

An inspection of Her Majesty's Revenue and Customs performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud

Revisit 2013

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Glossary

AMO	Account Monitoring Order
ARIS	Asset Recovery Incentivisation Scheme
Caseflow	Case management system for civil investigations
Centaur	Her Majesty's Revenue and Customs criminal intelligence database
CDL	Case Decision Log
CDT	Her Majesty's Revenue and Customs Risk and Intelligence Service Case Development Teams Teams responsible for creating intelligence packages for criminal investigations (renamed Intelligence Development Teams)
Criminal and Enforcement Policy	Team within Her Majesty's Revenue and Customs Criminal Investigation directorate that develops policy
CFCG	Criminal Finance Coordination Group Governance body for Her Majesty's Revenue and Customs 2013 criminal finances strategy
CFP	Criminal Finances Plan Her Majesty's Revenue and Customs' 2011 strategy for criminal finances
CFSF	Criminal Finances Strategic Framework Her Majesty's Revenue and Customs' 2007 strategy for criminal finances
CFSFS	Criminal Finances Strategic Framework Strategy Her Majesty's Revenue and Customs' 2012 strategy for criminal finances
CFSG	Criminal Finances Strategy Group Governance body for the Criminal Finance Strategic Framework Strategy and Criminal Finances Plan
Chiron	Her Majesty's Revenue and Customs Criminal Investigation directorate Electronic Case Management System
CI	Criminal Investigation directorate, Enforcement and Compliance, Her Majesty's Revenue and Customs. Directorate responsible for conducting criminal investigations.
CIF	Civil Investigation of Fraud
CET	Confiscation Enforcement Team Her Majesty's Revenue and Customs Criminal Investigation directorate team responsible for recovering assets subject to Confiscation Orders.
CMR	Case Management Report. This is an electronic living document updated monthly. It details the tactical and strategic direction and future needs of the investigation.
CPS	Crown Prosecution Service
CRCA	Commissioners for Revenue and Customs Act 2005
Criminal Finances	HMRC define criminal finances as 'the methods used by criminals to fund, move, hide or launder, and manage money within a criminal enterprise'
CSR	Comprehensive Spending Review Governmental process conducted by Her Majesty's Treasury to set firm expenditure limits for Government Departments and identify what the public can expect from the resources.

DIP	Developed Intelligence Package
DMB	Debt Management and Banking directorate, Enforcement and Compliance, Her Majesty's Revenue and Customs. Directorate that helps customers pay and enforce payment with those that refuse to comply.
DPG	Debt Planning Group Governance body in Her Majesty's Revenue and Customs, Debt Management and Banking directorate
E&C	Enforcement and Compliance Line of Business, Her Majesty's Revenue and Customs
Enforcement Handbook	Guidance, instruction and policy for Her Majesty's Revenue and Customs Criminal Investigation and Risk and Intelligence Service directorates. Available on Her Majesty's Revenue and Customs' Intranet
FCLO	Fiscal Crime Liaison Officers Her Majesty's Revenue and Customs officers based at United Kingdom Diplomatic Missions
FFDP	Fiscal Fraud Delivery Plan. Her Majesty's Revenue and Customs' strategy for tackling fiscal fraud. Superseded by the Organised Crime Strategy
FFG	Fiscal Fraud Group
FI	Financial Investigator Her Majesty's Revenue and Customs Criminal Investigation directorate accredited investigator responsible for conducting financial investigations
FRTF	Fiscal Recovery Task Force
HMIC	Her Majesty's Inspectorate of Constabulary
HMRC	Her Majesty's Revenue and Customs
IDT	Intelligence Development Teams Her Majesty's Revenue and Customs Risk and Intelligence Service teams responsible for creating intelligence packages for criminal investigations (succeeded Case Development Teams)
IG	Internal Governance Unit within Her Majesty's Revenue and Customs Criminal Investigation directorate responsible for investigating criminal offences involving employees and breaches of the Civil Service Code
LC	Local Compliance directorate, Enforcement and Compliance, Her Majesty's Revenue and Customs. Directorate responsible for ensuring public compliance with the full range of taxes and duties. Uses civil interventions to tackle non-compliance
Mass Market and Evasion	These are high volume tax and/or duty evasion offences.
Moneyweb	Suspicious Activity Report database
MTIC	Missing Trader Intra-Community Fraud A criminal attack on the Value Added Tax system involving the international carousel of goods.
NRO	National Risk Overview Her Majesty's Revenue and Customs risk assessment process for prioritising its key operational risks

