction was also increased for both drug related and other criminal activity.

The Money Laundering Regulations 1993

- 3.2.7 The Money Laundering Regulations 1993 (“MLRs”) came into force in 1994 and (as updated) are the primary detailed statement regarding the AML requirements on financial sector businesses. They are designed to facilitate the identification and reporting of suspicious transactions by financial sector entities, and to allow an appropriate audit trail for monitoring the progress of suspicious individual transactions or groups of transactions in the event of a formal investigation. The MLRs cover a range of areas but specifically include requirements for the identification and recognition of suspicious transactions (rather than the threshold approach adopted in other countries) and the procedures for reporting these suspicions to the authorities. There are no *de minimis* thresholds for reporting.
- 3.2.8 The revisions to the MLRs in 2001 brought bureaux de change within the scope of the Regulations and introduced them into the regulated sector under the responsibility of Her Majesty’s Customs & Excise (“HMC&E”).
- 3.2.9 The Joint Money Laundering Steering Group (“JMLSG”) was established by a number of trade associations in 1990 to prepare Money Laundering Guidance Notes for the financial sector on the requirements of the legislation. These have been updated on a regular basis to reflect changes to the MLRs and subsequent changing good practice and market circumstances. Compliance with the Guidance Notes is not mandatory but is intended to allow a firm to demonstrate that it meets good industry practice in the interpretation of the MLRs, and would therefore be taken into account in the event of potential prosecution for not reporting suspicions.

3.3 Recent developments

El Kurd

- 3.3.1 A significant success and breakthrough in the legal investigation and prosecution of money laundering offences arose in the El Kurd case, which was brought by HMC&E in 1999. This prosecution of the manager of a London bureau de change depended on the development of an overall picture of money laundering activity through evidence of:
- The value and number of transactions passing through the bureau.
 - Comparison of this with legitimate transactions and behaviour in other bureaux de change.
 - The criminal background of close known associates of the defendant.
 - A lack of SAR disclosures by the defendant.
- 3.3.2 The case relied on proving the money laundering offences on their own; the underlying criminal offences were neither identified nor proven. The convictions, subsequent sentence of the maximum 14 years allowed in the legislation, and a £1m fine all provided

the precedent for LEAs to focus solely on the money laundering aspects of an individual case rather than predicate offences if they so wished.

Abacha

- 3.3.3 A new democratic government in Nigeria was formed in 2000 following the death of General Sani Abacha. It alleged both that a number of banks in Switzerland and the UK had established accounts linked to the family and close associates of General Abacha, and that there had been significant turnover across those accounts. Both the Swiss regulators and the FSA launched investigations into the due diligence and control procedures in the banks identified as having opened these accounts. A number of Swiss banks were named and publicly censured for their account opening failures. The FSA announced that 23 banks in the UK had accounts linked to the family, and that on investigation 15 banks which it supervised had significant control weaknesses and deficiencies in procedure in relation to AML.
- 3.3.4 The risk of public censure and regulatory enforcement because of poor AML controls and procedures rose significantly following the Abacha case. The FSA's formal statements on the case specifically highlighted inadequate senior management oversight of the account opening process for higher risk customers. They also highlighted the importance of senior management involvement in and commitment to AML controls.

The aftermath of 11 September 2001

- 3.3.5 The terrorist attacks on the World Trade Centre and the Pentagon on 11 September 2001 provided further impetus for Governments and LEAs around the world to focus on the question of terrorist financing. Investigations into the hijackers' movements and behaviour prior to the attacks identified both that their activities were financed through apparently legitimate financial services transactions and that the amounts concerned were relatively low. The challenges offered to both financial institutions and LEAs in the identification of terrorist finance, arising as it does from primarily legitimate business and personal sources of funds, places significant further burdens on all those involved in the reporting of potential suspicious activity.

The role of the FSA post-N2

- 3.3.6 The implementation of the Financial Services and Markets Act 2000 ("FSMA") at N2 (midnight on 30 November 2001) placed a new formal obligation on the FSA in relation to the regulatory focus on financial crime. Prior to that date, the nine former regulatory bodies had no explicit statutory requirement to address financial crime issues other than as they impacted upon their regulatory objectives.
- 3.3.7 One of the FSA's four statutory objectives set out in FSMA is the reduction of financial crime⁸, primarily reducing the extent to which it is possible to use regulated financial services companies for purposes connected with financial crime. The definition of crime that has been adopted includes handling the proceeds of crime. FSMA also provides the FSA with the power both to make and enforce regulatory rules on money laundering and to prosecute for breaches of the MLRs.

⁸ Section 6 of FSMA sets out the financial crime objective.

- 3.3.8 There is a Money Laundering Chapter (“ML”) in the FSA Handbook of Rules and Guidance which sets out specific requirements on authorised firms. These requirements mostly mirror those of the MLRs, providing a civil regime to complement the criminal regime. Firms are also subject to general systems and controls requirements, including to counter the risk that the firm might be used to further financial crime. The FSA wishes to leave detailed guidance to the JMLSG Guidance Notes, and the FSA has indicated that it will have regard to compliance with the Guidance Notes when assessing compliance with its rules. All regulated firms are subject to this chapter other than specified classes of (primarily) insurance firms.
- 3.3.9 The FSA has taken a number of steps to meet its obligations under FSMA. It carried out a themed horizontal project focusing on Money Laundering across all financial activities and sectors, which reported in July 2001. It then published further reports on work it has undertaken in relation to the higher-risk financial services markets this project identified. It has focused on firms’ AML systems and controls when conducting the initial round of desk-based and on-site risk-based reviews of all regulated firms. Senior FSA staff, including the Chairman, have made speeches on money laundering and the obligations and requirements on regulated financial services companies.

The Proceeds of Crime Act 2002

- 3.3.10 PoCA was introduced primarily to recover criminal assets. It consolidates and widens the criminal confiscation powers established in previous legislation so that the proceeds of all acquisitive crime are liable for confiscation. It introduces a civil recovery power for the new ARA where property is believed to be derived from unlawful conduct, and permits the taxing of any identified income, gain or profit from crime where appropriate. PoCA also provides new powers to trace the proceeds of crime and investigation of suspected money laundering.
- 3.3.11 PoCA creates a single set of money laundering offences applicable to the proceeds of all crime, rather than the previous separate offences relating to the proceeds of drug-related crime and those from other crimes. The main offences are:
- The concealment of criminal property, its nature and source.
 - Making money laundering arrangements.
 - The acquisition, use and possession of criminal property.

In practice this means that the offence of “money laundering” now covers a range of activities such as the handling of stolen goods and fraud that did not previously have to be disclosed.

- 3.3.12 PoCA widens the offence of failing to report knowledge or suspicion from solely drug or terrorist money laundering to cover money laundering of any form of criminal property, and it will apply if the defendant failed to report despite having reasonable grounds for such knowledge or suspicion.
- 3.3.13 The new offence applies only to the regulated sector, which currently comprises the banks and other financial institutions, but which will expand significantly when *inter alia* the legal and accountancy professions are brought within its scope later this year. This

widening of the relevant offences and the additional requirement to report will result in a significant further increase in the number of disclosures made to ECB, and is therefore important for future planning by stakeholders in the SAR regime.

3.4 The aims of the SAR regime today

Background

- 3.4.1 There have been significant legislative and regulatory developments over the 17 years since the introduction of the DTOA and its relatively limited drug-related focus. The SAR regime and the wider AML arrangements have developed in a relatively piecemeal fashion through a number of Government and private sector initiatives. In particular, the introduction of PoCA and the radical reforms of the AML legislation alongside the establishment of the ARA, together with the powers granted to the FSA at N2, make this an appropriate time to revisit the aims and intentions of the regime as a whole.

Development of the aims of the regime

- 3.4.2 We have developed a statement of the aims of the SAR regime as part of our work. In doing so we prepared an initial draft text which was then debated widely within the PMP to ensure that we had obtained the views of the range of stakeholders concerned with the regime. It should be noted that the aims of the regime set out below are identified in order of impact and not by their relative priority.

Statement of the aims of the SAR regime

The UK's SAR regime supports both the ARS and the operation of the criminal justice system, and works alongside our international commitments to combat money laundering. Its aims are to:

- Deter and displace money laundering and predicate offences.
- Detect money laundering and predicate offences, identify the proceeds, and contribute to the investigation of these crimes.
- Assist in disrupting money laundering and predicate offences through depriving criminals of their assets, taxation and other interventions, including prosecution and conviction of offenders.

Essential outcomes

In the long-term, a targeted and effective SAR regime will lead to:

- A reduction in money laundering and predicate offences through identification and recovery of criminal assets.

- The protection and enhancement of the reputation of the AML achievements of the UK and its financial institutions.
- Identification of both immediate and long-term criminal trends and typologies, in particular in relation to serious, organised and volume crime in the UK.

Measurable indicators

A credible SAR regime will result in:

- Increases in the amounts of criminal assets recovered through use of SARs.
- Increases in convictions and other disruptions of criminal activity stemming from SARs.

Analysis of the aims

- 3.4.3 The widest and overarching aim is that by establishing a process and framework for the reporting of suspicious activity which is well publicised and apparent to those who use both financial services and other businesses caught within the parameters of the legislation, there is an initial deterrence to criminals who are seeking to convert the initial proceeds of their crimes into legitimate assets through these channels.
- 3.4.4 The second is that the information provided through SARs on the laundering of the proceeds of crime assists LEAs to detect, identify and investigate both money laundering offences and the underlying predicate offences.
- 3.4.5 Finally, the consequent actions taken by LEAs, including the Inland Revenue (“IR”), on the basis of intelligence provided through the SAR regime, whether prosecution, taxation or confiscation, help to disrupt both underlying criminal activity and any subsequent attempts to launder the proceeds.

Relation between the aims of the regime and KPMG’s review

- 3.4.6 Having identified the aims and intentions behind the SAR regime, and therefore what the regime ought to achieve, our fieldwork has concentrated upon what it is in fact achieving. In conducting this analysis we have identified a range of shortfalls within the application of the regime. Our recommendations for change are generated by and derived from these shortfalls, recognising the wider context of the regime.

Relationships with other key Government initiatives and priorities

- 3.4.7 The SAR regime is driven by Government legislation and must be seen in the context of other Government initiatives. The 2001 ARS reflects a key Government priority to take the profit out of crime and dismantle and disrupt criminal activity by recovering the proceeds of crime, as does the establishment of the Concerted Inter-Agency Criminal Finances Action Group (“CICFA”). The disclosure of SARs and their use by LEAs in investigating potential criminal activity provides significant fuel for the Government’s confiscation and AML strategy and provides a fundamental support to it. It allows intelligence on suspicious financial transactions to be used by the relevant LEAs in their investigations. Depending on the circumstances, the new powers established in PoCA to

recover criminal assets can then be used alongside prosecutions for the relevant criminal offences.

3.4.8 The SAR regime also has to be linked in to the objectives and desired outcomes identified and addressed in the National Policing Plan and the NCIS National Intelligence Model.

3.5 Existing successes of the SAR regime

LEA successes using SARs

3.5.1 Despite the weaknesses identified in this report, the existing SAR regime has contributed to a number of successful LEA operations over recent years. These clearly demonstrate the fundamental role that SARs can play in initiating investigations. The system can work well and does have an impact on crime. The challenge is to make it work more effectively.

3.5.2 We tracked 600 SARs disclosed between January 2000 and June 2002 to determine whether they had played a role in any investigations or prosecutions. 11% of the total either contributed to a successful outcome or are still being worked on. This represents 34% of the 193 SARs in the survey where LEAs could identify the outcome related to a particular SAR. More detail on the results of our survey can be found in section 4.7 below.

- The successful cases in our sample included 18 PoCA related operations and subsequent cash seizures that took place after 30 December 2002 (when the relevant provisions came into force). The SARs in question arose at least six months prior to then (i.e. before 30 June 2002, the cut-off date of the sample). These cases included nine in the London region that led to cash seizures totalling £614,995. They indicate the further value that will be derived from SARs once the powers of PoCA are fully exploited.
- Our sample of 600 included one SAR which had been one of a series of three SARs made by two institutions. This led directly to the disruption of an attempted “advance fee” fraud. The SAR related to a proposed transfer of funds overseas and was fast-tracked to the relevant LEA, an urban police force. The LEA made contact with the Money Laundering Reporting Officers (“MLROs”) and visited the institution making the principal disclosures. Following discussions with the MLRO and a number of representatives of law firms present at the institutions, and advice given by the LEA, the institution made a commercial decision to close the account. The subjects of the SAR had attempted to transfer US\$760,000 in total.

3.5.3 Over the last two and a half years the AML unit of one urban police force has carried out restraint and/or confiscation actions in 38 cases. Eight of these were linked to SARs through which a total of £71 million has been restrained.

3.5.4 Sanitised versions of certain of the successes identified by various LEAs are given below:

- In July 2001 as a result of a SAR (and following a joint operation between two LEAs during which a total of 25 further SARs were disseminated) eight people were arrested and charged with money laundering offences. Cash totalling £52,000,

cannabis and 2kg of cocaine were seized and a hydroponics factory was dismantled. The total amount of money laundered was £9.6m.

- Following receipt of a fast-tracked SAR, an investigation into “high yield investment frauds” led to US\$25m being restrained in conjunction with the US authorities. Two defendants extradited from Spain stood trial with a third and all received prison sentences ranging from 18 months to 8 years.
- An LEA contacted a law firm following the receipt of a telephone call from The Law Society seeking advice. The law firm were instructed to submit a SAR in respect of £3.1m being held in their client account. The matter transpired to be an advance fee fraud in Austria. £3.1m was identified and restrained and three individuals were arrested.
- A revenue agency passed details to us of 16 successful recent cases which originated from SARs including four that have already led to settlements totalling £9m. This included one case where a SAR was submitted after £6,000 was paid into a Personal Equity Plan (“PEP”) although the investor had limited earning power. This resulted in an investigation into off-shore arrangements and numerous transactions being made by a very large metals dealer. The resulting case terminated with a settlement of more than £6m.
- A SAR started a revenue agency investigation into the affairs of a UK partnership. By October 2001 the aggregate balance within the partnership accounts had risen to more than £3.5m. Cheques were made payable by the partnership to a European supplier (which in turn was using false invoices) before being endorsed for onward payment into an account in another European country. A settlement of over £2m was recently made.

Characteristics of successful LEAs using SARs

3.5.5 The successes noted above have tended to be concentrated in revenue agencies and a small number of urban police forces. Our analysis has shown that, in the main, these LEAs:

- Apply a greater amount of manpower resource to handling SARs than the majority of LEAs nationally.
- Place both a high level of importance and priority on SARs within the Financial Investigation Unit (“FIU”) and a medium to high level of priority on SARs as an organisation, appreciating the contribution that SARs can make to investigating and recovering the proceeds of crime.
- Have a close working relationship with ECB, either through secondments or regular telephone contact with the Duty Desk.

4 Key issues and challenges across the SAR regime

4.1 Summary

4.1.1 This section sets out the key issues and challenges across the regime, as identified by our review. These are:

- The absence of a statement of the aims of the regime, combined with no single organisation taking ownership of the regime as a whole has meant that participants have focused on their own agendas (section 4.2).
- The number of SARs disclosed has increased significantly over the last three years and is likely to continue to increase. The quality of SARs disclosed varies considerably (section 4.3).
- Disclosing entities need to receive feedback on the disclosures they make for various reasons. LEAs provide insufficient feedback to ECB, which in turn is unable to provide the type and quality of feedback disclosing entities require (section 4.4).
- The value added to the regime by ECB processes has not been maximised, due to a number of factors (section 4.5).
- There is a growing backlog of SARs which have not been processed. This has implications for the usefulness of SARs to most LEAs (section 4.6).
- The differing aims, knowledge, resource levels and focus of LEA activities and the use made of SARs has led to diverse outcomes, and some LEAs make better use of SARs than others (section 4.7).
- There is a significant mismatch in resource allocated to the SAR regime between providers of SARs and NCIS and the LEAs (section 4.8).

4.2 Ownership of the SAR regime

“The present regime is rapidly falling into disrepute”

“There is a considerable amount of blame of everybody else for the failures of the system, rather than developing solutions which are best for everybody”

“The ECB really has not got a grip of [the SAR system] and totally devalues it”

Source: Interviewees and questionnaire respondents as part of KPMG’s review

4.2.1 There has been no clear public statement of the overarching aims of the SAR regime prior to the commencement of our review and no single organisation or group was identified as the owner of the SAR regime as a whole. Without such an owner there has been no strategic oversight of all parts of the reporting and investigation process to ensure that the actions and priorities of each group of the stakeholders are consistent with the operation of the regime as a whole.

- 4.2.2 A lack of clear common objectives has meant that some stakeholders have focused solely on their own issues and concerns and this has, at times, led to an apparent blame culture between participants. A lack of transparency and information available to stakeholders across the regime also contributes to this lack of trust.