OCDB	Organised Crime Delivery Board Her Majesty's Revenue and Customs governance body for its organised crime activity
OTP	Operational Tasking and Performance Team Her Majesty's Revenue and Customs Criminal Investigation directorate team. The team is headed by an Assistant Director with three other staff. The team is responsible for running a monthly meeting which is chaired by the Deputy Director, who is the E&C lead for criminal finances. At the meeting, which is attended by all senior managers the adoption and sponsorship of organised crime cases is discussed and challenged.
PACE	Police and Criminal Evidence Act 1984
PN160	A civil investigation of fraud process
PNC	Police National Computer
POCA	Proceeds of Crime Act 2002
POCA consent	If a business or individual is asked to undertake a financial transaction, for which they have suspicion, they must seek authority to proceed from the National Crime Agency. This is a Proceeds of Crime Act Consent request. If the request relates to Her Majesty's Revenue and Customs, the National Crime Agency passes it to Her Majesty's Revenue and Customs.
POCA financial tools	These are Proceeds of Crime Act 2002 orders that can be obtained from a court to secure and preserve evidence in money laundering and restraint and confiscation investigations.
RCPO	Revenue and Customs Prosecution Office
RIS	Risk and Intelligence Service, Enforcement and Compliance, Her Majesty's Revenue and Customs directorate responsible for gathering information and intelligence, risk and threats analysis and assessment and the provision of intelligence products to other directorates.
RIS CIG	Her Majesty's Revenue and Customs Risk and Intelligence Service Criminal Intelligence Group Superseded by Her Majesty's Revenue and Customs Risk and Intelligence Service Intelligence Development and Integration
RIS IA	Her Majesty's Revenue and Customs Risk and Intelligence Service Intelligence Assessment Her Majesty's Revenue and Customs Risk and Intelligence Service unit responsible for intelligence analysis and assessment
RIS ID&I	Her Majesty's Revenue and Customs Risk and Intelligence Service Intelligence Development and Integration Replaced Her Majesty's Revenue and Customs Risk and Intelligence Service Criminal Intelligence Group
RIS T&C	Her Majesty's Revenue and Customs Risk and Intelligence Service Tasking and Coordination Team that used to triage intelligence packages and oversee adoption by Her Majesty's Revenue and Customs Criminal Investigation directorate
RIS TRaVI FIU	Her Majesty's Revenue and Customs Risk and Intelligence Service Transactional Risk and Volume Intelligence Financial Intelligence Unit Team that generates intelligence packages from Suspicious Activity Reports for Her Majesty's Revenue and Customs Local Compliance directorate
SAR(S)	Suspicious Activity Report(s)

	A report made by a financial institution to the National Crime Agency regarding suspicious or potentially suspicious activity
SI	Specialist Investigation directorate, Enforcement and Compliance, Her Majesty's Revenue and Customs directorate that use the full range of civil interventions to prevent, deter and disrupt fiscal crime and serious non-compliance and avoidance and reduce the tax gap
SI Excise	Her Majesty's Revenue and Customs Specialist Investigation directorate team that utilises insolvency processes
SIP	Standard Intelligence Package
VAT	Value Added Tax
VCIT	Mass market and evasion Intelligence Teams Her Majesty's Revenue and Customs Risk and Intelligence Service teams that create intelligence packages for mass market and evasion criminal investigations

Executive Summary

Background

- I. Her Majesty's Revenue & Customs (HMRC) is the UK fiscal authority whose main responsibilities are the administration, collection¹ and (where applicable) repayment of direct and indirect taxes, duties and tax credits. It is a non-ministerial department led by Commissioners appointed by the Crown, but accountable to the Chancellor of the Exchequer.
- II. In 2009/10 Her Majesty's Inspectorate of Constabulary (HMIC) undertook an inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud. The resulting report was published in 2011 and set out 15 recommendations.²
- III. Following the inspection, HMRC developed an action plan to manage the delivery of the recommendations, with HMRC managers appointed as sponsors for each recommendation. This action plan was updated periodically and shared with HMIC.

Methodology

- IV. This report sets out the findings of HMIC's revisit, between September and December 2013, of HMRC to examine how well it had discharged the recommendations in its 2011 report. The methodology consisted of a review of key documents; 50 interviews with managers and staff across HMRC's Enforcement & Compliance directorates, and action as detailed in their plans.

Key Findings

¹ £475.6 billion tax revenue collected 2012-2013 - *HM Revenue & Customs Annual Report and Accounts 2012-13*, HMRC, London, July 2013.

² *An inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud*, HM Inspectorate of Constabulary, London, July 2011.

- V. This revisit has found that progress has been slow. HMIC considers that HMRC has failed to adhere to and implement the 2011 report's recommendations in a way HMIC would have expected.
- VI. Although HMRC had developed an action plan, there was a lack of effective governance to ensure that sufficient priority and focus was given to addressing these recommendations.
- VII. Contrary to HMRC's March 2013 action plan which stated that all recommendations had been 'closed', HMIC found that only three of the 15 recommendations have been discharged (see Annex A). These are recommendations 9, 11 and 13 which relate to international asset sharing agreements, the execution of search warrants and the effective use of Crown Prosecution Service resources to maximise the realisation of un-enforced confiscation orders.
- VIII. This revisit also established that recommendations 6, 7 and 8 have been partially discharged. Recommendations 6 and 7 are linked and relate to increasing the chances of gaining potential benefits from suspicious activity reports and ensuring appropriate checks are conducted when developing the intelligence. Recommendation 8 sets out the need to have a strategic policy on the handling of Proceeds of Crime Act 2002 statutory consent requests and their recording on an intelligence database. In the case of these recommendations, HMIC found that progress has been made, but not to the level where it can be said that they are satisfactorily discharged.
- IX. The 2011 report highlighted that the drive to focus upon recovery and disruption of criminal finances within HMRC's criminal and civil interventions came from its Criminal Finances Strategic Framework. The first recommendation of the report outlined the need for this framework to be refreshed or replaced with a new strategy and to be

underpinned by robust governance. Between 2011 and 2013, HMRC had developed two strategic plans to improve criminal finances activity. However, neither had brought about any tangible results and by the time of this revisit, neither was being pursued. HMIC considers this a missed opportunity, as a robust strategy combined with strong leadership, could have brought about the required action in response to this recommendation.

- X. This revisit established that HMRC's failure to implement recommendation 1 affected the delivery of other recommendations, namely: 2, 3, 4, 5, 10, 12, 14 and 15. These recommendations related to: development of strategic assessments to address financial intelligence gaps; development of performance measures; development of intelligence to support money laundering investigations; creation of a best practice model for the completion of financial profiles; the maintenance of detailed case financial plans; recording of positive and negative decisions; recovery of debt as a result of tax evasion and the dissemination of best practice. HMIC found that if these recommendations had been pursued with vigour, they would have raised the awareness of investigators about the potential benefits of pursuing money laundering investigations and using allied financial investigation tools. Furthermore, they would have assisted in addressing the inconsistent approach to criminal finances in case development and the investigation of criminal offences. They would also have contributed to placing criminal finances at the centre of criminal investigations.
- XI. Since June 2013, there has been a renewed recognition in HMRC of the importance of tackling criminal finances. A deputy director from the Criminal Investigation (CI) directorate has been appointed as the criminal finances lead for E&C. Criminal finances is defined by HMRC as 'the methods used by criminals to fund, move, hide or launder, and manage money within a criminal enterprise'. The deputy director has set out his

vision in his *Criminal Finance Way Forward* report³, which identifies action HMRC must take in relation to the recovery of criminal finances; financial investigation techniques and offences; regulatory responsibilities; criminal finances policy and criminal finances intelligence. A governance structure has been established to drive this work forward. There was consensus among managers and staff who were interviewed during this revisit that the identification, recovery and disruption of criminal finances have now gained a higher profile.

- XII. The recent focus by E&C on criminal finances is commendable and early indications are positive. However, HMRC's failure to implement all the recommendations of HMIC's 2011 report in an expeditious manner, means that considerable progress is still required to deliver E&C's vision as set out in the *Criminal Finance Way Forward* report.
- XIII. HMIC would like to place on record in this report its sincere thanks to all HMRC managers and staff who took part in this revisit.

³ *Criminal Finance Way Forward*, HMRC, 3 July 2013, Unpublished

Introduction

1. Her Majesty's Revenue and Customs (HMRC) is the UK fiscal authority whose main responsibilities are the administration, collection⁴ and (where applicable) repayment of direct and indirect taxes, duties and tax credits. It is a non-ministerial department led by Commissioners appointed by the Crown, but accountable to the Chancellor of the Exchequer.
2. HMRC is structured around four lines of business (each being an operational group led by a Director General), which are: Personal Tax; Business Tax; Benefits and Credits; and Enforcement and Compliance (E&C). This report relates to the work of E&C which employs about 26,000 staff at offices throughout the UK and internationally and undertakes HMRC's collection, compliance and enforcement activities.
3. Her Majesty's Inspectorate of Constabulary (HMIC) is empowered under the Commissioners for Revenue and Customs Act 2005 (CRCA) to inspect the actions and omissions of HMRC in preventing, detecting, investigating and prosecuting criminal offences.
4. In 2009/10, HMIC inspected HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud (see Annex B for terms of reference). The inspection centred on the E&C directorates of: Risk and Intelligence Service (RIS); Criminal Investigation (CI); Specialist Investigations (SI); Local Compliance (LC); and Debt Management and Banking (DMB).

⁴ £475.6 billion tax revenue collected 2012-2013 - *HM Revenue & Customs Annual Report and Accounts 2012-13*, HMRC, London, July 2013.

5. The inspection report was published in July 2011⁵ and HMIC made 15 recommendations. HMRC accepted this report and its recommendations.
6. Between September and December 2013, HMIC undertook a revisit to assess how well HMRC had implemented the recommendations in the 2011 report (see Annex C for terms of reference) and the findings are set out in this report. The methodology consisted of:
 - reviewing the action taken as detailed in HMRC's *HMIC Proceeds of Crime Action Plan*;
 - reviewing other key documents, including strategies, business plans and internal HMRC reports;
 - conducting 50 interviews of managers and staff across E&C.

Context

7. Tax and duty evasion, and benefit fraud, are criminal offences which can be dealt with by way of criminal investigation. Whilst HMRC's published policy makes it clear that the department reserves the right to investigate criminally any suspected offender within its remit, in practice criminal investigation is normally used in respect of:
 - addressing criminal attacks on the tax, duty and tax credit systems, principally those carried out by organised criminals; and
 - prosecution of selected tax and duty evaders (principally for the purpose of deterring others) who seek to take advantage of their necessary relationship with

⁵ *An inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud*, HM Inspectorate of Constabulary, London, July 2011.

HMRC as taxpayers (business and/or individual) to either suppress their tax payments or seek illegitimate tax repayments.

8. However, criminal investigation is used less often than the range of civil interventions deployed by HMRC to recover lost revenue from, and penalise, those who defraud the tax and benefit system.
9. In criminal investigations such as money laundering, assets are restrained and confiscated principally under the Proceeds of Crime Act 2002 (POCA). This legislation also facilitates the use of financial investigation tools.⁶ There is also other legislation, including the Police and Criminal Evidence Act 1984 (PACE), which provides opportunities to secure and preserve financial evidence.
10. Money laundering is defined by POCA⁷ as the process by which criminal proceeds are disguised to hide their illicit origins. An offender's possession of the proceeds of their crime falls within the definition of money laundering. It also covers activities where the proceeds of crime are concealed or disguised in order to look legitimate.
11. As part of the Comprehensive Spending Review (CSR) 2010 settlement, ministers set HMRC stretching targets for the number of people prosecuted as a result of HMRC criminal investigations for criminal activity outside the organised crime area. This covers a wide range of criminal activity, ranging from relatively small and straightforward duty/tax evasion to complex tax frauds developed and marketed by unscrupulous tax agents. In addition, specific CSR funding was directed at tackling organised crime, mainly in the areas of Missing Trader Intra-Community (MTIC) VAT fraud⁸, alcohol fraud and tobacco trafficking.

⁶ Production orders, account monitoring orders, customer information reports among other financial investigation tools.

⁷ Proceeds of Crime Act 2002, sections 327 – 329.

⁸ MTIC fraud is a method of criminal attack on the VAT system involving the international carousel of goods.

12. This resulted in an expansion of the breadth of CI casework, to take on a wider range of frauds across the tax and duty system, alongside continued activity to tackle organised criminality. Additional resources were recruited into CI at a time when the overall number of staff in HMRC was decreasing.