Relevant performance indicators

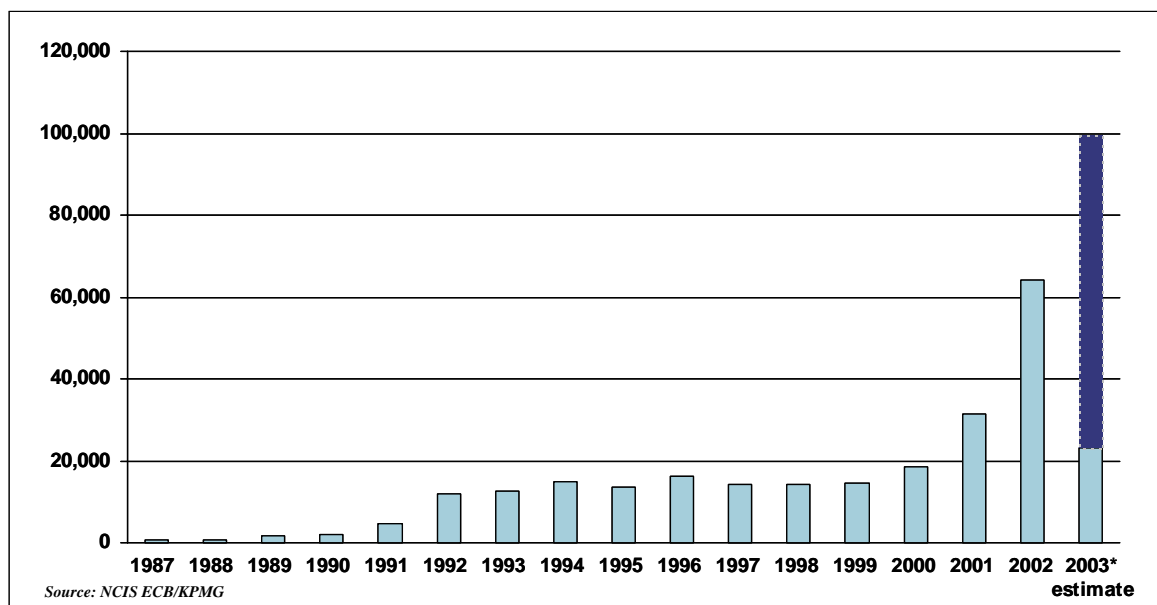
- 4.2.3 As there is no ownership of the SAR regime, there are no clear and appropriate tracking measures and management indicators across the process as a whole. Our review has highlighted that there is a significant lack of management information systems at a number of LEAs to allow tracking of the uses of SARs disseminated to them. Such systems would help track the effectiveness of the regime to help ensure that it is meeting its aims and objectives. ECB has two specific key performance indicators (“KPIs”), which are to process all fast-track SARs within 24 hours and 95% of all SARs within five days, but the current processing backlog makes the second of these irrelevant. These KPIs are process-driven and can therefore become an end in themselves at the expense of the quality of service provided by ECB.

4.3 Quantity of SARs and quality of reporting

Growth in SAR reporting

- 4.3.1 The average number of SARs disclosed on an annual basis in the UK remained in a range between 13,700 (1995) and 18,408 (2000) in the years between 1994 and 2000. This figure jumped by 70% in 2001 to 31,251; it then more than doubled in 2002 to a total of 64,164. The indications are that this growth has continued in 2003, with 21,433 disclosures made in the first three months of the year.⁹

Figure 4.1: Numbers of SARs received annually



* Q1 actual and estimate for full year

- 4.3.2 There are a number of reasons for this increase: the impact of the events of 11 September 2001; the publicity from the Abacha affair; the advent of N2 and the explicit FSA regulatory focus on money laundering arising from its statutory objectives; and the impact and implementation of the initial sections of PoCA.
- 4.3.3 These factors are likely to continue to apply, while any expansion of the FSA current customer review to regulated entities other than the “Big Six” banks is also likely to give rise to additional disclosures. The full introduction of Part 7 of PoCA¹⁰ on 24 February 2003 will also add to the level of disclosures that are made. The financial sector industry estimates in their response to our survey that on average PoCA will lead to a 14% increase in the number of money laundering SARs submitted to ECB, although the figures are considerably higher in the larger retail banks that provide the greatest number of SARs. This alone is therefore likely to push the total number of SARs to at least 100,000 in 2003, regardless of the impact of any other factors, for example the impact of the increase in fraud disclosures expected under the new legislation.

Over-reporting

“There is more defensive reporting now due to the FSA”

“The danger is that we are being pushed into frightened compliance. The FSA are more worried about missing something ... than supporting NCIS”

“MLROs are getting scared as they are being faced with punishments of 12 to 14 years if they do not do their job properly. To be brutally honest, the implications of over-regulating are that NCIS will have received reports which it should not have received”

“I didn’t like his attitude” (as a reason for disclosing)

Source: Interviewees and questionnaire respondents as part of KPMG’s review

- 4.3.4 MLROs are faced with a challenge in their decisions on whether or not to disclose a suspicion to ECB. The MLRO is presented with potentially suspicious transactions or activities by staff within a firm and/or by specialist computer systems. The MLRO must decide which of these to report to ECB. There is, however, no definition of “suspicion” despite the availability of the JMLSG Guidance Notes. This is not an exact science and is not black and white. If the MLRO errs on the side of caution and reports more activities, or has a lower threshold of suspicion, this is very difficult to identify, or indeed criticise.
- 4.3.5 A number of the disclosing entities we interviewed stated that there has been over-reporting of SARs since N2. This has in part accounted for the growth in numbers of disclosures over the last two years. It appears that there are a number of disclosures which have been made by regulated entities that are effectively “defensive reports”.
- 4.3.6 There is also an evident lack of knowledge of the law and the JMLSG Guidance Notes among a number of those who are potentially required to report suspicious transactions; this can, for example, lead to over-reporting based on a (mis)perception that all transactions over a given size must be reported, rather than those which are assessed to be suspicious. Bureaux de change, for example, tend to report all transactions over a

⁹ Source: ECB

¹⁰ i.e. the part that deals with money laundering

specified size as this is one of the criteria provided by HMC&E in their guidance on SARs.

Under-reporting

4.3.7 Although the absolute figures reported for SARs have increased significantly over recent years, the figures for the first six months of 2002 indicate that various classes of potential providers of SARs continue to make low numbers of disclosures. Our terms of reference did not allow us to visit these providers and determine why they were apparently making relatively few disclosures. The following comments should therefore be taken in the context of this lack of hard data:

- 236 banking institutions did not disclose any SARs to ECB in the first six months of 2002, out of a total average population of banks able to take deposits in the UK during that period of 385. The bulk of SARs are likely to and do arise from the large clearing banks. However, over 60% of banks in the UK failed to make a single disclosure in a six month period. This would suggest to us that there is at least some under-reporting of suspicions from some of these banks. It may also be the case that some of these banks deal with transactions and customers which do not attract criminal activity.
- Disclosures in the first six months of 2002 from 116 different solicitors comprised 0.6% of the total, while those from 33 different accountants represented 0.2% of the total. The 1998/99 FATF Annual Report noted that *“The experts have observed a growing tendency for professional services providers, such as accountants, solicitors, company formation agents and other similar professionals, to be associated with more complex money laundering operations.”* Similarly the 1998 Report of the UN Office for Drug Control and Crime Prevention on financial havens, banking secrecy and money laundering refers to the frequent misuse of lawyers and accountants to help hide criminal funds. From later this year these professions will fall fully within the scope of the MLRs and it is likely therefore that the number of disclosures from them will increase.

4.3.8 There remains a considerable degree of misunderstanding of both the MLRs and PoCA amongst some in the regulated community and those other entities which are caught within its remit. The lack of training amongst some relevant front and back office and MLRO staff exacerbates this problem. Ignorance of the MLRs and PoCA will also contribute to under-reporting of suspicions.

Quality of information provided in both paper and electronic SARs

4.3.9 The quality of SARs disclosed to ECB varies considerably, both in their content and the amount of information provided. The NCIS website includes a disclosure template which provides an indication of the information which is required and guidance on how to complete it. Despite this, a considerable number of disclosures do not contain all the key information indicated on the template such as core details on the subject (e.g. date of birth, address or postcode), the reason for suspicion, or supporting information on the transactions which gave rise to the suspicion. ECB began to conduct analysis of the quality of disclosures in mid-2002, focusing on SARs with quality issues identified by ECB personnel.

- As at March 2003 over 30% of the SARs on the database of poor quality SARs had no, or an inadequate, reason for suspicion and a further 14% of the SARs did not include any transactions to support the reason for suspicion.
- 17% of the SARs on the database of poor quality SARs did not include all the key details for the subject of the disclosure.

4.3.10 On our 15 survey days at ECB, only 32 out of 363 electronic SARs surveyed contained no errors, while 11 contained more than ten errors - as a result of which each SAR took an average of 31 minutes to check and correct. The most common errors identified were that address and account details were entered incorrectly and that associates of the subject were not extracted from the account details and entered as subjects.

Identification and reporting of potential high impact SARs by disclosing entities

4.3.11 All SARs submitted to ECB are currently input, checked and processed, and, with a minority of exceptions, an intelligence package is produced, regardless of the nature or quality of the information contained within the individual disclosure.

4.3.12 There is a tension in the current arrangements between the requirement to disclose all “reasonable” suspicions to ECB, as a deterrence to money laundering activity (whether or not these are likely to assist the aims of the regime) and the processing and investigative need for higher quality and other higher impact SARs which on investigation are more likely to lead to disruption, confiscation or prosecution.

4.3.13 Disclosing entities can currently indicate on the standard SAR form, whether manually or electronically submitted, that they believe the particular SAR should be fast-tracked through the system. The Duty Desk decides whether or not to fast-track that SAR, and may ignore the provider’s recommendation. If it is then fast-tracked, it is input (if submitted manually), searches conducted and the package usually disseminated within 24 hours. 50% of those disclosing entities who responded to our questionnaire indicated that they do mark fast-track SARs.

4.3.14 SARs which disclosing entities mark to be fast-tracked tend to be where there is a time-critical element to the underlying transactions and money may be paid away, where there is a suspicion relating to terrorist finance, those requiring consent, and where potential Carousel fraud¹¹ has been identified. There has been considerable effort on the part of HMC&E and ECB to help educate the banks, which tend to disclose the bulk of potential Carousel frauds, to identify such activities. This has led to a number of successes on the part of HMC&E in disrupting the potential fraudsters.

4.4 **Feedback to disclosing entities**

“We want feedback – so that we can get ‘buy-in’ from the staff who think that regulation is a pain in the neck”

“Feedback is extremely important for typologies, so that if we have an account which we would not have previously considered suspicious which met the criteria of a typology provided by NCIS, then it would be submitted”

¹¹ i.e. a form of indirect tax fraud

“Feedback might change the style of our reporting and make us do our job better”

“Feedback on quality is important to ensure that the money that management are putting into AML is bearing fruit”

Source: Interviewees and questionnaire respondents as part of KPMG’s review

- 4.4.1 The tangible success of the SAR regime (the ultimate confiscation of assets and the prosecution of individuals in relation either to money laundering or predicate offences) is dependent, in the first instance, on the submission of high quality SARs from disclosing entities. Without good initial information, the LEAs are unable to conduct their activities effectively, regardless of the other processes and activities involved. This relies on the disclosing entities knowing and understanding what is required of them and what makes a high quality SAR, and having access to wider information on current money laundering issues. They need to receive feedback on the submissions that they make to ensure that they are able to do that.
- 4.4.2 ECB is the disclosing entities’ primary interface with the SAR regime, and therefore needs to be able to provide clear, relevant and useful information and analysis. There is currently insufficient feedback provided to disclosing institutions from ECB. The disclosing entities who responded to our survey received feedback from ECB on the progress of an average of 7.9% of the SARs they submitted during 2002; 32% of those who responded received no feedback on their SARs.
- 4.4.3 Disclosing entities have informed us that they need different types of feedback relating to their reporting:
- Information on what makes a good SAR and what constitutes a poor one - the importance of providing high quality SARs with the right information and in the right format is not understood.
 - Information on how ECB and the LEAs use SARs (including the importance of date of birth information) and the processes utilised by both to take them forward. This would prevent disclosing entities making inappropriate assumptions about the information available to ECB, and failing to include all the necessary information that an LEA would need to investigate a SAR.
 - Some disclosing entities would like specific information on what happened to particular SARs when they have played an important role in a criminal investigation. This can then be used to show staff how important their AML work is.
 - Information on specific requirements that may be of interest either in respect of a geographical factor (such as the deposit of considerable volumes of Scottish banknotes in branches of banks in England) or a particular type of business.
 - Specific detailed typologies and examples of identified money laundering behaviour, split between different industry groups, which can then be used for training purposes and to inform monitoring and analysis by the relevant staff within organisations.

- 4.4.4 This feedback relies largely on input and involvement from LEAs who have the direct experience of investigating money laundering offences and using SARs in operational activities. It also depends on ECB, which sees the full panoply of SARs and should therefore be able to identify common themes and “hot topics” across specific industries and the wider market as a whole. LEAs have individual specific requirements relating to their particular role and concerns, which need to be passed to ECB for onward dissemination to the disclosing entities. These, if met, would assist them in more successfully using information on SARs to conduct investigations.

4.5 Value added by ECB processes

“ECB provides information only, not intelligence”

“ECB focuses on process rather than product”

Source: Interviewees and questionnaire respondents as part of KPMG’s review

Inadequate management resource and skills to manage the work

- 4.5.1 The existing management structure of ECB is stretched given the extent and nature of the different roles which ECB is required to undertake. ECB has a management team of seven people in total dealing with all aspects of ECB’s work, including the processing of SARs, international liaison, and the Terrorist Finance Team (“TFT”), and a total staff in post at February 2003 of 98. The Head of Branch is required to manage ECB as a whole across both the intelligence development section, the TFT, the analytical team and the intelligence processing teams. Alongside that role he and his Deputy also have to provide the external face of ECB to Government, LEAs, internationally, and to the financial services markets. As such their time and effort is unduly widely spread and they are unable to provide the focus that is necessary on either the SAR processes or their other responsibilities. The ongoing pressure of day to day process concerns prevent those in management positions throughout ECB from focussing on wider strategic issues.
- 4.5.2 This in turn places a significant burden on their direct reports, and in particular on the Intelligence Process Manager, who is then responsible for the teams processing SARs and the Duty Desk.

Current initial prioritisation procedures

- 4.5.3 Staff on the Duty Desk currently review all SARs as they arrive and decide prior to the SARs being input onto the system on both the initial allocation of individual SARs to the broad categories of either “police”, “HMC&E” and/or other ECB teams (e.g. TFT) and on the prioritisation of individual disclosures. These decisions dictate the order in which the individual intelligence packages are developed within ECB. These decisions are based on the experience of the relevant individuals but take no account of the information currently held within Elmer, other NCIS or other LEA databases because they are made prior to any searches being undertaken. In particular, these initial decisions will not take account of any Alert flags put on the system, which are only identified once the full searches have been conducted.
- 4.5.4 The initial allocation decisions are confirmed and validated on review of the full search results, when the specific allocation to an individual police force is undertaken. 12 (9%)

out of a sample of 133 SARs we surveyed were in fact disseminated to a different category of LEA (e.g. to HMC&E rather than a police force) once the full review was completed than was initially recommended by the Duty Desk.

- 4.5.5 It appears from our discussions with those involved with the Duty Desk that they currently tend to fast-track a greater number of SARs which look potentially interesting because they are conscious that any which are not fast-tracked will not be disseminated for at least another six months. Duty Desk statistics for January and February 2003 indicate that approximately 8% of SARs submitted to ECB were fast-tracked in this period.

Scope of existing searches

- 4.5.6 The existing search process does not include data included on the Police National Computer (“PNC”) or on the HMC&E Customs and Excise Data Repository and Information Computer (“CEDRIC”) system, although there is access at ECB to terminals connected to each system. It also does not include searches of other law enforcement or Government databases. Available information on existing criminality and on individuals already on the CEDRIC database is not therefore utilised in ECB decisions on allocation of SARs and their relative prioritisation. 38 out of the 39 LEAs who responded to a question in our survey indicated that they routinely include a PNC check as their first task on receipt of any developed package from ECB.

- 4.5.7 The information in each SAR provided to ECB is searched against the Elmer and Alert databases to identify possible data matches with intelligence already held by NCIS. The positive results generated by these searches are known as “hits”. Each hit is reviewed in order to establish whether or not it is relevant to that SAR. Where there are valid hits on Alert information arising from a search, the LEA is not given any information other than that there may be additional information relating to this SAR on Alert and that they should contact the relevant NCIS Regional Office for further information. The LEAs are given no information about the supporting detail of any successful hit on Elmer because this information is “held” by the original LEA to which the other SAR was initially sent. Where a SAR search hits an Alert flag, the LEA which placed the flag on Alert is notified of the fact and the SAR intelligence package will almost without exception be passed to that LEA.

- 4.5.8 Intelligence packages are produced on a standard template and are not tailored to individual LEA user requirements. There has, however, been little formal feedback to ECB from the LEAs to provide an indication of what the LEAs actually want in order to use SARs and any associated information properly. The intelligence packages do not therefore include all the potential information that the LEA would want to have available to investigate the disclosure immediately, and they require additional work before they can be used effectively. As a result, most intelligence packages are perceived by LEAs as not having added value to the original SAR.

ECB staff dedicated to quality

- 4.5.9 ECB currently dedicates only a very small proportion of its staff to quality issues, largely because of a lack of resource and the current number of unfilled posts.

- 4.5.10 In addition, there is currently little liaison between ECB and the relevant regulatory bodies such as the FSA with regard to quality issues. The FSA does have a secondee at ECB, whose presence at meetings with disclosing entities has proved beneficial. There are, however, no formal links established between that secondee or others at ECB with either the FSA line supervisors, its Financial Crime Policy Unit, or the FSA Enforcement Division. There is not therefore a “joined-up” approach to the question of enhancing the quality of disclosures made by regulated firms.