Recommendation 1

As the Criminal Finances Strategic Framework has not been effectively implemented, Her Majesty’s Inspectorate of Constabulary recommends that Her Majesty’s Revenue and Customs either refresh[es] the Criminal Finances Strategic Framework or replace[s] it with a new financial strategy. To ensure delivery of outcomes, this should be underpinned by robust governance.

Background

- 1.1. HMIC’s 2011 inspection report outlined how in 2007 HMRC had created a Criminal Finances Strategic Framework (CFSF). The E&C Director General had made sure that the CFSF was personally endorsed by all relevant directors within HMRC, and had obtained sign-off from the Paymaster General. It was intended that: all HMRC strategies would include a requirement for criminal finances and asset recovery action; a tactical document with performance measures for asset recovery would be created; and the CFSF would be brought to the attention of operational staff.
- 1.2. However, the 2011 report highlighted that, notwithstanding senior buy-in to the CFSF, there was: ineffective governance in driving forward its implementation; a lack of knowledge of the CFSF among staff; and no follow-up performance framework or action plan to hold directorates to account.
- 1.3. The 2011 report also documented that CI recognised the problems with the CFSF’s implementation and looked to reinvigorate work to tackle criminal finances⁹, taking the lead in developing a Criminal Finances Programme. A cross-directorate steering group was formed and a programme manager appointed to oversee activity and

⁹ HMRC defines criminal finances as: “The methods used by criminals to fund, move, hide, launder and manage money within a criminal enterprise”.

make sure there were effective outcomes. The programme envisaged that it would take five years to achieve the level of desired performance improvement outcomes.

HMIC findings

- 1.4. The CFSF never achieved its objectives. It remained on the HMRC website until October 2013, but by this time it did not represent HMRC's strategic vision in relation to criminal finances and it had not been amended since the original inspection had been undertaken.
- 1.5. The CI's Criminal Finances Programme that was being developed during the time of the original inspection has not achieved its objectives. In addition, none of those interviewed during this revisit were aware of it.
- 1.6. Since the 2011 inspection report, HMRC has made three attempts to create a criminal finances strategy to replace the CFSF.
- 1.7. HMRC's first HMIC Proceeds of Crime Action Plan, dated 11 June 2011, stated: "A new criminal finances plan is being developed"¹⁰. Called the 'Criminal Finances Plan' (CFP), this document reflected the aspirations of the CFSF. In its introduction, it stated that it was "cross-cutting and set out eight workstreams that are relevant across regimes and in both a civil and criminal context" and that "these workstreams will inform, support and be coordinated with parallel departmental strategies." As recommended in the 2011 report it also set out a robust governance structure, stating:

"The plan will be governed by the Criminal Finances Strategy Group (CFSG) made up of representatives from Enforcement and Compliance and other directorates. The

¹⁰ *HMIC POC Action Plan*, HMRC, 11 June 2011, Unpublished

group is chaired by the head of the Criminal and Enforcement Policy team, which also provides the secretariat. The CFP will operate as eight workstreams with accountable leads and delivery plans for each. The delivery plans include the operations of business as usual processes and policies with performance measures, as well as specific projects and deliverables with milestones”¹¹

Although the CFP was ratified by the Fiscal Fraud Group in 2011, it was replaced before it could deliver any tangible results by the Criminal Finances Strategic Framework Strategy (CFSFS).

- 1.8. The CFSFS was commissioned by the chair of the Criminal Finances Strategy Group in 2012. It set out five elements to improve criminal finances intelligence, tackle money laundering and maximise the recovery of criminal assets. As with the CFP, this new CFSFS identified key deliverables and had an identified governance structure. Unfortunately, as with the Criminal Finances Plan, it did not deliver any tangible results. In June 2013, the CI Director appointed one of his deputy directors as the criminal finance lead for E&C. The deputy director articulated his vision in the *Criminal Finance Way Forward* report.

This outlines five workstreams:

¹¹ *Criminal Finance Plan*, HMRC, 2011. Unpublished

1. Recovery
2. Financial investigation techniques and offences
3. Regulatory responsibilities¹²
4. Criminal finances policy
5. Criminal finances intelligence

1.9. In workstream 2, the deputy director succinctly outlined his objective and underlined the lack of progress made in maximising criminal finances to that date:

“as the lead agency for all forms of fiscal fraud, we have to move beyond the rhetoric of saying that financial investigation is at the heart of what we do, towards making this a reality”.¹³

1.10. The Director General E&C has signed up to the work encapsulated in the *Criminal Finance Way Forward* report and senior managers have been designated as leads for each of the five workstreams. Governance is provided through the Criminal Finance Coordination Group (CFCG). This includes representatives from some, but not all, E&C directorates. The Criminal Finance lead is aware of the importance of getting the right membership on this Board and is reviewing this periodically, in order to achieve buy-in from all relevant directorates.

1.11. The CFCG, in turn, reports to the Organised Crime Delivery Board (OCDB). This governance structure appears robust, as all E&C directors are represented on this Board.

¹² HMRC has statutory responsibility under the Money Laundering Regulations 2007 to supervise money service businesses, high value dealers, trust or company service providers and accountancy service providers.

¹³ *Criminal Finance Way Forward*, HMRC, 2013, Unpublished

- 1.12. The strategy outlined in the *Criminal Finance Way Forward* report and in a recent update (*HMRC's corporate response to tackling criminal finances*¹⁴), is relevant to both mass market and evasion (these are high volume tax and/or duty evasion offences) and organised crime investigations. As part of the CSR 2010 settlement, ministers set HMRC stretching targets for the number of charges brought in CI cases. During the revisit interviews, there was recognition among the senior managers that there is an inherent tension between these cases throughput targets, and the desire to place financial investigation at the heart of all investigations because of the pressure to hit the performance target. A further challenge is posed by OCDB's separation from the governance of mass market and evasion, which is governed through the Mass Market and Evasion Delivery Board.
- 1.13. In summary HMRC had developed two criminal finances strategic plans between 2011 and summer 2013, but neither of these led to any material progress. The objectives in the CFSF that: all HMRC strategies should require action in relation to criminal finances and asset recovery; and a tactical document with performance measures for asset recovery should be created have not been delivered.
- 1.14. There was a consensus across all the interviews conducted during this revisit that the strategic focus on criminal finances has markedly increased since the appointment of the current E&C lead in June 2013.

However, this renewed focus – some two years after the original report – is at such an early stage it has not delivered the recommendation.

Therefore, HMIC finds that recommendation 1 has not been discharged.

¹⁴ *HMRC's corporate response to tackling criminal finances*, HMRC internal document

Recommendation 2

Her Majesty's Revenue and Customs has produced insufficient financial strategic intelligence assessments to inform the National Risk Assessment. Her Majesty's Inspectorate of Constabulary recommends that the Fiscal Fraud Group commissions sufficient strategic assessments to address the financial intelligence gaps, so that this can be used to inform the correct risk assessment of these categories within the National Risk Overview.

Background

- 2.1 HMIC's 2011 inspection report outlined how HMRC's Fiscal Fraud Group (FFG) used its annual national risk overview (NRO) process to prioritise the key operational risks. It explained how these ultimately determined operational activity, and how the NRO is created from threat assessments conducted by the Risk and Intelligence Service's (RIS) strategic analysts in E&C.
- 2.2 The 2011 report details how the money laundering risk in the NRO only focused on businesses that HMRC supervises under the Money Laundering Regulations 2007. In 2009/10, the FFG had called for prioritised early RIS intelligence assessments to address the intelligence gaps in relation to criminal finances and other areas.

HMIC findings

- 2.3 Since the 2011 report the processes by which HMRC prioritises its key operational risks have changed. HMRC's new Organised Crime Strategy and the Organised Crime Delivery Board, which provides its governance, have superseded the NRO and the FFG.

- 2.4 When the current E&C lead for criminal finances was appointed in June 2013, HMRC still had no holistic criminal finances strategic assessment. As a result, he commissioned RIS Intelligence Assessment (RIS IA) to produce HMRC's first strategic assessment to examine criminal finances in the round. The strategic assessment was written as an HMRC internal document, entitled *Criminal Finances and HMRC: What Do We Know?*
- 2.5 HMRC interviewees stated that there are substantial and significant intelligence gaps in the strategic assessment. RIS IA is actively seeking to fill these gaps through the following ways:
1. A revised strategic intelligence requirement was in production during the revisit. It will articulate RIS IA's requirements and will have greater focus on criminal finances than previous iterations.
 2. Specific strategic assessments will be commissioned, examining criminal finances in relation to different HMRC regimes¹⁵.
 3. The lead for workstream 5 (criminal finances intelligence) has been tasked by the Criminal Finance Coordination Group to ensure the capture, analysis, and distribution of relevant criminal finances intelligence. This will inform strategic and tactical decision making at a policy, process or operational level.
- 2.6 Prior to the appointment of the current lead for criminal finances, little action had been taken to address this recommendation since the publication of the inspection report in July 2011. There continue to be large intelligence gaps relating to the methods used by criminals to fund, move, hide or launder, and manage money within a criminal enterprise. However, the production of the strategic assessment, although

¹⁵ HMRC regimes are types of offences - including alcohol and tobacco duty evasion, indirect tax evasion and direct tax evasion.

not directly in response to the recommendation, is a significant step in facilitating HMRC's development of a more rounded intelligence picture in relation to criminal finances. Processes are being developed to fill the current intelligence gaps.

However, at the time of writing, these processes are in their infancy and **HMIC finds that this recommendation has not been discharged.**

Recommendation 3

Her Majesty's Revenue and Customs lacks robust, accurate performance information and integrated measures and targets for the panoply of its proceeds of crime activity. Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs ensure and assures the accuracy of performance information to facilitate the requisite development of robust measures for directorate and cross-directorate business plans that demonstrate the mainstream use of financial asset recovery tools and processes (as envisaged in the Criminal Finances Strategic Framework).

Background

- 3.1 HMIC's 2011 inspection report outlined how the Criminal Finances Strategic Framework (CFSF) had envisaged that regime-specific (HMRC regimes are types of offences – including alcohol and tobacco duty evasion, indirect and direct tax evasion) strategy owners would develop operational plans, which would enable HMRC to deliver the Framework's requirements. Also, the CFSF placed responsibility for detailing how HMRC would deliver these requirements on directorates and business areas. These operational plans were to be in tune with the priorities, key activities and expected operational responses articulated in HMRC's Fiscal Fraud Delivery Plan (FFDP).
- 3.2 The 2011 report highlighted that E&C directorate performance indicators, where they existed, differed from those in the FFDP and there was no clear 'line of sight' between the performance targets for each directorate and the expectations in the FFDP. In addition, neither the RIS, SI, nor Internal Governance (IG) business plans gave any recognition to the CFSF and did not articulate clearly any of its principles or objectives.