Experience of staff at ECB and on the Duty Desk

- 4.5.11 The balance of experience and knowledge amongst the staff at ECB, and particularly on the Duty Desk, is not optimal. ECB is largely staffed by civilians. There are few serving police officers or Financial Investigators (“FIs”), and there remain a significant number of open opportunities for LEA secondments. This is in part because there is only a small pool nationally of experienced FIs, and as a result there is no encouragement, and in fact active discouragement, from senior management at LEAs for their staff to go on secondment to ECB.
- 4.5.12 11 of the 32 LEAs who responded to a question in our survey stated that staffing constraints prevented such secondments; a further six cite force policy and five said it would serve no useful purpose for their force. The general perception by LEAs and their management is that ECB has significant problems in the recruitment and retention of quality staff. This, together with the delays in processing the existing work in progress, means both that the LEAs often do not trust the work undertaken by ECB, and that some will work outside of existing ECB processes to achieve their objectives.
- 4.5.13 In addition, the level of detailed product or direct financial services industry experience at ECB is minimal. ECB staff are not always able to understand the more complex SARs and issues identified by MLROs and are therefore less likely to ascertain either the degree of seriousness or the potential for investigation of particular disclosures when they are reviewed on the Duty Desk. As a result some high quality SARs may be missed or not fast-tracked. In addition, Duty Desk staff are not always able to answer any more complex or product specific queries from disclosing entities.

Role of existing secondees from HMC&E and the Inland Revenue

- 4.5.14 Both HMC&E and the IR have taken the policy decision to place a number of their FIs into ECB as a result of an increased emphasis on financial investigations and the recognition of the value that early identification of high quality SARs would contribute to specific investigations.
- 4.5.15 The presence of both HMC&E and IR staff provides benefits to ECB. They provide training and education to other ECB staff on the Duty Desk, through formal presentations, *ad hoc* contact and documentation of both actual illegality or fraud and the initial indications of such crimes. It is easier for ECB to contact the home agency on an informal basis to manage particular issues and to ensure that ECB concerns are raised and given appropriate consideration. They provide information on and aid understanding of the aspects of a SAR which are relevant and important to those particular LEAs.
- 4.5.16 The home agencies also benefit from their staff being seconded to ECB, as it facilitates and aids the liaison function between the two bodies and allows a greater influence for the

relevant LEA in the ongoing work of ECB. It allows each to receive more timely SARs focused on their particular issues and potential sources of investigation and confiscation. The individuals concerned also gain additional experience and knowledge derived from working at ECB and seeing the range of other SARs and information available to the Duty Desk.

4.6 Timeliness of processing SARs at ECB

“We’re losing valuable intelligence because we get the SARs far too late to do anything constructive with. Timeliness of information is essential to enable us to act proactively and take these people out”

Source: Interviewees and questionnaire respondents as part of KPMG’s review

Actual processing time for SARs

- 4.6.1 As detailed in section 1.6, we devised and conducted a survey to ascertain the average time taken to process individual SARs through ECB once they were received from the disclosing entities, based on the work undertaken by six ECB staff per day over a period of 15 days. The timings we identified are shown below in figure 4.2:

Figure 4.2: Input and processing time for SARs

Form of SAR	Input time (minutes)	Verification time (minutes)	Processing time (minutes)	Expected annual SARs (2003)	Employee years required
Paper	18	6	38	45,000	26
Electronic	0	7	38	55,000	23
				100,000	49
Approximate current ECB staff applied in input, verification and processing of SARs each day					40

Impact on timing of input and verification of different methods of transmission

- 4.6.2 The difference in the time taken to input and check data from paper and manual reports is more than three times greater at 24 minutes than the seven minute average for electronic submissions.
- 4.6.3 There are a number of methods for electronic submission, all of which directly populate Elmer. SARs sent by email with a document attached; those sent in batches from the disclosing entities with high volumes of disclosures through the Comma Separated Variable (“CSV”) system; and those using ECB’s MoneyWeb extranet technology.
- 4.6.4 The volumes of SARs disclosed by the various means in 2002 are shown below in figure 4.3:

Figure 4.3: Volumes of SARs by method of disclosure in 2002

Total	Email with CSV batch	Email with Word attachment	MoneyWeb	Manual reporting (post, fax etc)
64,164	28,704	6,066	292	29,102
100%	44.7%	9.4%	0.5%	45.4%

- 4.6.5 Timing problems from the volume of manual reporting are exacerbated by the format in which disclosing entities produce their SARs; 23% of the disclosing entities which responded to our general questionnaire provided hand-written rather than typed SARs. The use of handwritten rather than typed submissions potentially further increases the time taken to input the information and may result in a higher risk of error.

Skills and experience of inputting staff

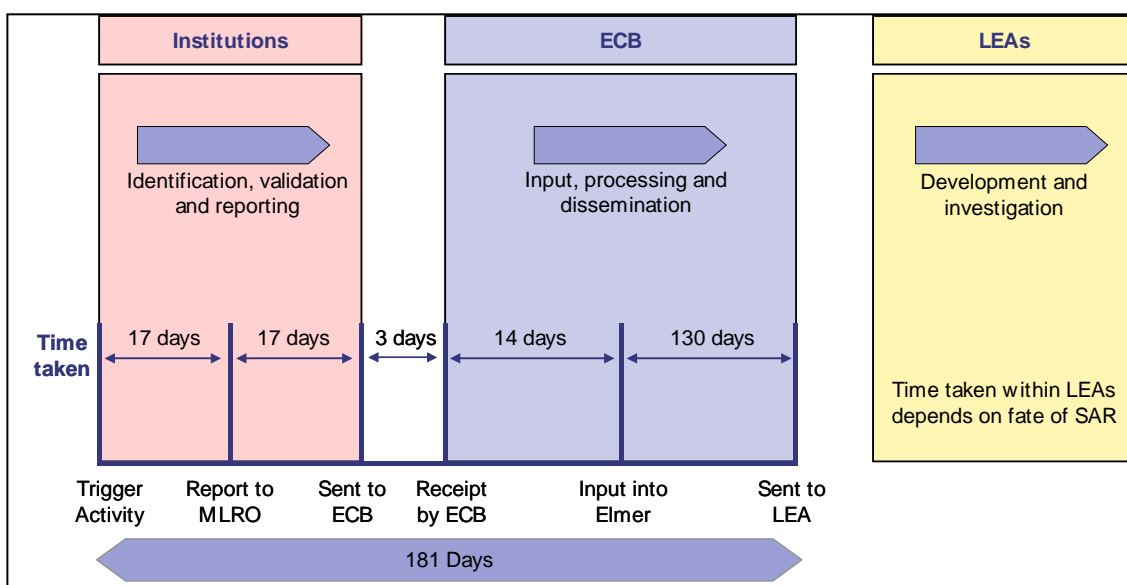
- 4.6.6 The staff recruited into ECB who input SARs into Elmer are generally graduates who want to gain an entry into NCIS, rather than specialist typing and manual inputting staff. As a result they are more expensive than specialist clerical workers, and their expectations of their potential role in ECB are higher than the role which they are given. This results in frustration and high staff turnover: nine Criminal Intelligence Officers (“CIOs”) out of 35 and four Intelligence Service Analysts (“ISAs”) out of eight left ECB’s core processing function in the six months to February 2003. High staff turnover means that time is spent by experienced staff training new employees, and slows down processing times.
- 4.6.7 KPMG surveys as part of our research showed that of 176 paper disclosures manually input at ECB, 56 (32%) had no errors, 115 (65%) had between one and five errors, two (1%) had between five and ten errors, and the final three (2%) had more than ten errors as a result of the keying in. Some CIOs now choose to check the quality of inputting after a SAR has been searched, even though the quality of inputting should have been checked before the search was conducted.

Elapsed time in processing SARs

- 4.6.8 According to our surveys at ECB the actual time taken for SARs to be processed through ECB is on average between 45 and 62 minutes for input, checking and dissemination, with a further average time for automatic searches of between five minutes and an hour. The elapsed time between a trigger event, which led to the initial unusual transaction or activity being reported within a disclosing entity, and the dispatch of the associated SAR package to the relevant LEA is considerably greater. The results of our analysis of elapsed time spent in processing SARs are shown below in figure 4.4 for the first half of 2002. These timings are derived from the sample we identified as being representative of the different types of disclosing entity and method of submission, and are average timings. The sample we selected included 11 disclosures (out of a total of 200) which were passed through ECB to the relevant LEA within a day of being input.
- 4.6.9 Where SARs were submitted to ECB in the first half of 2002 it took 181 days on average between the trigger event and the dissemination of a SAR package to an LEA. Anecdotal

evidence from the workshops we ran in March and April 2003 indicate that the elapsed time for non fast-tracked SARs has now stretched to a minimum of between 8 and ten months from the trigger event given the backlog that has developed over the last nine months (see figure 4.4 below).

Figure 4.4: Elapsed time from initial trigger activity to dissemination of SARs



Work in progress: backlog of SARs at ECB

- 4.6.10 The increase in the number of SARs disclosed to ECB has placed significant pressure on the input and processing functions within ECB given the number of staff currently employed undertaking these tasks. Given the time taken to input and process disclosed SARs, a backlog has developed of SARs that have not been processed. The scale of the problem can be seen from the fact that ECB received 28,762 SARs in the period from 1 January to 30 June 2002; it processed 13,567 SARs in the same period, of which 1,712 SARs were filed as “Information Only”.
- 4.6.11 As the volume of disclosures has increased continually in the period since then, the backlog of unprocessed SARs has accelerated.

Figure 4.5: Work in progress cases

	June 2002	December 2002	February 2003	March 2003	27 May 2003
Work in progress cases	19,000	42,000	49,000	51,000	58,000

- 4.6.12 With existing processes and resources the backlog will continue to grow. As the backlog grows, the delay in submission of non fast-tracked SARs to the LEAs will increase and their usefulness decrease. There will therefore be an ever-worsening situation.

4.6.13 Alert flags currently expire after 90 days. The existing delay between the receipt of a SAR and the date the search is reviewed may mean that an identified hit against an Alert flag may be incorrect or inappropriate by the time the search is reviewed either because the flag has expired or the particular record has been removed from the system. More worryingly, new Alert flags could have been added to the system since the initial search was conducted and before the review of the search is undertaken.

4.7 LEA activities and use made of SARs

“Senior management really should have financial investigation embedded into their competency framework”

“SARs are financial DNA, something that can change the way in which police go about carrying out their investigations in the way DNA has over the last decade”

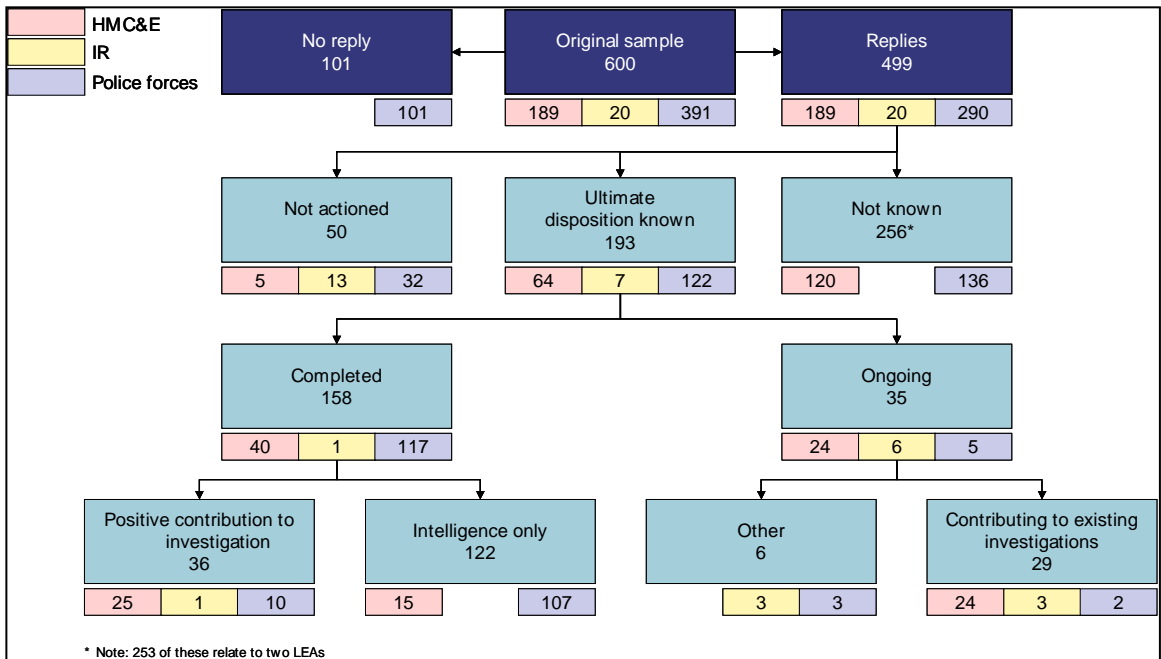
“It is hard to know whether access to Elmer would be beneficial as I have never seen the results of an Elmer search”

Source: Interviewees and questionnaire respondents as part of KPMG’s review

Ultimate use of SARs passed on to LEAs

4.7.1 We set out below the results of our findings¹².

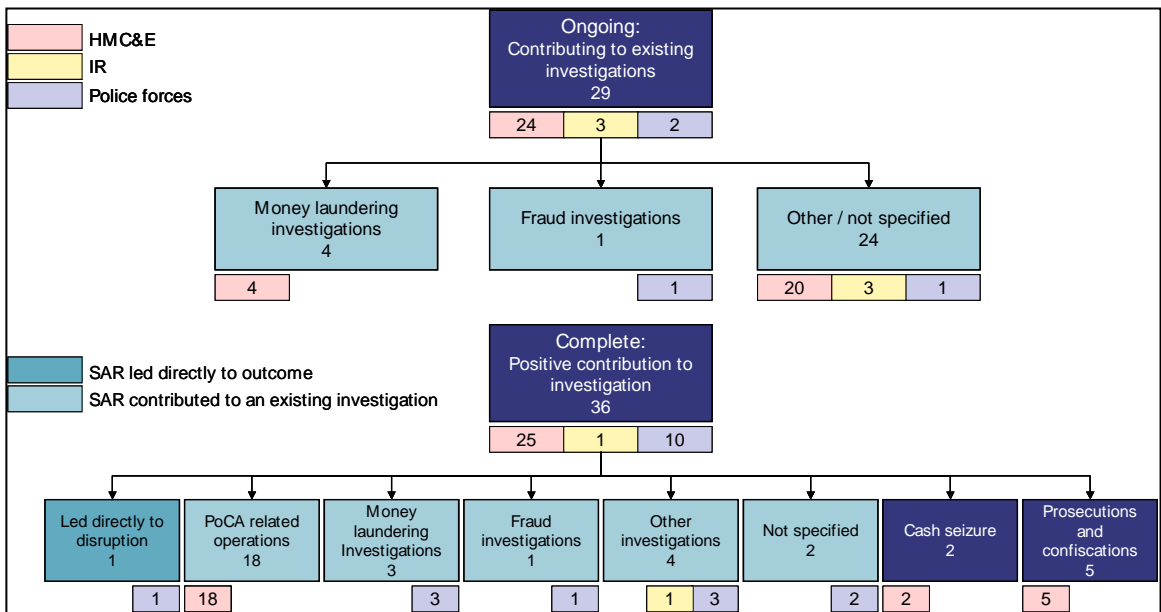
Figure 4.6: Summary of responses



¹² Details of the selection criteria for the questionnaires sent out and received are attached in Appendix 1.

- 4.7.2 We questioned 19 LEAs regarding our sample of 600 SARs. One LEA did not respond, and a further six LEAs indicated initially that they were unable to spare the resource or time to track the sample. These seven LEAs received 101 of our sample of 600. Further discussion with various of these LEAs indicated that the likely time constraints on providing information on SARs arose primarily because they had little or no management information readily available to allow any such tracking of SARs and the use to which they were made within the relevant force.
- 4.7.3 A further 253 SARs were passed to the FIUs at two other large LEAs. Unfortunately neither of these LEAs was able to track the further progress in relation to these SARs once the relevant information was passed elsewhere within the organisation. The lack of management information at LEAs in relation to SARs therefore accounted for nearly 60% of our sample.
- 4.7.4 Of the further 50 SARs which were not received, reallocated, or on which no further action was taken, 34 did not meet the criteria established within the relevant LEA for further action and five contained insufficient information to be taken forward. This highlights the need for intelligence packages to be tailored to the needs and specific criteria identified by the individual LEAs.

Figure 4.7: Successful use of SARs



- 4.7.5 A total of 65 of the 600 SARs in our sample (around 11%) are either still being used in investigations or were used in known positive successes. This figure increases to 13% of the sample for which we received a response from the relevant LEA, and 34% of those where the ultimate disposition of the SAR was known.
- 4.7.6 35 SARs are being used in ongoing investigations, 29 of which were identified as contributing to existing investigations, the other six neither being identified as new cases nor contributing to existing investigations. Unfortunately no further details were given

for 24 of the 29. Four of the five which were identified are currently being used in money laundering investigations.

- 4.7.7 36 of the 158 SARs where it is known that investigation by an LEA was completed led to a successful outcome, with the remaining 122 identified as being intelligence only. 18 of these were cash seizures where the relevant LEA actively used its powers when PoCA came into force in late 2002 in relation to the intelligence obtained from the SARs dating from the first half of 2002, which emphasises the potential benefit that can be derived from the combination of SAR intelligence and the powers available through PoCA.
- 4.7.8 The variety of other successful outcomes evident from the sample (relating to an advance fee and other fraud, excise offences, money laundering, illegal immigration and share ramping) highlight the range of uses to which the information on SARs can be and are put by LEAs.

Aims and focus of LEA activities

- 4.7.9 Responses from the 53 LEAs which replied to our survey revealed a variety of assumptions about the aims of the SAR regime and in consequence of that a difference of focus and attention given to the SARs which are disseminated to them. We asked LEAs in our survey what they considered to be the main aim of the SAR regime. We received a variety of responses and have identified the main themes from the multiple answers given as follows:
- 14 made specific mention of intelligence.
 - 32 referred to the detection and investigation of crime (or the proceeds of crime) in general, and six of these also mentioned the detection and investigation of money laundering.
 - Six mentioned the detection and/or investigation of money laundering only.
 - Two specifically mentioned the disruption of crime.

Resource levels at individual LEAs

- 4.7.10 The total number of staff in the 57 LEAs dealing with SARs (as recorded in response to our questionnaire) was approximately 500, although most of these individuals will only dedicate a relatively small proportion of their time to dealing with SARs. Some 300 of these relate to HMC&E staff, (who HMC&E informed us, will spend an average of 15% of their time on SARs) leaving around 200 staff spread across the other 52 LEAs. It should be noted that these include all staff dealing with financial crime (not solely related to offences linked to SARs), and the more focused LEAs such as the Metropolitan Police and City of London Police who dedicate a relatively larger number of staff to investigating SAR related potential crimes. KPMG's calculation on the basis of the figures provided to us is that there were 157 "effective full-time staff" at the time of our survey earlier this year but that there was a variation in the priority attached to SARs across LEAs.

4.7.11 There has been pressure on individual LEA FIUs over the last year, with resources taken away to investigate other areas, depending on the relative priorities of the relevant Chief Constable:

- One LEA had its Fraud Squad disbanded for two weeks in July 2002 as detectives were needed for other major incidents; this was only fully restored in late February 2003. This force's specialist Cheque Squad has not as yet been reinstated.
- Another provincial force Fraud Squad has been rebadged as the Economic Crime Squad, although it only has three Detective Constables attached to it.
- Another FIU was described by one of its FIs as being "*permanently under threat*" from other priorities within that particular force.
- A further FIU was reduced to only two civilian staff in February 2003 and was reinstated to full capacity in April; the relevant officers were temporarily returned to other duties to investigate street crimes.

Use of Elmer as an intelligence tool

4.7.12 There is a considerable amount of passive intelligence retained on Elmer which is currently under-utilised and not being properly exploited by LEAs. Only 13 agencies or forces submitted more than ten search requests for Elmer to ECB during 2002; this includes only seven of the 52 UK police forces. There are a number of reasons for this:

- It is apparent that some forces do not know that the search provisions are available; at one meeting it became clear that the FI present had never searched Elmer and had never considered that he should.
- Some forces accord SARs and associated money laundering offences a very low priority and therefore do not focus on investigating disclosures which are passed on to them.
- Many force intelligence units do not work closely enough with ECB (if they relate at all).
- The search requests are perceived as unduly bureaucratic and therefore are not used.

4.8 **Cost of the SAR regime**

4.8.1 It is very difficult to obtain precise details of the cost of the regime, and the information we do have is limited and incomplete. We have obtained estimates for some disclosing entities and some LEAs and extrapolated these costs to give an overall rough estimate. These should primarily be treated as showing the significant mismatch in resource allocated to the SAR regime between the private sector providers of SARs and the various relevant Government agencies and bodies which process this information and use it for law enforcement activities.

Figure 4.8: Rough estimated costs of the SAR regime

Disclosing entities	ECB	LEAs
Capital cost: c£60m		
Annual compliance cost: c£90m	Annual running cost: c£6m	Annual running cost: c£5m

- 4.8.2 Disclosing entities have both a capital cost of installing computer systems and software, and the ongoing annual compliance cost both for staff employed in AML and anti-terrorist financing activities and in ongoing training of the relevant staff throughout their organisations. It is certainly the case, however, that disclosing entities would have spent a proportion of this money in any case, regardless of the SAR regime, on AML and anti-fraud measures.
- 4.8.3 The figure for ECB costs was obtained from the NCIS finance department and includes the whole of ECB, both the personnel directly involved in the processing and allocation of SARs and those who conduct ECB's wider liaison and intelligence development work.

5 Delivery of the aims of the regime and the recommendations of this report

5.1 Summary

5.1.1 This section of our report sets out recommendations for the establishment of a small Task Force of stakeholders to deliver the aims of the regime and our recommendations (section 5.2). The Task Force should:

- Comprise individuals able to carry through change when issues arise.
- Conduct regular reviews of progress against measurable outcomes.
- Report to Government and produce an annual, public report.
- Promote the successes of the regime.

5.1.2 The Task Force should be supported by a clear Government commitment to the aims and objectives of the SAR regime (section 5.3).

5.2 Establishment of a Task Force to deliver the aims of the regime and the recommendations of this report

Recommendation 1

Establishment of a Task Force

5.2.1 There are significant issues inherent in the operation of the existing SAR regime, and it is not achieving all of its aims effectively. A small Task Force of both public and private sector stakeholders (including representatives of LEAs, reporting institutions, Government, NCIS and regulators) should be established with responsibility for driving the delivery of the aims of the regime and implementation of the recommendations of this report. This body is required because the regime is facing considerable challenge and requires immediate action. The Task Force should be chaired by a senior Home Office official and report to a Government Minister. In setting up the Task Force, there should be a clear distinction between the responsibility for ownership of the aims of the regime, which is for Government, and responsibility for the delivery of those aims, which falls to the various stakeholders in the regime, whether from the public or private sector.

5.2.2 The Task Force should publish an annual report of achievements against measurable outcomes, including progress made in meeting the aims of the regime and it should be accountable for this progress.

5.2.3 It should be responsible for seeing that the recommendations of this report are implemented and thus will need to comprise individuals of sufficient authority to carry through change in their home organisations. It will also need the authority to mobilise improvements in other stakeholder organisations, as appropriate. It should be supported by a full-time secretariat.

- 5.2.4 The Task Force should be action-focused, pro-active in carrying out change and pre-emptive in anticipating and dealing with issues. It should operate until the current issues in the regime have been addressed.
- 5.2.5 The SAR regime, and the processes and procedures involved in it, will not be static once these recommendations are implemented. A key role for the Task Force in addressing the current issues of the regime will be to conduct regular reviews of the regime as a whole to ensure that its component elements are kept up to date with emerging trends, criminal activities and the requirement to ensure that the aims are met; this should include periodic review of the ongoing validity and appropriateness of the aims of the regime.

Functions of the Task Force

- 5.2.6 In order to meet its objective of delivering measurable progress against the aims of the regime, the Task Force should carry out the following functions:
- Produce an initial anticipated budget for the changed resources required in relation to those recommendations which it believes should be adopted.
 - Promote the successes of the SAR regime in tackling money laundering, predicate offences and the proceeds of crime.
 - Encourage greater degrees of collaboration between the different stakeholders.
 - Give support and guidance to stakeholders.
 - Monitor financial, human resource and Information Technology needs and recommend changes when issues arise.
 - Provide input to the UK's overall AML strategy.
 - Assess developments overseas and determine whether additional or different steps should be taken to meet new threats or take account of advances made by overseas regulators, FIUs and LEAs.
 - The resource available at FIUs is inconsistent in different LEAs across the UK. The Task Force's responsibility should include undertaking research to identify the optimal staffing level for LEAs to deal with SARs, taking both potential SAR numbers and local considerations into account.
- 5.2.7 If accepted, the establishment of the Task Force should be given immediate priority, as it will be responsible for considering our remaining recommendations and driving the implementation of those recommendations it accepts. In doing so it will of course need to assess the balance between achieving immediate results and the risks of introducing change.

5.3 **Government commitment to the aims of the regime**

Recommendation 2

- 5.3.1 The Government should make a clear commitment to the aims and objectives of the SAR regime and the implementation of the recommendations of the KPMG review.

6 Focusing and defining the work of ECB

6.1 Summary

6.1.1 This section sets out our recommendations for changing the structure and processes of ECB. These cover:

- Establishing a new management structure for ECB (section 6.2).
- Establishing a new Data Management Centre (“DMC”) outside London to input and process SARs (section 6.3).
- Increasing the use of electronic reporting methods (section 6.4).
- Using initial automatic search and allocation processes for SARs within Elmer (section 6.5).
- Establishing a new Liaison Unit (“LU”) with greater financial investigation and financial services knowledge to identify high priority SARs and recommend them to LEAs, and to liaise with both disclosing entities and LEAs (section 6.6).
- Developing fewer intelligence packages for LEAs, but focusing on those most likely to generate successes (section 6.7).
- Establishing an Intelligence Development Unit (“IDU”) to develop intelligence packages and conduct analysis of the Elmer database (section 6.8).
- An approach to managing the backlog of work in progress SARs (section 6.9).

6.2 Structuring and strengthening the management of ECB

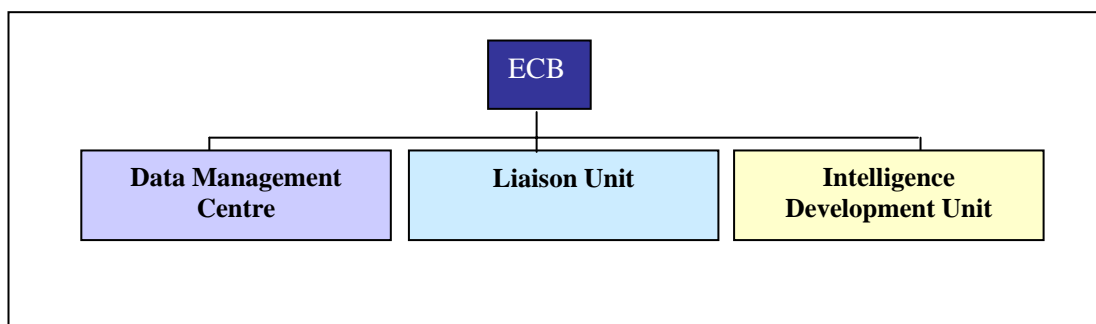
Recommendation 3

6.2.1 As is clear from the range of issues we have identified and the scale of the task involved in implementing our recommendations, there is significant work to be conducted at ECB to ensure the more effective achievement of the aims of the SAR regime.

6.2.2 We believe that the combination of the management challenge in implementing our recommendations together with the range of existing responsibilities of ECB (see section 4.5 above), are of such magnitude and scope that the existing management structure needs to change in both depth and quality to ensure that ECB operates to its optimal performance capability.

6.2.3 Our recommended structure envisages ECB split into three core functions for processing SARs as shown below in figure 6.1. Each function would provide a distinct and valuable contribution to ECB’s role, and to the successful operation of the SAR regime as a whole.

Figure 6.1: Proposed structure of ECB



- 6.2.4 Each of these functions would require a strong management team, comprising high quality individuals to run the function with a strong assistant to support them. The three function heads should report to the Head of ECB. The position of assistant to the Head of ECB should also be filled. The overall senior management team responsible for the operational aspects of the SAR regime would therefore increase significantly from the current levels.
- 6.2.5 There will also be additional management required to cover ECB's other responsibilities such as the Egmont Group and the TFT. In addition ECB senior management resource will need policy and legal support in relation to dealing with other stakeholders, addressing changes to either the law, MLRs or the Guidance Notes, and conducting risk assessment.
- 6.2.6 The management of the DMC should be separate from the responsibilities of the rest of ECB given that the skill set required for managing and motivating a team of primarily inputting staff and checkers of data are different from those needed to manage a group of analytical staff undertaking what can be complex and demanding assessments of potential criminality elsewhere in ECB. It will be important to ensure that the overall management team includes a diversity of experience, background and skills. Given this, the pool of potential candidates for the three functional head posts is likely to include individuals with financial services experience who are not currently involved in Government or LEA work.

6.3 **Establishment, staffing and role of separate ECB Data Management Centre**

Recommendation 4

Establishment of a Data Management Centre

- 6.3.1 A separate DMC should be established as a part of ECB but located outside London. The DMC should employ new management separate from that of ECB, to which it should report. This new DMC management should be drawn largely from non-LEA backgrounds and should have experience of a clerical environment and/or undertaking inputting activities. This may include former managers of call centres and other roles focused on maintaining staff motivation within a structured and routine work programme.

Staffing

- 6.3.2 Inputting staff should be non-graduates, and recruitment should be focused on obtaining experienced clerical officers including copy typists with the relevant skills. The DMC should aim to offer flexible working packages to allow both shift work and part-time employment to maximise the pool of potential employees.
- 6.3.3 The combination of a differently skilled workforce and a location outside London will generate cost reductions and ought to ensure a higher quality of inputting. This would, in turn, reduce the amount of time spent in checking and amending data on the system in the second phase of the DMC's work.
- 6.3.4 All management and staff employed at the DMC should be subject to security clearance and vetting appropriate for the level of information to which they would have access.

Role of the DMC

- 6.3.5 The DMC would be responsible for the range of processes associated with the receipt, inputting and initial checking of SARs, whether disclosed by paper or electronic means.
- It should manage the receipt of all SARs.
 - It should provide for the accurate inputting of manual SARs into Elmer and the correct and complete transfer of electronic submissions onto the system. These tasks should be undertaken within 24 hours of receipt of the individual SARs, whatever the method of submission.
 - The DMC should check the information provided for all SARs. Any administrative errors by the disclosing entity (such as incomplete or missing fields) should be identified and the relevant SAR returned to the provider for completion with an explanation for the rejection. The system should automatically reject electronic SARs which did not include information in all the fields. The DMC should also correct any errors it is able to given the information it has available.
 - Staff at the DMC should ensure that all paper-based SARs identified by disclosing entities as being time-critical, whether because they involve consent issues under PoCA, or require pre-emptive and timely law enforcement action (such as transactions related to VAT Carousel fraud or where money is about to move), are faxed immediately to the LU for further dissemination (see section 7.3 below). Similarly, time-critical SARs submitted electronically should be automatically notified on submission by the system to the LU.
- 6.3.6 NCIS and the Home Office, together with the disclosing entities to which we spoke, believe that, as a result of PoCA and the widening of the scope of the Regulations to, *inter alia*, lawyers and accountants, there will be a very significant increase in the number of disclosures made to NCIS. They believe that many of these are unlikely to be suitable for investigation by LEAs. This will include fraud disclosures (despite the decision by a number of large retail organisations to apply for and use the carve out for frauds where the perpetrators are unknown, and therefore not to report them all to NCIS) and disclosures made by auditors. It is estimated by some that these extra disclosures may run to hundreds of thousands in number.

- 6.3.7 One way of handling these disclosures would be for the standard form to include a caption “unlikely to merit investigation by an LEA” and for institutions to mark this accordingly (see section 7.3 below). The DMC should check the information on such SARs for accuracy as it does for others and ECB would also need to devise a process to assess periodically that only the right SARs were being handled in these ways and to review the effectiveness generally of this proposed approach. These SARs should then be added onto Elmer as “intelligence only”. They should not be allocated to an LEA via the Elmer queues but the information they contain will remain available to LEAs via Elmer searches.
- 6.3.8 The processes recommended at sections 6.5 through to 6.9 below are meant to apply to only those SARs which are not filtered out by this process (e.g. non-fraud and non-auditor disclosure SARs).

6.4 **Increase in provision of electronic reporting of SARs**

Recommendation 5

- 6.4.1 In order to increase operating efficiency at the DMC by reducing the time spent inputting, electronic submission of SARs should be made mandatory for all entities regulated by the FSA and HMC&E and all solicitors and accountants through the mechanism of the Home Office requirements for standardised reporting (see section 7.3 below). This would require disclosure either by CSV batch reporting, MoneyWeb, or a more simple format such as email with a Word or equivalent document attached; any emails with document attachments should use a standard format document (see section 7.3 below). ECB should consider whether it is possible for SARs to be submitted directly via the internet, possibly through use of a standalone terminal from which SAR information is extracted onto Elmer.
- 6.4.2 The regulated providers of SARs referred to in 6.4.1 above should have to apply to the ECB LU for a specific exemption from these requirements. A specific set of limited circumstances should be identified by the LU for such exemptions. The standard criteria will primarily be based upon the number of SARs provided, as the key driver for electronic reporting is to cut the time spent at ECB inputting SARs.
- 6.4.3 The LU (see section 6.6 below) should analyse the volume of SARs that are currently provided to the DMC and identify those entities responsible for the higher volume of disclosures which are not regulated entities or reporting electronically. The LU should then ensure that it actively promotes the benefits of electronic reporting systems (including emailing the standard form) to those entities in order to increase the volume of users of the system and electronic reporters.
- 6.4.4 The range of relevant trade bodies acting on behalf of unregulated entities which may potentially be likely to disclose SARs should actively advertise and promote the existence and benefits of the MoneyWeb system (including the timing benefits to the DMC and the fact that installation is free) and the other means of electronic reporting to their members through regular communication and circulars.

6.5 Automatic search and initial allocation processing at the DMC for SARs input into Elmer

Recommendation 6

Automatic initial searching of core databases

6.5.1 The DMC should conduct an automatic search for SARs after they have been input into/transferred onto Elmer. This search should include Alert “nominals” (i.e. subject names), the Elmer database, the PNC and CEDRIC. This search should capture a considerable amount of information which is currently contained on local LEA databases because there are few subjects who are on local databases who have not been convicted of a recordable offence and are therefore not on the PNC.

6.5.2 The results of this search should not be manually verified by the DMC; only the number of hits against the various systems will be recorded rather than their quality or relevance to the subject.