HMIC findings

- 3.3 The May 2011 Criminal Finances Plan outlined specific performance measures to underpin its objectives in preventing fraud and money laundering by disrupting and dismantling criminal organisations, investigating their members and recovering criminal assets. However, as stated above¹⁶, this plan was never fully implemented.
- 3.4 The current E&C lead for criminal finance's *Criminal Finance Way Forward* report includes a workstream focusing on the development of criminal finances performance measures and targets. The lead for this workstream has been tasked with creating a raft of criminal finances measures for CI. This was due to be presented to the Criminal Finance Coordination Group in early December 2013. This performance framework plans to include indicators and targets for other directorates in relation to activity that supports CI's criminal finances activities. A RIS manager has also been tasked to develop performance indicators for RIS. The Organised Crime Delivery Board aims to provide the governance and oversight for this performance framework in order to hold directorates to account.
- 3.5 The developing performance framework, however, will not include targets for those 'business as usual' activities conducted by other directorates that do not directly support CI operations. Those leading on criminal finances favour the option of expanding the criminal finances performance framework to include indicators and targets for other directorates' 'business as usual' activity. HMIC supports this view.
- 3.6 The 2011 inspection report recommended that HMRC develops measures for directorate and cross-directorate business plans that demonstrate the use of financial asset recovery tools. This has not been done.

¹⁶ See above, paragraph 1.7

- 3.7 Senior managers concede that there is still a lack of performance measures relating to criminal finances activity. In the summer of 2013, the E&C lead for criminal finances commissioned the CI Operational Tasking and Performance Team (OTP) to undertake a review of CI casework in order to “gain a snapshot view of the situation in relation to criminal finance and recovery”¹⁷. The review found that, “there has been little use or development of performance measurement indicators”¹⁸ and “financial performance boards do not exist or are extremely outdated. There is a paucity of meaningful management information to assist with performance management”¹⁹.
- 3.8 There is recognition among those currently leading on criminal finances within HMRC that the creation of such measures and targets are vital. It is only with a robust performance management framework that their ambition - namely that the identification, recovery and disruption of criminal finances becomes the heart of everything that HMRC does – will become a reality.
- 3.9 HMIC welcomes the work being undertaken as part of workstream 1 which is ‘recovery’ of the *Criminal Finance Way Forward* report. However, this is two years after the recommendation was made. Significant further work is required to create the required performance measures for directorate and cross-directorate business plans. **Therefore, HMIC finds that this recommendation has not been discharged.**

¹⁷ *OTP Review: Criminal Finances and Recovery*, HMRC CI Operational Tasking and Performance, 23 September 2013, Unpublished, paragraph 1.1

¹⁸ *ibid.*, paragraph 3.6

¹⁹ *ibid.*, paragraph 4.16

Recommendation 4

The development of intelligence to support money laundering investigations is not undertaken in all criminal intelligence casework. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service Tasking and Coordination and Internal Governance Intelligence ensure that this is undertaken in all Her Majesty's Revenue and Customs criminal intelligence development packages.

Background

- 4.1 HMIC's 2011 inspection report recorded that RIS Case Development Teams (CDTs) and IG Intelligence was not routinely developing intelligence to support money laundering investigations in all their criminal intelligence casework. Occasionally, limited lifestyle assessments of suspects were conducted to identify suspects' assets. However, there were few examples where CDTs or IG Intelligence were analysing money flows to identify the scope of the criminality and those involved in the crimes.

HMIC findings

- 4.2 The appointment of a new deputy director in RIS in 2012 and CI's increased focus on mass market and evasion cases in response to the CSR 2010 settlement, have led to changes in RIS's criminal intelligence development processes. At the time of this revisit, new procedures were in place for the creation of organised crime and mass market and evasion²⁰ intelligence packages, as detailed below.

²⁰ These are high volume tax and/or duty evasion offences

Organised Crime

4.3 RIS determined that the tasking and coordination process in place at the time of the original inspection was inefficient as many cases being developed by CDTs were not adopted by CI. RIS Tasking and Coordination was therefore disbanded in early 2012. In its place, RIS and CI jointly created a 'sponsorship and adopt' process, managed and ratified at Deputy Director level through monthly joint OTP meetings. This process requires, RIS Intelligence Development Teams (IDTs)²¹ to liaise with CI branches at an early point during the development of organised crime intelligence packages. The IDTs then only continue development of those packages which CI agrees to 'sponsor'; these cases will meet CI basic case requirements and match CI priorities. CI then have the opportunity to direct the focus of case development. Formal sponsorship and adoption of developed cases only takes place at OTP meetings. The inspection revisit identified that, contrary to what was recorded, not all intelligence casework has a money laundering aspect.

Mass market and evasion

4.4 CI receives most of their mass market and evasion casework from three sources: RIS Volume Crime Intelligence Teams (VCIT), outreach engagement with LC officers and LC campaigns. VCIT create brief intelligence packages but these do not look at potential money laundering. The casework that stems from campaigns and outreach is not channelled through RIS and therefore has not been subject to any intelligence development by the time it is adopted by CI.

Internal Governance

²¹ Case Development Teams have been renamed Intelligence Development Teams to reflect their full remit.

- 4.5 Internal Governance has restructured its approach to criminal investigation and now embeds intelligence officers within their criminal investigation teams. This new structure has improved intelligence development in IG cases. The IG officers interviewed during this revisit were working solely on high profile cases. Money laundering intelligence had been developed on these; however we were told that this would not necessarily happen on smaller cases.
- 4.6 HMRC's *HMIC Proceeds of Crime Action Plan* states that this recommendation has been superseded by organisational change, as RIS T&C has been disbanded. HMIC contests that the recommendation focuses upon the importance of developing intelligence to support money laundering investigations in all criminal intelligence casework whatever the organisational structure. This revisit highlighted that RIS IDT's only develop money laundering intelligence where they deemed it appropriate and that under the new 'sponsorship and adopt' process, this is not mandated for all organised crime casework. A CI manager said that in their opinion this remains a big gap. Those intelligence packages that have been created for mass market and evasion cases do not develop intelligence to support money laundering and IG does not mandate the development of intelligence to support money laundering investigations in all cases. HMIC accept the need to develop intelligence to support money laundering investigations in all mass market and evasion cases is not appropriate, necessary nor proportionate, hence the recommendation is not relevant to mass market and evasion cases.