Scoring of individual SARs

6.5.3 Each SAR should then be automatically scored on the basis of the results of the search relative to the number of hits against the different source systems. ECB should determine and agree the relative weights and priority to be adopted in relation to each type of system hit, in consultation with those LEAs which are high users of SARs. This score would then allow the identification of an initial relative priority for each SAR based on the links identified with other SARs or intelligence obtained from other databases. The scoring process should be regularly reviewed in consultation with LEAs to ensure they accurately reflect the changing operational factors relating to successful and high quality SARs.

Automatic initial allocations of SARs to LEAs

6.5.4 The system should initially automatically allocate SARs to an LEA within Elmer prior to LU review. This allocation would be based on a number of different contributory factors, including, as now, the postcode for the relevant subject and any previous allocations. It should also make use of the additional information arising from the searches in the allocation of previous related hits, together with any indicative allocation or suggested predicate offence provided with the SAR by the disclosing entity. It should take account of any previous search requests submitted by any LEAs. It should also make use of information from the PNC where an LEA may already have information on or an interest in the subject of the SAR. The final component to be used should be ongoing written information provided by the various individual LEAs of their requirements, areas of interest and current priorities.

6.6 Establishment, staffing and role of ECB Liaison Unit

Recommendation 7

Establishment of a new ECB Liaison Unit

6.6.1 The ECB should increase its resources dedicated to improving the quality of disclosures. It should establish an LU within ECB which will both take over the functions of the

existing Duty Desk and adopt a number of additional specific responsibilities relating to quality issues as detailed below.

Staffing of the ECB LU

6.6.2 The LU should comprise a mixture of staff from a range of sources:

- There should be a core of permanent ECB staff, who will provide an ongoing continuity and consistency of approach. They should develop and maintain “in-house” experience of the range of types and quality of disclosures submitted to ECB.
- The staff should also include seconded experienced police and other LEA FIs who would provide knowledge of the practical use that LEAs make of intelligence packages and how to develop investigations on the back of this information. They would provide an understanding of the current issues experienced at the various LEAs. ECB should recruit former FIs for set term contracts of one or two years on their retirement from an LEA. There would then also be a greater “buy-in” by the LEAs of the role and value of ECB as local FIs would feel more comfortable dealing with a number of their peers who would understand their concerns, issues and frustrations at the LEA level.
- The LU should include financial services professionals covering the key financial services, markets and products (e.g. retail and corporate banking, life and general insurance, accountants, private client and corporate lawyers). They should be provided on a rolling secondment basis (possibly through the aegis of the relevant trade associations) by the full range of disclosing entities; these should include banks, insurance companies, accountancy firms, lawyers and other financial institutions, together with individuals from their various trade bodies. In addition, ECB should recruit individuals with appropriate experience for set term contracts of one or two years on their retirement from these entities. The combination of these measures should provide the detailed specialist knowledge that is currently lacking on the Duty Desk.

6.6.3 LU staff would also benefit from secondments out to LEAs to work directly on investigations and widen their understanding of the role and activities of users of SARs. This should be made part of LU staffing planning within the wider resource discussions once the new structure is clearly bedded down.

Review of all SARs input by the DMC

6.6.4 The LU should continue the work of the existing Duty Desk in reviewing SARs, after they have been input onto Elmer by the DMC. The LU should have various objectives when conducting such reviews:

- To identify poor quality disclosures and to reject them, while providing feedback and (if necessary) discussion with the relevant provider. It should then be the responsibility of the disclosing entity to obtain and submit further or better information on the SAR (see sections 7.4.7 to 7.4.9 below for more detail).
- To identify high priority SARs and to recommend to the LEAs via Elmer that these be actioned by the LEA. Any decisions on development or action should, in part, be

based upon receipt of documented LEA requirements which would be updated on a regular basis. The reason for identifying a SAR as “high priority” should then be documented on Elmer.

- To assess, and where necessary amend, the automatic allocation decisions taken by the system at the initial automatic search. The LU should ensure that appropriate SARs are copied via Elmer to any additional LEAs (and marked as copies) where, for example, the home and business addresses are in different jurisdictions. In these circumstances the LEA which receives a copy will take the secondary role and should contact the primary LEA before taking any action.
- Management and dissemination of time-critical SARs and SARs with flagged subjects on Alert. Where the subject hits an Alert flag the SAR should always be allocated to the LEA which placed the flag on the system.

Granting of consent by the LU under PoCA

- 6.6.5 PoCA allows disclosing entities to seek formal consent from NCIS to undertake specified future transactions where there is a suspicion that the funds relate to the proceeds of crime. This allows NCIS to withhold consent and thereby prevent the transaction occurring if they believe that it relates to a potential offence. Section 335 of PoCA allows NCIS to grant consent on its own initiative where it considers this to be appropriate.
- 6.6.6 The LU should be given the role to grant such consent on behalf of NCIS. This should occur within clearly agreed parameters and defined circumstances to be discussed with the Home Office and LEAs. Otherwise consent questions should be passed by the LU to the relevant LEA for advice before NCIS makes the decision.

Education and training role

- 6.6.7 The LU should take a primary role in ensuring that appropriate communication occurs between all key stakeholders in relation to improving the quality of SARs and ECB’s issues and concerns. Further details are given in section 7.2 below.

Single points of contact and specialised teams

- 6.6.8 The LU should identify single points of contact (“SPOC”) for the largest disclosing entities to answer individual questions and act as liaison points. These SPOC would then be grouped in teams covering individual types of disclosing entities (e.g. banks, insurance companies or lawyers) to allow the development of industry and product specialism across the team, making use of the seconded specialist industry resource to do so.

6.7 **Development of fewer intelligence packages by ECB**

Recommendation 8

Identification of priority disclosures by the LU

- 6.7.1 As part of its review of all searched SARs from the DMC, the LU should identify a minority of disclosures which it believes will merit further investigation or which can be used for disruption by an LEA. This decision should be based on whether the SAR is

likely to provide a positive input to either the pursuit and ultimate confiscation of criminal proceeds or to the successful investigation of either money laundering or predicate offences.

6.7.2 The LU should take a number of factors into account when deciding whether to highlight a SAR as a priority for the relevant LEA:

- The timing and nature of the transaction or activity.
- The amounts involved and adequate details about the source of funds.
- Whether a predicate offence is obvious.
- Indications of earlier criminality through PNC and other database checks.
- If there is a strong reason for suspicion (the ‘gut feeling’ of an investigator).
- Evidence of hits against other intelligence.
- The application of local knowledge/priorities as identified and notified to ECB.

6.7.3 The Elmer queue available to each LEA (see section 8.4 below) would show those SARs which the LU believes should be actioned with the reasons for those decisions, together with the list of other SARs which have arrived and which (on the basis of the information it has available) the LU believes should be retained for intelligence only on Elmer. Details of our recommended procedures for LEAs to work on the SARs allocated to them are set out in section 8 below.

6.8 **Establishment, staffing and role of Intelligence Development Unit**

Recommendation 9

Establishment of an ECB Intelligence Development Unit

6.8.1 ECB should establish an IDU which will take over the functions of the existing Intelligence Development Managers and their staff and adopt a number of additional specific analytical responsibilities as outlined below.

Staffing of the ECB IDU

6.8.2 A key requirement will be for the IDU to include sufficient staff with the appropriate analytical training and experience to maximise the benefits from conducting analysis of the information held within Elmer.

Development of intelligence packages following acceptance by LEAs

6.8.3 The IDU will develop those SARs which LEAs indicate they wish to be developed. This process will include running the full searches (when not already conducted) and verification of the search results against the full range of available databases: Elmer; Alert; PNC; CEDRIC; other NCIS databases and any other relevant database (including Dun & Bradstreet and Companies House for company searches). The specific searches

run will be based on feedback from each LEA on its requirements (see section 7.4.19 below). ECB should explore the legal and practical questions resulting from ECB access to other databases, including those held by LEAs and not currently available to NCIS.

- 6.8.4 Some SARs may be actioned but not developed by the IDU. For example, if the SAR was recommended as a Carousel case HMC&E would use the SAR to disrupt the activity and no further investigation or development would be needed, if another form of activity is suspected, the IDU would develop the SAR further.
- 6.8.5 The package that is provided to the LEA should be produced in a user-friendly format, and should include all the information necessary for the LEA to determine the relevance of any valid hits against searched databases, rather than the limited information currently available.

Strategic and tactical analysis role

- 6.8.6 The IDU should also be responsible for conducting wider strategic and tactical analysis of the information contained within Elmer for a variety of purposes. These should include analysis for ECB's own use, which can then be used in a number of ways, including for ECB management of the business processes, to be passed to the Task Force, or potentially to be made more publicly available to the disclosing entities and the wider market.
- 6.8.7 The strategic analysis might include:
- Monthly analysis of trends (geographical, by methods, by disclosing entity) in the overall population of SARs on the Elmer database.
 - Gathering money laundering typologies from SAR investigations, whether completed or in progress, through liaison with the relevant LEAs and from reviewing feedback input directly onto Elmer by LEAs on specific SARs (see section 8.4).
- 6.8.8 The IDU should also conduct tactical analysis both at its own initiative and at the request of LEAs, regulators and other Government entities wishing to make use of the Elmer database:
- Identifying linked SARs by periodic analysis of Elmer; this should then allow new packages to be developed which could then be passed on to the relevant LEAs for investigation.
 - Identification of all relevant information from Elmer to provide analysis of specific trends following questions or requests from individual LEAs on particular issues or typologies (for example all SARs relating to cash deposits within set geographical boundaries).
 - To conduct specific special investigations, including intelligence development and investigation, of particular cases which are not appropriate to be investigated by, or disseminated to, specific LEAs.
- 6.8.9 The IDU's role should also be to act as the primary liaison between ECB and the other specialist units within NCIS, including, for example, the heroin unit or the football intelligence unit.

Key dependencies for the IDU to operate effectively

6.8.10 In order for the IDU to operate as an effective analysis unit, the IDU staff and those working in the LU should be working more closely together to maximise the benefits of each others' work and experience. In addition, various other elements of our recommendations would also need to have been implemented.

- The disclosing entities would have to have provided appropriate information.
- The LEAs would have to have provided the appropriate information on an ongoing basis to Elmer to allow proper searching and analysis of the database.

6.9 Proactive management of the backlog of work in progress

6.9.1 A key challenge for ECB is how to deal with the c58,000 SARs which remain work in progress in a cost-effective manner with due consideration of the risks involved and an assessment of the benefit to be gained.

6.9.2 One potential solution would be to draw a line under the existing list of SARs and merely input them onto Elmer to be available for searching at a later date. This would, however, run the significant risk of missing potential quality information for LEAs.

6.9.3 Another alternative would be to dedicate a team at ECB to attempt to reduce all the work in progress using current processes. This would however be costly, distract ECB staff from implementing the range of our other recommendations and would involve developing a significant number of intelligence packages which would not be useful for LEAs given the existing quality issues. In any case, ECB do not currently have sufficient staff to dedicate to this.

Recommendation 10

6.9.4 All SARs held as work in progress at a given date (for example 30 May 2003) should be batch transferred through the existing automatic function in Elmer. In order to save time and resource the accuracy of the input and format of these SARs should not be checked prior to conducting this search. The search should be restricted to the existing Elmer database and a search against the Alert nominals to identify any flagged subjects. Potential hits on flagged subjects should be highlighted within Elmer to allow investigation and action by ECB. There would be no manual validation where there were no Alert hits.

6.9.5 Details of the individual SARs and the results of the searches should then be sent to the individual LEAs based on the postcode of the main subject. This information can be sent out by ECB either by CSV or on a CD.

6.9.6 It should then be the responsibility of the individual LEA to determine what further action they wish to be taken for their SARs. The initial expectation is that this would be done following a review of the reason for suspicion, the transaction details and the unvalidated search results against their local knowledge. LEAs can request that an intelligence package is developed for any individual SARs which they determine are potentially "high impact" (i.e. likely to achieve a disruption, confiscation or prosecution). Any remaining

SARs should then be retained within Elmer as intelligence only and would be subject to the existing ongoing analysis by ECB.

- 6.9.7 There is the potential for further work in progress to develop in the period between this initial cut of the database and the introduction of the full suite of changes to Elmer and LEA process as set out in these recommendations. The same process should be adopted at the time the new procedures are introduced to manage any remaining work in progress. If the launch of the new procedures is delayed for whatever reason, this rough allocation should take place after six months and then again prior to launch.

7 Improving the quality of reporting of SARs

7.1 Summary

7.1.1 This section of our report sets out our recommendations to improve the quality of SARs being submitted to ECB and ensure that the right information reaches LEAs. This is divided between:

- Education by ECB of stakeholders on typologies and quality issues (section 7.2).
- Inclusion of mandatory fields in the standard form of disclosure, encouraging disclosing entities to alert ECB about high impact SARs and encouraging electronic reporting (section 7.3).
- Increasing feedback to disclosing entities through rejection of poor quality SARs, contact with the regulators, periodic reports by ECB on the performance and outcome of SARs and on market-wide issues, and regular feedback from LEAs to ECB on individual SARs and generic typologies (section 7.4).
- Analysis by ECB of providers of SARs in order to identify the weakest points in the financial system (section 7.5).

7.2 Education regarding the SAR regime

Recommendation 11

Education role for ECB, trade bodies and other interested stakeholders

7.2.1 There is a clear need for improving the general level of awareness of the scope and requirements of the SAR regime across all potential providers of SARs. This would ensure that all relevant entities become familiar with their statutory obligations and the recent changes under PoCA and that they are compliant with these obligations in ways consistent with the recommendations of this report in order to reduce the amount of over- and under-reporting and poor quality reporting. Appropriate liaison should take place between the different stakeholders to ensure a clear and joined up message is provided.

7.2.2 The LU should continue to provide training and seminars itself, and speakers to external training sessions and conferences on issues of current concern. In doing so it should act as the public face of ECB in actively participating in training days and seminars organised by trade associations and external training providers to emphasise both the importance of quality reporting and the role and scope of ECB to allow the maximum possible exchange of experiences and knowledge. It should also communicate areas of best practice to the external providers of training for the various financial and other industries to ensure that this is disseminated as widely as possible.

7.2.3 The various trade bodies for industries affected by the new MLRs and PoCA will also continue to play a key role in the education of their members, particularly those brought into the MLR net for the first time. The requirements of the regulators, and particularly the FSA, on the provision of training for staff are important.

Role of LEAs in training and education

- 7.2.4 Individual FIs in the various LEAs should also seek to be involved in such training (although we recognise that this is already the case for a number of LEAs) to ensure that their needs and requirements are also identified and publicised to disclosing entities. Obviously this will require the necessary and appropriate caveats and warnings to ensure that direct contact is made with the LU where there is uncertainty or doubt as to the right course of action.

ECB website

- 7.2.5 The ECB website should be developed in parallel with the information available on MoneyWeb to ensure that as much non-sensitive information as possible is provided for public access, including the range of Frequently Asked Questions (“FAQs”) identified through ECB staff’s existing and ongoing experience. This should be organised by industry to allow maximum benefit for disclosing entities.

Public statements by stakeholders on the importance of quality disclosures

- 7.2.6 The range of Government and other interested stakeholders (i.e. the Home Office, the FSA, other regulators, trade associations and ECB) should all make clear public statements through speeches or other means to emphasise the importance of providing high quality information when making SAR disclosures. The press offices within these bodies should be tasked with co-ordinating public statements on SARs within the wider AML and asset confiscation strategies.

Public statements by regulators on their primary interest in AML controls

- 7.2.7 The FSA should make clear public statements of the extent and nature of its interest in AML procedures within firms through speeches or other means. This should provide a clear indication that it is poor processes, systems and controls that will in the first instance be the focus of regulatory interest and intervention, and not poor judgement in relation to the assessment of the nature and extent of an individual suspicion which may or may not then be disclosed to ECB. The FSA would of course nevertheless retain the right to act in the face of an egregious lack of judgement.

7.3 **Standardisation of reporting processes**

Recommendation 12

Standard prescribed format of reporting SARs

- 7.3.1 Section 339 of PoCA allows for the form of reporting to be standardised and this to be mandatory. Following the consultation process which ended in December 2002, there is now an opportunity for the Home Office to implement this.
- 7.3.2 The standard form of submission should include core mandatory fields (including reason for suspicion, full address including postcode, and whether or not it is a high priority SAR, and if so why) with additional sector and industry specific fields as appropriate. The form should be designed in such a way that it logically ‘walks’ the user through the process. The use of mandatory fields will allow ECB scope to reject forms which do not include information in these fields as an initial quality check. ECB should establish an

initial set of potential reasons for suspicion which disclosing entities would select as a mandatory field, with a further free text field for any additional comments or information.

- 7.3.3 ECB should document clear guidance for the completion of the standard form, including for any sector or industry specific fields. This should be reviewed on a regular basis for its ongoing appropriateness in the light of ECB's experience of reporting by disclosing entities and the queries addressed to the DMC and LU.
- 7.3.4 Some disclosing entities already identify fast-track disclosures. All disclosing entities should be encouraged to use their knowledge and experience to identify both fast-track and other potentially high priority SARs and flag these up when disclosing to ECB. The standard SAR form should allow a SAR to be marked as either a fast-track, high impact or standard disclosure. If SARs are marked as fast-track or high impact, the form should include a mandatory field for the disclosing entity to explain why it is one of these two categories.
- 7.3.5 The categories of activity which should fall under the fast-track and high impact categories would be as follows:
- Fast-track: activities which are time-critical and require pre-emptive law enforcement action within the next 24 or 48 hours.
 - For example, those where an institution knew that a customer was returning to collect cash within one or two days, and VAT Carousel fraud.
 - Consent issues.
 - High impact: likely to achieve a disruption, confiscation or prosecution but not time critical.
 - Activities which have already taken place but which relate to a specific and identifiable predicate offence, including customers who exhibited criteria which indicated a link to terrorism.
 - Activities which meet the criteria identified by LEAs as being high impact as notified to ECB and thence to disclosing entities.
 - A type of activity which, when associated with other information held by the disclosing entity, gives a high degree of suspicion.
 - Other activities which the disclosing entity has determined are high impact, depending on the nature of the suspicious activity and the quality of the information available.
- 7.3.6 Those SARs which are flagged up as fast-track disclosures should either be faxed by the DMC on receipt to the LU (if manually submitted to the DMC), or should be automatically notified by the system to the LU when submitted electronically.
- 7.3.7 A further standard field to be marked as appropriate by the disclosing entity would identify whether the SAR related to a suspicion of fraud or is otherwise "unlikely to merit investigation by an LEA".

7.4 Feedback to be provided to disclosing entities

Recommendation 13

Greater provision of feedback to disclosing entities and other interested stakeholders (regulators and trade associations)

- 7.4.1 There should be a greater provision of feedback to the disclosing entities, and this will lead to an increase in the effectiveness and efficiency of the SAR regime. ECB, LEAs, the FSA and other regulators, and trade associations should work in partnership to help deliver this.
- 7.4.2 The LU should have the primary responsibility for the delivery of this feedback. This should be provided directly to the individual disclosing entities and, in some cases, to relevant regulators and trade bodies.
- 7.4.3 This feedback should cover:
- Periodic reviews of individual institutions' disclosures.
 - Rejection of poor quality SARs.
 - Feedback to regulators concerning the quality of disclosures.
 - Market-wide feedback.
 - General feedback.
- 7.4.4 In most cases this will require feedback and other input from LEAs on intelligence requirements and uses.

Periodic reviews of individual institutions' disclosures

- 7.4.5 The LU should also be responsible for conducting periodic reviews of the quality of submissions by individual disclosing entities. This should be on an annual basis for the Big Six banks and the larger bureaux de change because of the volumes of SARs disclosed by these groups of entities. Given the number of other entities involved, this would be undertaken on a prioritised basis using a rolling programme derived from both the volume of disclosures and their quality.
- 7.4.6 The periodic feedback will also comprise details of the use made by LEAs of the SARs submitted (i.e. intelligence only, contributing to a pre-existing investigation, still ongoing, or resulting in a money laundering or other prosecution, restraint or confiscation order). It should also include details of the number of poor quality SARs which were rejected and where re-submission was sought. This information would be generated from Elmer given that LEAs would be providing ongoing updates on the fate of all the SARs disseminated to them (see section 8.4 below).

Rejection of poor quality SARs

- 7.4.7 It is clear that ECB is currently forced to allocate significant time and resource within its ongoing processes because of the submission of poor quality SARs by disclosing entities. In order to drive up the quality of reporting by disclosing entities, and as a key part of its ongoing role, ECB should therefore reject poor quality SARs submitted by disclosing entities.
- 7.4.8 There should be a number of reasons for rejection:
- Inappropriate method of submission of SAR: if a SAR is provided to ECB in an inappropriate form, such as where a manual submission is provided by a regulated entity where no exemption has been given for not reporting electronically (see section 6.4.2 above), this should be sent back to the disclosing entity by the DMC with an explanation that this is the case and a request that it be submitted appropriately.
 - Incomplete SAR: if all the mandatory fields required on the SAR are not filled in or if a disclosing entity has not provided all the necessary information, the DMC should return the SAR to the relevant entity with a request for additional information to complete the SAR. It should then be the responsibility of the disclosing entity to obtain the missing information and re-submit the SAR.
 - Poor quality SAR: a SAR could be of poor quality for various reasons, including where there is no obvious reason for suspicion related to the particular transaction or activity, or where the reason for suspicion is poorly explained and therefore not obvious. In such a case the LU should return the SAR to the disclosing entity stating that the SAR is not of a sufficient quality to allow the information to be used, and providing guidance on why this is the case. It should then be for the disclosing entity to revise the SAR and re-submit it in a properly completed form.
- 7.4.9 Where necessary, staff from the LU should visit firms which continue to have problems of quality to provide guidance for improvement.

Feedback to regulators concerning the quality of disclosures

- 7.4.10 ECB has no formal locus over the quality of reporting by disclosing entities other than by the use of persuasion, which it currently uses in relation to poor quality reports from the larger disclosing entities. Therefore, it should establish a closer working relationship with the FSA and other regulators. Where there is ongoing evidence that individual regulated entities are persistently poor reporters, and that the LU's ongoing dialogue with the firm has not led to an improvement in the quality of reporting, the LU should contact the relevant regulator.
- 7.4.11 The LU should provide the regulator with details (copied to the firm concerned) of the nature and incidence of poor reporting and the response of the disclosing entity to the LU's initial contact with them. The relevant regulator can then take these issues forward within the regulatory relationship and framework. In doing so, we believe that this should primarily focus on institutions with inadequate procedures in place and those which provide low quality, defensive or insufficient reporting, and to a lesser extent on those where they had exercised their judgement on some occasions which subsequently proved to be of poor quality.

Market-wide feedback

- 7.4.12 The LU should provide a range of information and analysis on market-wide issues to disclosing entities, regulatory bodies and to the relevant trade associations.
- 7.4.13 The LU should work with LEAs which have used SARs successfully in the prosecution of money laundering and predicate offences, in the confiscation of assets, or in the recovery of taxation, to produce sanitised examples of high quality SARs. There should be examples with direct application to each of the major industry groups which disclose to ECB. These examples should be reviewed and updated on a regular basis. There should be an ongoing responsibility on both the LU and on LEAs to ensure that where they identify SARs which provide different types of information which prove to be particularly useful in achieving a successful prosecution, confiscation or tax recovery, that these are then sanitised and made available promptly.
- 7.4.14 The IDU should ensure that data on the volume and nature of the SARs received by ECB is monitored and recorded on a “real-time” basis throughout the year. This information should then be published as part of the Task Force report on an annual basis. Initially this should be done on a six monthly basis to ensure that the new approach is seen to be up and running. The information should set out details of the numbers of SARs received from different classes of disclosing entities and the number of entities submitting disclosures; an example would be that X SARs were received in the period from Y insurance companies, of which Z related to life insurance products.
- 7.4.15 The IDU should undertake a regular analysis of the information contained within the SARs submitted to ECB to develop details of both industry specific and generic typologies evident from the data. This should include evidence of trends in types of suspicions reported on SARs (e.g. an increase in suspected Hawala banking activity) or indications of a high volume of transactions in a particular sector in comparison to similar scale businesses in the same or comparable areas.
- 7.4.16 This feedback should in addition be provided to the FSA and other regulatory bodies, and to trade associations, to allow them to understand the existing issues and be aware of the aspects of the regime that are currently important. It should then be the responsibility of these bodies to promulgate this information to their wider constituencies with whatever additional specific information or requirements that might apply, particularly given that the roles of the regulators and trade bodies are somewhat different. This further dissemination would ensure that the widest possible audience would have access to this information.

Provision of market-wide feedback

- 7.4.17 ECB should use a variety of methods to provide market-wide feedback. As this will be in either aggregate or sanitised form, there should be no issues of confidentiality in respect of this information. Although there will be overlap between a number of the recipients of the analysis, this is to be encouraged as a way of ensuring that the work of ECB and LEAs is given sufficient priority at the disclosing entities.
- ECB analysis should be placed on the ECB section of the NCIS website. It should also be added to the site accessible through the MoneyWeb system.

- Whenever new analysis is available, ECB should prepare and issue press releases highlighting the analysis, and ensure that ECB staff are available to discuss them with the press.
- The relevant analysis (i.e. by sector or type of business) should be sent to the Chief Executive, or equivalent, of every disclosing firm with a covering letter.
- It should also be sent to the FSA and other regulators, and the various relevant trade bodies. These entities should then make it available to the firms they regulate and to their members.

Feedback from LEAs to ECB on generic typologies and operational requirements

7.4.18 The feedback given to institutions will rely on LEAs who, in turn, should be required to provide regular feedback to the LU on the following areas:

- Examples of high quality SARs and those where information was not useful.
- Specific time-limited interests relating to current operations.
- Generic known typologies which can be used at ECB and transmitted to disclosing entities, including those of particular interest to the relevant LEA; this might, for example, include the deposit of large volumes of Scottish banknotes in English branches of banks at some distance from Scotland.
- The areas and postcodes which fall within the remit of the individual LEA; this will ensure that ECB does not disseminate SARs to the wrong LEA, thereby wasting its and the LEA's time and running the risk of the information being lost or ignored.

7.4.19 LEAs should be required to provide ECB with details of the information that they require in order to achieve the most effective results from their investigations. This would fall into the following categories:

- The criteria used by the relevant LEA when deciding whether or not to proceed with an investigation of a particular SAR. This should include the range and type of information which the individual LEA would want to receive as part of a developed intelligence package, using the range of information available through the various NCIS and other databases.
- As part of establishing the new processes LEAs should provide ECB with details of which databases they would like searched as standard, and the level and detail of hit information required in the LEA pack.
- On an ongoing basis the LEAs should identify the type and range of SARs which the individual LEA would want ECB to fast-track to them. The IDU would then use this information when identifying and developing intelligence packages for the relevant LEA. It would also, where appropriate, be passed back to disclosing entities as part of the overall information package.

- LEAs would also provide specific requests on an ongoing basis for particular types of information or relating to particular investigations, which the LU would then pass on to the wider pool of disclosing entities and the relevant regulators and trade bodies.
- LEAs should also record their interest in certain subjects through conducting specific searches of the Elmer database. This will allow future SARs on these subjects to be automatically allocated to the LEA that previously registered an interest.

7.5 Sectoral differences in compliance and enforcement

7.5.1 There is a difference in the oversight and regulation of different industries which are potentially vulnerable to abuse and money laundering. The financial services industry is regulated by the FSA, which was given specific responsibilities in relation to financial crime under the FSMA in December 2001. It has, as a result, taken a more active and interventionist role in relation to regulated entities' AML controls. The nature of regulation for solicitors and accountants is less focused on systems and controls within the relevant firms or at sole practitioners. Other industries, whether estate agents, the art and jewellery markets or companies specifically focused on company formation, are not currently subject to such regulation although High Value Dealers will be regulated by HMC&E once the 2003 MLRs come into effect.

7.5.2 Although the banks will continue to be fundamental in relation to AML activity, given that ultimately the money related to criminal activity will need to pass through bank accounts, money launderers are likely to focus on the weakest points in the financial system. This will, in part, relate to less active regulation in certain sectors and the potential for less focus on and compliance with the legal requirements. It will also follow those products that are easier to use to launder money than others, where there is a less obvious and accessible audit trail for a financial investigator. Cash remains the most anonymous asset type, but others include jewellery and high value consumer goods.

Recommendation 14

Feedback on under-reporting sectors and individual firms

7.5.3 The IDU should carry out sectoral analysis of all the types of providers of SARs, including the identification of any new sectors which potentially appear to be used for money laundering activities. This information should then be discussed with the relevant regulators (if there are any for the particular sector in question) or trade body/association. The IDU should liaise with overseas FIUs, LEAs and the Egmont group to identify trends that may affect or benefit the UK system.

Role of the Task Force

7.5.4 Both the analysis and the conclusions of these discussions should be provided to the Task Force so it can periodically assess the nature of the regulatory and other measures in place for encouraging compliance with the SAR regime. In particular, the Task Force should review the effectiveness of the widening of the scope of the MLRs in June 2003, insofar as they relate to SARs. It should mobilise individual regulators and trade associations to adapt the nature and scope of their interventions where issues of uneven compliance arise.

8 Improving the results from LEA use of SARs

8.1 Summary

This section of our report sets out our recommendations for how the results from LEA use of SARs might be improved. These include:

- Ensuring that there is a critical mass of skilled and experienced FIs to handle and investigate SARs and encouraging a cross-fertilisation of skills to increase operational efficiencies within FIUs on a regional basis (section 8.2).
- Making LEAs aware of the benefits that can be derived from use of SARs via the issuing of material guidelines for best practice and the provision of training to all law enforcement investigating officers (section 8.3).
- Ensuring direct LEA involvement in decisions within the SAR process via access to an Elmer terminal both for managing the queue and recording progress, and also to allow better use of intelligence on Elmer through direct searches by FIUs (section 8.4).
- Ensuring that the proposed new SAR processes work by recognising the contractual responsibilities of ECB and LEAs in Service Level Agreements (“SLA”) and monitoring the performance of LEAs and ECB (section 8.5).
- Ensuring that the Home Office includes money laundering and proceeds of crime within the relevant annual plans for LEAs (section 8.6).
- Using information on Elmer to advertise the successes of the SAR regime (section 8.7).
- Using the successes derived from the SAR regime to support and assist resource allocation decisions (section 8.8).

8.2 Merging of FIUs on a regional basis

Recommendation 15

- 8.2.1 The range and scope of SARs generated by the disclosing entities have created significant pressure on individual LEAs to investigate the SARs that they receive. There is conflicting pressure on resource within individual FIUs and detectives are used for other conflicting priority cases. Some individual LEAs which do not have extensive resources and expertise should therefore be encouraged to investigate the possibility of merging their FIUs. This would ensure that there is a critical mass of skilled and experienced FIs to act as SPOC for receipt, assessment and investigation of high quality SARs relating to those LEAs. There should be a commitment by each relevant LEA that they would provide appropriate staff and resource to support such a regional FIU.
- 8.2.2 Wherever possible merged FIUs should “piggyback” upon existing initiatives for joint working between different LEAs, whether regional anti-drugs crime initiatives or asset

confiscation units. In doing so, consideration should be given to including representatives from more than one LEA specialism following the model established within the Scottish Money Laundering Unit (“SMLU”) as part of the Scottish Drug Enforcement Agency (“SDEA”), which includes Police, HMC&E, IR and NCIS FIs, Intelligence Officers (“IOs”) and financial analysts. This allows a cross-fertilisation of skills and experience to increase operational efficiencies and maximise the benefit of receipt of financial information through SARs. Early indications are that the SMLU’s system for handling SARs, which has been in operation for the last six months, has led to better allocation of SARs to the appropriate LEAs and a more timely, flexible and integrated use of intelligence and resource.

8.3 **ARA Centre of Excellence to develop guidance and training on use of SARs**

Recommendation 16

Identification of benefits from SARs and best practice

8.3.1 The ARA Centre of Excellence should ensure that the benefits from the identification and provision of high quality SARs are promulgated in the first instance to FIs. The Centre of Excellence should issue national guidelines relating to SARs which should form the basis of training FIs. These should set out:

- The benefits that can be derived from the focused and rigorous use of SARs within different classes of investigation, both in relation to money laundering offences and to other predicate offences where information in SARs can provide leads and evidence to support other investigations.
- The best practice methods for use of the range of different financial information contained within SARs. This should be based on the specific experience of law enforcement, ARA, and NCIS, including learning points and proven techniques from successful prosecutions and disruptions and those issues and problems arising from unsuccessful investigations. This should include the various stages of an investigation such as the grading of intelligence, effective case management, the most effective methods to audit results and the need to provide feedback on both specific cases and more generic methodologies and typologies.

Use of best practice in training all law enforcement investigating officers

8.3.2 Once best practice information and methodologies have been identified through the Centre of Excellence, this should also be used as part of the training modules which ACPO, ARA, NCIS and other LEA training bodies provides for all entrants to law enforcement and not solely to FIs. This would emphasise and demonstrate to all investigating officers the benefits of using SARs as part of the wider intelligence held within ECB and that they can and should form an integral part of the processes of investigating, tracking down and recovering the proceeds of crime.

8.4 LEA access to and use of Elmer terminals

Recommendation 17

Access to Elmer terminals

- 8.4.1 All FIUs should have an Elmer terminal, and all accredited FIs should have access rights to use the terminal. The largest LEAs should have the option to take a number of other terminals, subject to agreeing access protocols if they have multiple access to Elmer. Whilst it would be inappropriate for the LEAs to have free access to all the types of data available on Elmer, FIUs should be allowed access to manage the SARs allocated to them and held in their own queue and to conduct specific searches of all SARs on the Elmer database.

Meeting the requirements of the Data Protection Act

- 8.4.2 The Data Protection Act 1998 (“DPA”) permits NCIS to disclose SARs to other agencies if, *inter alia*, the disclosure is for “*the prevention or detection of crime*”. Initial legal advice provided to NCIS ECB states that

*“...for the investigating agency to have the benefit of an Elmer terminal they give you an indemnity and they would also have contractually to undertake to maintain the confidentiality of the information thereby gleaned”.*¹⁵

- 8.4.3 Access protocols should therefore be agreed between ECB and the LEAs which will build this DPA and confidentiality criteria into the legal relationship between the different parties. Other safeguards to the data held on Elmer and accessible by LEAs should include:

- The reasons for all search requests should be recorded by the LEA on Elmer, based on a number of options all linked to “the prevention or detection of crime”.
- ECB should then monitor compliance with the protocols and the reasons given for the use made of Elmer data.

- 8.4.4 Implementation of the range of KPMG recommendations will, over time, ensure that there is a reduction in low quality SARs and those with inadequate reason for suspicion on Elmer, thereby strengthening further the position under the DPA.

- 8.4.5 ECB will be responsible for ensuring that it has taken appropriate legal advice on its legal position prior to agreeing the relevant protocols. ECB should also enter negotiations with industry representatives to ensure that these arrangements and use of data are appropriate and, where necessary, renegotiate the relevant agreements.