Therefore, specifically with reference to organised crime cases, **HMIC finds that this recommendation has not been discharged.**

Recommendation 5

There is [are] considerable inconsistencies in the scope and detail of financial profiles for criminal intelligence development. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service Criminal Intelligence Group create a best practice model for the completion of financial profiles by all Case Development Teams and Internal Governance Intelligence, to include the mandatory consideration and recording of the use of Proceeds of Crime Act financial tools.

Background

5.1 HMIC's 2011 inspection report set out findings from the examination of the financial profiles relating to individuals that had been investigated in 10 cases. These highlighted considerable inconsistencies in their scope and level of detail. The report adds that the financial profiles created for an organised crime investigation, called Operation Wizardry, were comprehensive and informative, and should be disseminated to all Case Development Teams (CDTs) as an example of best practice.

HMIC findings

5.2 The Enforcement Handbook (guidance, instruction and policy for CI and RIS) now references the financial profile in Operation Wizardry as constituting best practice. HMIC's search of the Enforcement Handbook found a financial profile template. This required the completion of personal and financial details but importantly did not include any reference to POCA financial investigation tools. Moreover, few of the operational RIS officers interviewed were aware of there being a best practice model.

- 5.3 The financial profiles audited during this revisit revealed that inconsistencies in scope and level of detail remain. This was echoed in interviews that HMIC undertook with CI financial investigators.
- 5.4 As outlined above²², the new ‘sponsorship and adopt’ procedure means that Intelligence Development Teams (IDTs) only develop those areas of intelligence that CI request. Therefore, it is possible for an IDT package to be adopted by CI without a financial profile having been conducted.
- 5.5 In mass market and evasion packages created by Volume Crime Intelligence Teams (VCIT), there is a very basic financial intelligence profile which, in some CI branches, is developed by the CI financial investigator after the case has been adopted.
- 5.6 There is no best practice template for creating financial profiles for IG Intelligence packages. The comprehensiveness of the profile created would depend on the nature of the intelligence received.
- 5.7 The Operational Tasking and Performance Team’s (OTP) review preceded HMIC’s revisit and it was critical of the quality of intelligence packages and financial profiles being received by CI. It states:

“In general, the packages for case adoption decisions are incomplete and thin regarding the financial profile an assessment of the crime and the targets ... The depth and quality of profiles appear to be influenced by a number of factors. Worryingly, it now appears to be business as usual

²² See above, paragraph 4.3

and acceptable for many managers to then use CI resource to address these gaps as part of the investigation”²³

- 5.8 It was recognised by many financial investigators, CI assistant directors and the E&C criminal finance lead that a comprehensive financial profile should be more than just a series of basic database checks. This revisit established that it was not common knowledge in the organisation that best practice templates existed; that different methods were being used to record financial information; and that the term ‘financial profile’ continued to mean different things to different people. **Therefore HMIC finds that this recommendation has not been discharged.**

²³ *OTP Review: Criminal Finances and Recovery*, HMRC paragraph 4.8

Recommendation 6

Her Majesty's Revenue and Customs does not maximise the potential benefits of Suspicious Activity Report intelligence. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service establish[es] an effective governance, management, prioritisation and performance regime for the use of Suspicious Activity Reports.

Background

6.1 HMIC's 2011 inspection report outlined how the Serious Organised Crime Agency (SOCA)²⁴ was the UK's appointed Financial Intelligence Unit (FIU), which received financial reports of suspicious activity (SARs)²⁵ provided by businesses, public bodies and individuals acting under a legislative requirement set out in POCA 2002. The SARs were recorded onto a SOCA administered database called *Elmer*. HMRC was the biggest recipient of SARs data and had officers embedded in SOCA. The SARs data generated intelligence packages which provided intervention opportunities for CI, SI and LC. CI and RIS officers also had access to the SARs database *Moneyweb* and searched this in relation to their cases. *Moneyweb* is an internet-based version of *Elmer* and was created to allow UK law enforcement agencies the opportunity to interrogate the database. There is a time delay of seven days before information entered onto *Elmer* appears on *Moneyweb*.

6.2 The 2011 report referred to a 2009 internal HMRC report that concluded there was:

- no 'joined up' approach to SARs work;

²⁴ SOCA was replaced by the National Crime Agency in October 2013

²⁵ A report made by a financial institution to the National Crime Agency regarding suspicious or potentially suspicious activity.

- nothing to suggest that there is any coherent overview of the intelligence contained in SARs as a whole;
- prioritisation for action across the whole of received SAR reporting was not optimised;
- no overall feedback mechanism to assess how SARs were used in HMRC or the results achieved; and
- no way that the credibility and usefulness of the SARs reporting regime to HMRC as a whole may be reliably assessed.

The 2011 report confirmed these findings were still relevant and concluded that an action plan should be created to determine and take forward solutions for these issues.

HMIC findings

- 6.3 In response to the 2011 inspection report, RIS created a *SARs Action Plan* to address the shortcomings highlighted in the report. Its main recommendation was to make best use of the opportunities afforded by SARs.
- 6.4 HMRC is the biggest recipient and user of SARs intelligence. It conducts key word searches across the 300,000 SARs it receives annually. The *SARs Action Plan* looked to introduce a mechanism to assess all of these against other HMRC databases, in order to identify those with the greatest potential for civil or criminal intervention. From 2012, under the auspices of the 'SARs to CONNECT' project, RIS agreed with SOCA and now the NCA to transfer SARs data on a monthly basis into HMRC's *Connect* database. This was intended to allow SARs data to be checked against HMRC databases and against specific criteria developed by HMRC, and forwarded to RIS to create intervention opportunities.