Managing the SAR queue - LEA decisions on which SARs should be developed

- 8.4.6 Individual FIs within FIUs should review the queue of SARs in Elmer and decide which ones should be developed into intelligence packages and which should be actioned immediately (e.g. VAT Carousel fraud) but not developed. The LEA will be able to

¹⁵ Letter from Winckworth Sherwood to NCIS 25 November 2002.

comment on the initial priority list identified by the LU, but would have to record on Elmer the reason for not wanting a particular SAR recommended by the LU to be developed.

- 8.4.7 The LEA may also request that any of the SARs identified by the LU as intelligence only is developed into a full package. This should allow an individual LEA's local knowledge and experience to be used in the process at an early stage. The reason for this decision should also be recorded by the LEA on Elmer.
- 8.4.8 In conducting such an initial prioritisation and consciously allowing a number of SARs not to be developed, there is the potential risk that information contained within a SAR is not picked up or made use of by ECB or by an LEA. This follows the approach taken by the TFT at ECB, whose role is to filter and enhance SARs disseminated to the National Terrorist Financial Investigation Unit ("NTFIU"). The TFT conducting the initial sifting and development is multi-agency comprising Police, HMC&E and the Security Service. In both the TFT case and under our recommendations, there is and would be subsequent analysis of the SAR information to identify any further linked or potentially high quality SARs which were not caught in the initial process.
- 8.4.9 In the case of the TFT it was decided that although some suitable SARs might be missed, the end result was that the NTFIU would be provided with high quality intelligence that they actually wanted and could use. The same analysis applies here, although would depend on ECB obtaining "buy-in" from the customer it is servicing (i.e. the LEAs in this instance).

LEA responsibility for recording status of individual SARs

- 8.4.10 LEAs should manage and record the status of all SARs in their queue. Each SAR should be identified as being either open, intelligence only or complete and confirming the status for open SARs on a rolling monthly basis:
- Open SARs will be those where the LEA is conducting further research, where the LEA has requested a developed intelligence package from ECB, or is conducting an investigation using the SAR.
 - Intelligence only SARs will be those which the LEA does not want to work on, either from a review of the SAR or once an investigation or further research has been completed. Elmer should prompt the LEA to record details of any work conducted on a SAR or confirm that none was performed before it can be marked as intelligence only. Once marked as intelligence only, the contents of a SAR will be available to anyone through an Elmer search.
 - Complete SARs will be those where an investigation has taken place and a conclusion reached. Elmer should prompt the LEA to record details of any work conducted on a SAR, and the results of an investigation (including of any prosecution or confiscation) before it can be marked as completed. Once marked as completed, the contents of a SAR will be available to anyone through an Elmer search.

Reallocation of SARs to another FIU

- 8.4.11 LEAs should be responsible for identifying any SARs which have been incorrectly allocated to them and for notifying the LU, having marked the SAR on their queue for reallocation. The LU should then reallocate the SAR to a more appropriate LEA's queue to be addressed as usual through management of the queue. The reason for changing the allocation should be recorded on Elmer to ensure that future SARs with the same characteristics can be dealt with appropriately within the LU.

LEA responsibility to update Elmer with feedback on individual SARs

- 8.4.12 Where an LEA indicates that a SAR on the queue is open and/or has requested a developed intelligence package, it should be responsible for providing limited feedback on the status of that SAR at regular quarterly intervals, and finally, on completion of an investigation. This brief feedback would include details of the outcome of the investigation and any actions taken. This feedback should be input directly onto Elmer through the LEA's direct access terminal.
- 8.4.13 Where SARs are used in cases which are investigated outside the relevant FIU, it should remain the responsibility of that FIU to update Elmer with any feedback, including marking those SARs open.
- 8.4.14 The information recorded on Elmer can be used as part of LU's ongoing feedback to the disclosing entities, to allow them to see the results obtained from the SARs which they have produced (see section 7.4 above).

Searching by LEAs on Elmer

- 8.4.15 LEAs will be able to search Elmer in relation to particular queries and questions that have arisen through their investigations. As noted above, any searches will be subject to access protocols.
- 8.4.16 LEAs should be able to see a list of all SARs generated by their own Elmer searches, but will not have access to the contents of SARs which have been marked as open by another LEA, subject to agreements between LEAs. The search will identify the FIU working on the SAR, which can then be contacted directly with any requests for further information.

Wider use of Elmer within LEAs

- 8.4.17 Law enforcement officers other than FIs within the FIU should be informed of the existence of the Elmer terminal within their LEA FIU. This should happen through the training received from LEA training bodies or, more generally, through active promotion conducted by ECB and individual FIUs of the potential untapped intelligence held within Elmer and now available through the Elmer terminals and the FIU. In particular this should focus on the various intelligence units within individual forces.
- 8.4.18 Law enforcement officers working outside the relevant FIU who are investigating serious crimes where financial intelligence may be of assistance, should make use of their FIU's access to an Elmer terminal to identify whether there is further intelligence available which could be used to achieve a successful result (whether prosecution, recovery of assets or disruption of criminal activity). This should occur through requests to the FIU to search the Elmer database in respect of particular subjects (provisional, of course, to

meeting the specified access and usage protocols). Indirect searches of the Alert system could also be requested via the FIU, although these would need to be conducted through the NCIS regional offices (as is currently the case) to ensure that the confidentiality of the Alert scheme is maintained.

- 8.4.19 Some LEAs (e.g. the Metropolitan Police Service) have identified that they achieve successful results from using the information contained in SARs having transferred the SAR data onto a local intelligence database. We believe that there are LEAs where this is appropriate and that the feasibility and costs of doing it within the new procedures should be explored in developing implementation plans. Where this does take place however, the LEA would still need to meet all our other recommendations including, in particular, updating Elmer on the progress of all SARs allocated to them through their Elmer queue.

8.5 Monitoring LEA results and establishment of new service level agreements

Recommendation 18

Establishment of new SLAs between ECB and LEAs

- 8.5.1 New SLAs should be established between ECB and each of the LEAs to document their various responsibilities under the new structure and approach. These should include indicative timings for the provision of information between each party (e.g. ECB will ensure that new SARs are added to Elmer within XX days of receipt from a disclosing entity, LEAs will provide an initial indication of the status of all SARs on their queue within YY days of receipt and commit to update this information on a rolling monthly basis).

ECB monitoring and reporting of LEA results

- 8.5.2 In order to ensure that the appropriate information is input onto Elmer in a timely fashion, and to ensure that individual LEAs are meeting their commitments under their SLAs with ECB, ECB should monitor the results achieved by each LEA through their regular updates of information on Elmer. It should use the results of this monitoring to provide feedback on a quarterly basis to each LEA. This will ensure that there is an ongoing dialogue between ECB and the individual LEAs on the areas of concern that each has in the operation of ECB's processes for SARs and the LEA's use of the information contained therein in investigating and disrupting criminal activity. This monitoring should cover at the least:

- The numbers of SARs which are allocated, developed, which are otherwise open and those which have been marked as intelligence only, and information on the time taken from receipt to progression.
- The timeliness of LEA updates of the status and progress of individual SARs.
- The timeliness and content of feedback provided by LEAs on the outcomes of successful use of SARs in investigations, prosecutions and asset recovery.

- 8.5.3 The results of this monitoring should be made available to the Task Force on a half-yearly basis to allow it to achieve its objective of assessing the success of the SAR regime as a

whole and to produce statistics on a comparable national basis. The Task Force should be responsible for monitoring compliance with these SLAs for both ECB and the LEAs.

8.6 LEA objectives to be set by the Home Office which impact upon the use of SARs

Recommendation 19

- 8.6.1 The Home Office should include tackling money laundering and confiscating the proceeds of crime (the SAR regime is and will be a key part of both of these areas) in the National Policing Plan, equivalent national plans for other non-police LEAs, and in local objectives for individual LEAs. It should, in consultation with ACPO and revenue agency senior management, make specific reference to SARs in the PoCA objectives it sets for individual LEAs, particularly in measuring the contribution made by SARs in the total confiscation figures. It should ensure that specific discussion of successes and achievements through the active use of SARs are included in regular discussions with the heads of the various LEAs which receive SARs.

8.7 Use of information available through Elmer to advertise successes of the SAR regime

Recommendation 20

- 8.7.1 Following updating by LEAs of progress and feedback for all SARs on Elmer, ECB will have a significant volume of data on the use made of SARs and the successes generated by LEAs as a result of disclosures. This should be used by various bodies including ECB, the Task Force, ARA, ACPO and senior management to advertise the successes of both revenue agencies and police forces arising from the SAR regime. The mechanisms for dissemination of this information should include, but not be limited to, the ECB website, Task Force and ECB publications, speeches by LEA participants and Government ministers, and press releases by interested stakeholders.

8.8 Use of successes derived from the SAR regime to support and assist resource allocation decisions

Recommendation 21

- 8.8.1 A summary of the results of this review should be provided by ACPO to the Chief Constables and other heads of LEAs. They should be encouraged to consider their allocation of resources to dealing with the SAR regime. Feedback should be sought from these key stakeholders on the relative importance that they place on dealing with SARs, and whether and in what ways their views would change if the system were improved through the successful implementation of our recommendations.

- 8.8.2 The availability of data on successes and use of SARs in investigations and successful disruption, recovery and prosecution should provide additional hard evidence to individual FIUs and, in turn, their LEAs when seeking additional funds to support the activities of FIUs and other investigative units which rely on SARs. This information should be used for negotiations both within individual LEAs, and by Chief Constables, ACPO and other agencies' senior management in their discussions with the Home Office.

9 Summary of recommendations

9.1 Delivery of the aims of the regime and the recommendations of this report

Recommendation 1: Establishment of a Task Force (*Report section 5.2*)

- 9.1.1 A small Task Force of stakeholders should be established which is accountable for the delivery of the aims of the regime. The Task Force should be chaired by a senior Home Office official, report to a Government minister, and comprise individuals with sufficient authority to implement change. The Task Force should publish an annual report of achievements against measurable outcomes.

Completion Date: September 2003

Agency: Home Office

- 9.1.2 The Task Force functions should be to promote the successes of the SAR regime, encourage collaboration between stakeholders, provide support and guidance, monitor resource needs and contribute to the UK's AML strategy.

Completion Date: September 2003

Agency: Task Force

Recommendation 2: Government commitment to the aims and objectives of the SAR regime (*Report section 5.3*)

- 9.1.3 The Government should make a clear commitment to the aims and objectives of the SAR regime and the implementation of the recommendations of the KPMG review.

Completion Date: September 2003

Agency: Home Office

9.2 Focusing and defining the work of ECB

Recommendation 3: Structuring and strengthening the management of ECB (*Report section 6.2*)

- 9.2.1 ECB should be split into three core functions, DMC, LU and IDU and each function should be managed by a high quality individual, reporting to the Head of ECB, supported by a strong assistant. In addition, ECB Senior Management will need policy and legal support. The overall management team should include a diversity of experience, background and skills.

Completion Date: September 2003

Agency: ECB

Recommendation 4: Establishment, staffing and role of separate ECB Data Management Centre (*Report section 6.3*)

- 9.2.2 A separate DMC should be established outside London under new management with clerical environment expertise.

Completion Date: March 2004

Agency: ECB

- 9.2.3 Inputting staff should be experienced clerical officers, including copy typists, with flexible working packages.

Completion Date: March 2004

Agency: ECB

- 9.2.4 The DMC should take responsibility for the receipt of all SARs, the accurate and timely input of manual SARs, the rejection of any SARs with administrative errors, the transfer of all time-critical SARs to the LU. The DMC should file fraud disclosures (identified by the providers of SARs on the standard forms) as intelligence only.

Completion Date: March 2004

Agency: ECB

Recommendation 5: Increase in provision of electronic reporting of SARs (*Report section 6.4*)

- 9.2.5 Electronic submission of SARs should be made mandatory for all regulated entities through the standard reporting format (subject to exemption criteria), and actively promoted by the LU and relevant trade bodies to other entities, particularly those submitting higher volumes of SARs.

Completion Date: September 2003

Agency: Home Office and ECB

Recommendation 6: Automatic search and initial allocation processing at the DMC for SARs input into Elmer (*Report section 6.5*)

- 9.2.6 The DMC should conduct an automatic search for all non-fraud SARs against Alert nominals, Elmer, PNC and CEDRIC. The results of the search should not be manually verified.

Completion Date: December 2003

Agency: ECB

- 9.2.7 Each SAR should be automatically scored on the basis of the results of the search to indicate the relative priority of each SAR. The relative weights assigned to each type of search result should be determined by ECB in consultation with LEAs, and regularly reviewed to reflect changing operational factors.

Completion Date: March 2004

Agency: ECB

- 9.2.8 Each SAR should be automatically allocated to an LEA's queue on Elmer prior to LU review. The allocation criteria should be based on geography, suggested predicate offence and/or areas of interest provided by LEAs, including previous search requests.

Completion Date: March 2004

Agency: ECB

Recommendation 7: Establishment, staffing and role of ECB Liaison Unit (*Report section 6.6*)

- 9.2.9 ECB should increase its resources dedicated to improving the quality of disclosures through establishing an LU within ECB.

Completion Date: September 2003

Agency: ECB

- 9.2.10 The LU should comprise a core of permanent ECB staff and also include experienced police and other LEA financial investigators, as well as financial service professionals.

Completion Date: March 2004

Agency: ECB

- 9.2.11 The LU should be responsible for reviewing all incoming SARs (after they have been input and automatically searched, scored and allocated on Elmer) in order to identify and reject poor quality SARs, recommend only a minority of SARs for further investigation, assess the automatic allocation and manage time-critical and flagged SARs.

Completion Date: September 2003

Agency: ECB

- 9.2.12 The LU should grant or withhold consent within set parameters and defined circumstances.

Completion Date: September 2003

Agency: ECB

- 9.2.13 The LU should ensure that appropriate communication takes place between all key stakeholders in relation to improving the quality of SARs.

Completion Date: Ongoing

Agency: ECB

- 9.2.14 The LU should be divided into teams with specialist industry and product knowledge. SPOC should be established within each team for the larger institutions.

Completion Date: June 2004

Agency: ECB

Recommendation 8: Development of fewer intelligence packages by ECB (*Report section 6.7*)

- 9.2.15 The LU should identify on Elmer a minority of SARs which it believes merit further action by an LEA, and document on Elmer the reasons for any such recommendations. Each LEA would be able to view all SARs allocated to its Elmer queue, separated between those recommended for further action by the LU and those which the LU believes should be retained for intelligence only on Elmer.

Completion Date: September 2003

Agency: ECB

Recommendation 9: Establishment, staffing and role of Intelligence Development Unit (*Report section 6.8*)

- 9.2.16 ECB should establish an IDU which will take over the functions of the existing Intelligence Development staff and adopt a number of additional specific analytical responsibilities.

- 9.2.17 The IDU should include sufficient staff with appropriate analytical training and experience.

- 9.2.18 The IDU should process and disseminate only the minority of SARs which LEAs indicate on Elmer they wish to be developed. The development of these SARs should include verifying the results of the automatic search, searching any additional databases requested by the LEA and producing a user-friendly package disseminated to the LEAs via Elmer.

Completion Date: December 2003

Agency: ECB

- 9.2.19 The IDU should be responsible for conducting wider strategic and tactical analysis of the information within Elmer, either at the request of others or through internal analysis of trends and typologies.

Completion Date: June 2004

Agency: ECB

- 9.2.20 In order for the IDU to operate effectively as an analysis unit appropriate information would need to be received from both the providers of SARs and the LEAs.

Completion Date: June 2004

Agency: ECB

Recommendation 10: Proactive management of the backlog of work in progress
(Report section 6.9)

- 9.2.21 The current work in progress should be proactively managed by providing LEAs their SARs directly, allocated by postcode and subject to limited unvalidated searches. LEAs would then determine which SARs, if any, should be developed by ECB. This process would be run on a regular basis until the new procedures are fully introduced.

Completion Date: September 2003

Agency: ECB and LEAs

9.3 Improving the quality of reporting of SARs

Recommendation 11: Education regarding the SAR regime (Report section 7.2)

- 9.3.1 The LU should be responsible for education in relation to the SAR regime, including the communication of typologies and methodologies to industry; annual reviews of the quality of submissions by selected providers; establishing a closer working relationship with the FSA; and the provision of training and seminars.

Completion Date: Ongoing

Agency: ECB and regulators

- 9.3.2 LEAs should also have a role in training and education to ensure their needs and requirements are identified and publicised to disclosing entities.

Completion Date: Ongoing

Agency: LEAs

- 9.3.3 The ECB section of the NCIS website should be developed to allow public access to as much non-sensitive information as possible.

Completion Date: Ongoing

Agency: ECB

- 9.3.4 Government and other stakeholders should make clear public statements to emphasise the importance of providing high quality SARs.

Completion Date: Ongoing

Agency: Task Force

- 9.3.5 Regulators should make public statements that their primary interest in AML controls is poor processes, systems and controls, rather than poor judgement.

Completion Date: Ongoing

Agency: FSA and HMC&E

Recommendation 12: Standardisation of reporting processes (*Report section 7.3*)

- 9.3.6 The standard form of reporting should include core mandatory fields with additional sector and industry specific forms as appropriate. ECB should document clear guidance for the completion of the standard form.

Completion Date: September 2003

Agency: Home Office and ECB

- 9.3.7 Disclosing entities should distinguish between fast-track (those requiring pre-emptive action), high impact (those which meet appropriate typology and quality criteria) and standard disclosures. Disclosing entities should also indicate on the standard form whether the SAR relates to a suspicion of fraud or is otherwise “unlikely to merit investigation by an LEA”.

Completion Date: September 2003

Agency: Providers of SARs

Recommendation 13: Feedback to be provided to disclosing entities (*Report section 7.4*)

- 9.3.8 ECB, LEAs, the FSA, other regulators and trade bodies should work in partnership to provide greater levels of feedback to disclosing entities and other interested stakeholders, such as regulators and trade bodies/associations. This should include annual reviews of individual institutions' disclosures, rejection of poor quality SARs, feedback to regulators on quality issues and market-wide generic feedback.

Completion Date: June 2004

Agency: ECB

- 9.3.9 The LU should be responsible for providing specific feedback on an annual basis to disclosing entities, detailing the use made of SARs submitted.

Completion Date: December 2004

Agency: ECB

- 9.3.10 The LU should reject and provide feedback on poor quality SARs. SARs should be rejected on the basis of inappropriate methods of submission, incomplete information or poor quality reason for suspicion.

Completion Date: September 2003

Agency: ECB

- 9.3.11 ECB should establish a closer working relationship with the FSA and other regulators. The LU should notify persistently poor quality reporting, namely low quality, defensive or insufficient reporting, to regulators.

Completion Date: Ongoing

Agency: FSA and ECB

- 9.3.12 ECB should provide a range of information and analysis on market-wide issues to disclosing entities, regulatory bodies and relevant trade associations. This should include sanitised examples of high quality SARs and details of the volume and nature of SARs received from different sectors of disclosing entities.

Completion Date: Ongoing

Agency: ECB

- 9.3.13 The LU should use a variety of methods to provide generic feedback, for example, through the NCIS website, press releases, letters to disclosing entities, FSA and other regulators.

Completion Date: Ongoing

Agency: ECB

- 9.3.14 LEAs should be required to provide regular feedback to the LU. This feedback should include examples of high quality SARs, specific time-limited interests, generic typologies, and criteria for actioning a SAR.

Completion Date: Ongoing

Agency: LEAs

Recommendation 14: Sectoral analysis of providers of SARs (*Report section 7.5*)

- 9.3.15 The IDU should carry out sectoral analysis of all types of providers of SARs, and the results discussed with relevant regulators and trade bodies/associations as appropriate.

Completion Date: June 2004

Agency: ECB

- 9.3.16 The analysis and conclusions of these discussions should be provided to the Task Force so it can periodically assess the nature of measures in place for encouraging compliance with the SAR regime.

Completion Date: September 2004

Agency: Task Force

9.4 Improving the results from LEA use of SARs

Recommendation 15: Merging of FIUs on a regional basis (*Report section 8.2*)

- 9.4.1 Individual LEAs which do not have extensive resources and expertise should be encouraged to investigate the possibility of merging their FIUs to ensure that there is appropriate skilled and experienced resource to handle the receipt, assessment and investigation of high quality SARs.

Completion Date: March 2004

Agency: LEAs

Recommendation 16: Use of ARA Centre of Excellence to develop guidance and training on use of SARs (*Report section 8.3*)

- 9.4.2 The ARA Centre of Excellence should issue national guidelines to ensure that the benefits from the identification and provision of high quality SARs are promulgated within the law enforcement community and that FIs are trained accordingly.

Completion Date: December 2003

Agency: ARA

- 9.4.3 Best practice information and methodologies should be used as part of the training modules which is provided for all entrants to law enforcement.

Completion Date: June 2004

Agency: ACPO and LEAs

Recommendation 17: LEA access to and use of Elmer terminals (*Report section 8.4*)

- 9.4.4 All FIUs should have an Elmer terminal, and all accredited FIs should have access rights to use the terminal in order to manage the SARs allocated to them on Elmer, and to conduct specific searches of all SARs on the Elmer database.

Completion Date: September 2003

Agency: ECB and LEAs

- 9.4.5 Access protocols should be agreed between ECB and the LEAs to ensure that LEA direct access to Elmer meets the requirements of the DPA.

Completion Date: September 2003

Agency: ECB and LEAs

- 9.4.6 Individual FIs within FIUs should manage their SAR queue and document their actions on Elmer. LEAs should review the SARs allocated to their queue in order to record decisions on Elmer about which SARs should be actioned, and which should be retained in Elmer as intelligence only. Where LEA decisions differ to LU recommendations the reasons for these decisions should be documented.

Completion Date: December 2003

Agency: LEAs

- 9.4.7 LEAs should manage and record the status of all SARs in their queue, each SAR being identified as either open (where further work will be carried out on an SAR by the LEA), intelligence only, or complete (following the conclusion of an investigation).

Completion Date: December 2003

Agency: LEAs

- 9.4.8 LEAs should be responsible for identifying any SARs incorrectly allocated to them and notifying the LU via Elmer of the requirement to reallocate to a more appropriate LEA.

Completion Date: December 2003

Agency: LEAs

- 9.4.9 Where an LEA indicates that an SAR is open it should be responsible for directly updating Elmer with feedback on the status of that SAR at regular quarterly intervals, and also on completion.

Completion Date: December 2003

Agency: LEAs

- 9.4.10 LEAs should be able to conduct specific searches of Elmer, subject to access protocols, which will allow access to all information on intelligence only SARs, but not the full details of SARs marked as open by another LEA, subject to agreements between LEAs.

Completion Date: December 2003

Agency: LEAs

- 9.4.11 Law enforcement officers other than FIs within the FIU should be informed of the existence of the Elmer terminal with their LEA FIU (through training and active promotion by ECB and individual FIUs) in order that maximum use is made of the available Elmer intelligence outside the LEA FIUs.

Completion Date: March 2004

Agency: ECB and LEAs

Recommendation 18: Monitoring LEA results and establishment of new service level agreements (*Report section 8.5*)

- 9.4.12 New SLAs should be established between ECB and each of the LEAs to document their various responsibilities under the new structure and approach.

Completion Date: September 2003

Agency: ECB and LEAs

- 9.4.13 ECB should monitor the performance of each LEA through their regular updates of information on Elmer. The results of this monitoring should be used to provide feedback on a quarterly basis to each LEA, and to allow the Task Force to assess the success of the SAR regime.

Completion Date: December 2004

Agency: ECB and Task Force

Recommendation 19: LEA objectives to be set by the Home Office which impact upon the use of SARs (*Report section 8.6*)

- 9.4.14 The Home Office should include tackling money laundering and confiscating the proceeds of crime in the National Policing Plan, equivalent national plans for other non-police LEAs, and in local objectives for individual LEAs.

Completion Date: Ongoing

Agency: Home Office

Recommendation 20: Use of information available through Elmer to advertise successes of the SAR regime (*Report section 8.7*)

- 9.4.15 Data on the use made of SARs and the successes generated by LEAs should be used to advertise the successes of the SAR regime.

Completion Date: Ongoing

Agency: Various Bodies

Recommendation 21: Use of successes derived from the SAR regime to support and assist resource allocation decisions (*Report section 8.8*)

- 9.4.16 A summary of the results of this review should be provided by ACPO to Chief Constables and other heads of LEAs and the data on successes should provide hard evidence for LEAs when seeking additional funds to support the activities of units which rely on SARs.

Completion Date: June 2003

Agency: ACPO

Appendix 1

Sources of information

In producing our report and recommendations we have used a number of sources of information. We have also subjected our analyses and findings to a range of challenge processes.

Questionnaire for delegates at the 2002 National Financial Investigators Conference

The 16th National Financial Investigators Conference took place on 11 – 12 November 2002. Adam Bates spoke at the Conference on the scope and methodology of this review. We took the opportunity to seek participants' initial views on a number of key areas we were subsequently to focus on in our review:

- The issues to be addressed to make the SAR regime more effective.
- The proportion of SARs on which feedback is received from NCIS.
- The proportion of SARs on which feedback is received from other agencies.
- The method used to submit SARs to NCIS.

We received responses from 12 attendees from financial services companies and 18 attendees from LEAs which we used as part of our initial scoping and assessment process.

Pilot sample questionnaires

We tracked two pilot samples of SARs through the process to identify any issues of process and procedure which would affect the main phase of our review; this formed the basis of our agreed main fieldwork. We tracked:

- 50 SARs which had been sent to ECB by disclosing entities. These were identified by a random sample from a cross-section of the population of SARs, although we then excluded any SARs which were fast-tracked or related either to terrorist financing or Carousel fraud.
- 80 different SARs which had been disseminated by ECB to ten separate LEAs. We categorised the LEAs by the volume of SARs which they received, and then selected a cross-section of types of user. We used a questionnaire which both sought information on the specific 80 SARs we had identified and contained general questions on LEA activities.

Institutions workstream

Objectives

Our objectives as far as the institutions workstream was concerned were as follows:

- To estimate the rough cost of the SAR regime as borne by institutions.
- To identify what works well in institutions.
- To ascertain the average elapsed time between “trigger” (event that led to the unusual transaction/activity being reported internally) and submission of a SAR to ECB (Sample A).

Sample Selection Methodology- Sample A

The population

Our sample population comprised of all SARs submitted to ECB during the period 1 January 2002 to 30 June 2002 i.e. 28,762 SARs from 659 providers of SARs.

The sample

A sample of 200 SARs was selected from a population spread across 12 institutions. The sample represented approximately 0.7% of all SARs submitted to ECB during the above-mentioned period.

We circulated the 12 institutions with a specific questionnaire that sought information on the sample of 200 SARs, including details of the average elapsed time between the trigger event and the submission of a SAR to ECB.

The selection criteria

Our sample considered the type of disclosing institutions and the various methods of submission to ECB (e.g. MoneyWeb, manual, fax).

The scope of the general questionnaire

We circulated a general questionnaire to 62 institutions, including the 12 institutions which received the specific questionnaire. These 62 institutions were responsible for 66% of the SARs submitted during the period 1 January 2002 to 30 June 2002.

The general questionnaire sought information on the estimated cost of the SAR regime for the firm in question, the communication of SARs and the level of feedback from ECB and the LEAs, the results of any SARs submitted, the organisation's internal processes for dealing with SARs and the time taken between the unusual activity arising and the reporting of a SAR to ECB.

We received responses from 36 of the 62 institutions.

LEA workstream

Objectives

Our objectives as far as the LEA workstream was concerned were as follows:

- To establish the ultimate uses of SARs, supported by evidence (Sample B).
- To identify the qualities of "successful" SARs.
- To estimate the rough cost of the SAR regime as borne by LEAs.

Sample Selection Methodology- Sample B

The population

Our sample population comprised of all SARs disseminated by ECB during the period 1 January 2000 to 30 June 2002 i.e. 67,442 SARs.

The sample

A sample of 600 SARs was selected from a population spread across 19 LEAs. The specific sample represented approximately 0.9% of all SARs disseminated by ECB during the above-mentioned period.

We circulated the 19 LEAs with a specific questionnaire that sought information on the sample of 600 SARs, including details of the ultimate uses of SARs by the LEAs.

The selection criteria

Our sample considered the highest recipients of SARs during the period and also covered a cross-section of types of user taking account of their relative volume of SARs.

The scope of the general questionnaire

We circulated 57 LEAs with a general questionnaire, which included the 19 LEAs that received the specific questionnaire. The questionnaires were followed up by visits to nine LEAs where we challenged the responses provided by the LEAs.

The general questionnaire sought information on the main and subsidiary aims of a SAR, the outcome of SARs received by the LEA, the components of a successful SAR, the resource utilised by that LEA to deal with the SARs it receives, and what works well in the current regime. The questionnaire focused on the process which the LEA undertook following receipt of each of the identified SARs.

We received responses from 53 of the 57 LEAs.

ECB workstream

Objectives

Our objectives as far as the ECB workstream was concerned were as follows:

- To ascertain the elapsed time of the sample SARs from receipt to dissemination to the LEAs.
- To estimate the “real time” and resource to process a SAR through the core ECB and understand the key factors which affect processing time and effort.
- To assess different ECB processes used by the TFT and the CART, and the benefits of secondment programmes within ECB.

The scope of the study

We designed a survey for the three key work stages of the ECB process covering input, verification of input, and dissemination.

The scope with regard to input and verification related to the method of transmission, format and length of a SAR. We also looked at attributes of SARs which caused delays, error levels and which affected the time taken to input and check the information.

Our survey with regard to dissemination covered the success of automatic searching, the necessity for manual search, the proportion of valid search results, the impact of structuring intelligence and the time taken to carry out key processes.

Meetings and visits

Pilot phase

During the pilot phase we conducted 29 meetings with interested stakeholders.

Main phase

During the main phase of our review in respect of Sample A visits were made to nine providers of SARs.

During the main phase of our review in respect of Sample B visits were made to nine LEAs.

In addition, visits and telephone calls were also made to the following :-

- Three FIUs understood to be affected by competing Force priorities.
- National Terrorist Financial Investigation Unit (“NTFIU”), at Special Branch (“SB”) New Scotland Yard.
- Money Laundering Investigation Team (“MLIT”), Fraud Squad, New Scotland Yard.
- Operation Trident, New Scotland Yard.

During the main phase of our review we conducted 17 meetings with ECB staff. We also held meetings with five other stakeholders.

Workshops

Location

We held a series of three workshops during March 2003 each of approximately three hours duration. They took place at KPMG’s Salisbury Square offices in London, the Law Society and also at our Cornwall Street offices in Birmingham.

Purpose

Their purpose was to discuss and enable debate from the attendees in relation to our tentative recommendations in respect of the quality of reporting by disclosing organisations, the role of ECB and the handling of SARs by the LEAs.

Attendees

The workshops were attended by a cross-section of individuals from the disclosing organisations, ECB and from the range of LEAs and other interested parties. These included the Home Office, Treasury, the Cabinet Office and the FSA. In all, 77 different people attended the workshops, with a number attending more than one.

Format

The workshops commenced with a presentation from KPMG as to the current status of the review. This was followed by plenary sessions where the attendees were invited to discuss the tentative recommendations and report back their findings to the group.

Panel Meetings

We have held meetings with the PMP on five occasions¹ since the project began. These meetings gave us the chance to provide reports on our progress in each of the workstreams, our interim findings and analyses, and to debate the issues we have identified as they emerged. The discussion ranged over both the detail of particular issues and the wider philosophical questions of the future aims of the SAR regime and the desired outcomes, together with the practical processes and methodologies for achieving them.

¹ 16 December 2002, 31 January 2003, 28 February 2003, 17 April 2003 and 15 May 2003.

Appendix 2

Foreign FIUs

In the course of our review we sent out questionnaires to foreign FIUs i.e. the foreign equivalents of ECB. These included the following countries:-

- Australia
- Belgium
- Canada
- Holland
- Switzerland
- USA

Purpose

The purpose of the questionnaire was to make a comparison between how the foreign FIUs handle the receipt and dissemination of the SARs, and to ascertain the extent to which they applied human and electronic resource in the process.

We set out below our key findings following analysis of the response to the questionnaires:

Figure App 5.1: Method and criteria for submission

Country	FIU	Key findings
Switzerland	MROS	Institutions are required to reach a state of “justifiable” suspicion through additional information before disclosing
Canada	FINTRAC	Policies and procedures are developed which cover the form and content of disclosures as well as the approval process
Canada	FINTRAC	All institutions are required to submit SARs electronically
Australia	AUSTRAC	98% of transaction reports are submitted electronically
Holland	MOT	80% of transaction reports are submitted electronically

Figure App 5. 2: FIU resources

Country	FIU	Key findings
USA	FINCEN	Inputting is outsourced and sent to a separate centre for checking
Switzerland	MROS	FIU includes personnel with specific professional experience in different fields (banking, fiduciary, insurance, legal services, police)
Belgium	CTIF/CTI	Police Liaison officers are seconded to the FIU from police forces and provide the links between the SARs and the predicate offences

Figure App 5. 3: Dissemination

Country	FIU	Key findings
Switzerland	MROS	Separates cases for which a conclusion can be drawn as to the criminal origin of the assets, or a connection to organised crime. The remaining cases are forwarded to the LEAs
Canada	FINTRAC	Researches current money laundering techniques and selected indicators to identify transactions associated with money laundering and terrorist funding activities
Belgium	CTIF/CTI	Cannot disseminate SARs to law enforcement
Holland	MOT	Cannot disseminate SARs to law enforcement
USA	FINCEN	Does not disseminate information

Figure App 5. 4: Information available to LEAs

Country	FIU	Key findings
Australia	FINTRAC	LEAs have general and specific access to all SARs
USA	FINCEN	All SARs are available to a range of LEAs simultaneously
USA	FINCEN	Gateway program: Internal Revenue Service (“IRS”)/ Customs/law enforcement have access to the IRS / Detroit Computer Centre (“DCC”) mainframe. Gateway users may dial up and request data through FINCEN. Requests are logged. FINCEN track the data and match subjects and identify related cases for them

Appendix 3

Proposed new SAR processes

1. Providers of SARs submit electronic SARs to Elmer
2. Providers of SARs submit manual SARs to DMC
3. DMC faxes copies of any time critical SARs to the LU
4. DMC rejects any SARs with administrative errors
5. SARs manually input onto Elmer by DMC
6. SARs automatically searched
7. LU reviews all searched SARs on Elmer
8. LU rejects any SARs with inadequate reason for suspicion
9. LU makes recommendations on Elmer about SARs
10. All SARs initially allocated to LEAs. LEAs then review their SARs and consider LU and institutions' recommendations
11. LEAs indicate on Elmer action to be taken on each SAR (incl reallocation to another LEA)
12. IDU develops packages where requested by LEAs
13. Other SARs retained on Elmer as information only
14. IDU analyses Elmer and identifies further SARs to develop
15. IDU places developed SARs on Elmer to be accessed by allocated LEA
16. LEAs provide feedback on all SARs marked for further action