- 6.5 Originally scheduled to be operational in early 2013, the first time SARs data was run through *Connect* was in November 2013.
- 6.6 At the time of the revisit, two RIS teams produced intelligence packages from SARs intelligence. The first team was the Transactional Risk and Volume Intelligence Financial Intelligence Unit (TRaVI FIU)²⁶ which developed standard intelligence packages for civil intervention by LC officers. The second team was the SARs team located in London Custom House that creates Developed Intelligence Packages (DIPs) for CI and SI.

SARs development for Local Compliance

- 6.7 As was the case in 2009, TRaVI FIU was tasked each year to produce 3,500 SARs derived standard intelligence packages for LC teams, with specified numbers relating to VAT and direct tax. In order to achieve this, it examined 20,000 to 25,000 of the 300,000 SARs that HMRC receives annually. The 'SARs to CONNECT' project presents potential for greater efficiencies to be realised and for the higher value cases to be identified.
- 6.8 At the time of HMIC's revisit to the TRaVI FIU, it had just received the first output from 'SARs to CONNECT' due to delays outside HMRC's control. This was the first cut of data and was a trial to test the profiles and not the final product. HMRC recognised issues with the quality and are refining the process.
- 6.9 Since 2011, all standard intelligence packages have been placed on *Caseflow* (a case management system for civil investigations) and TRaVI FIU track what happens to them once they are passed to LC. Previously, the team did not have sight of the operational results of the intelligence it generated, but *Caseflow* appears to have

²⁶ The Centre for Risk and Intelligence had been renamed Transactional Risk and Volume Intelligence Financial Intelligence Unit in 2012

provided this. This has enabled the development of what is termed as a 'strike rate' performance target. This relates to the proportion of standard intelligence packages accepted by LC that result in financial recovery. Since 2012, the TRaVI FIU has also undertaken additional proactive work to increase and improve SARs utilisation.

6.10 At the time of this revisit, the 'strike rate' performance target was set at 30 per cent with a plan to increase it to 40 per cent by the 31 March 2014. In response to this more ambitious target, individuals (known as 'evasion single points of contact') had been appointed in each region to champion the use of SARs derived standard intelligence packages and to increase knowledge amongst LC officers. The TRaVI FIU highlights those LC offices that have the lowest strike rate and liaises with the 'evasion single points of contact' in these locations to drive up performance.

6.11 RIS regularly runs campaigns intended to promote compliance by taxpayers. Standard intelligence packages generated from these campaigns are the highest priority cases for LC teams to investigate. Historically, SARs data has not been used to inform the way campaigns target those trade sections or individuals where compliance is low. However, in 2012, TRaVI FIU ran the names of the targets of the Tax Return 2 campaign against *Moneyweb* and those that matched were prioritised for fast track intervention. In doing this it identified individuals suspected of not complying who would not otherwise have been identified by RIS. There is potential for this model to be replicated in the future.

SARs development for Criminal Investigation directorate and Specialist

Investigation directorate

6.12 In November 2013, the Custom House SARs team was provided with its first monthly output of data from the 'SARs into CONNECT' project. This consisted of the top 100 risk assessed packages where SARs related to more than £500,000. Initially, these

were prioritised through a triage system, with those not suitable for SI or CI intervention being referred to LC. The team, in consultation with CI and SI then determined which of the remaining packages should be developed into intelligence packages and adopted by CI and SI. Cases that are not adopted by CI or SI are returned to TRaVI FIU for either consideration of LC action or retained for future *Connect* comparison.

- 6.13 The London SARs Team enters developed intelligence packages onto the *Caseflow* system; CI does not have access to this system. Therefore, the SARs team cannot track the results of those developed intelligence packages that are sent to CI. To establish results the London SARS team has to proactively examine CI cases. Where SARs intelligence has been used, they contact the case team for details, but the feedback is not always reliable. The team has also written to all HMRC *Moneyweb* users, to remind them that they are mandated to provide feedback regarding the use of SARs intelligence, as a requirement of the *Moneyweb* licence. However, HMIC found during this revisit that this is not done in all instances.
- 6.14 The lack of robust feedback systems results in HMRC not being able to quantify accurately the benefit achieved by HMRC's use of SARs. HMRC was also unable to provide HMIC with evidence of a robust governance structure for the use of SARs; one that oversees both RIS's use of SARs and action from other directorates that result from SARs' derived intelligence.
- 6.15 HMRC work in developing the 'SARs to CONNECT' project is commendable, but as the project did not go live until November 2013, it is too early to determine how effective it will be.
- 6.16 In order to maximise its use of SARs, it remains imperative that HMRC develops:

- systems to ensure that SARs derived intelligence packages are actioned by recipients within the Department;
- processes to determine the extent of operational successes that stem from SARs intelligence

6.19 This revisit established that the TRaVI FIU has systems to manage, prioritise and measure the effectiveness SAR's. However, this is not wholly the case for the London SARs team whose focus is narrower. **Therefore HMIC finds that this recommendation has been only partially discharged.**

Recommendation 7

Police National Computer and Centaur checks are not conducted on all Suspicious Activity Report derived standard intelligence packages. Her Majesty's Inspectorate of Constabulary recommends that Centre for Risk and Intelligence management ensure that these checks are conducted on all Standard Intelligence Packages developed from Suspicious Activity Reports and processed in accordance with the *Enforcement Handbook*.

Background

7.1 HMIC's 2011 inspection report highlighted that SARs processed by RIS Centre for Risk and Intelligence (CRI) into standard intelligence packages for action by compliance officers were not being checked against the Police National Computer (PNC) or HMRC's *Centaur* criminal intelligence database. This created the possibility that police or HMRC criminal investigations could be compromised. The team creating the standard intelligence packages were working on a flawed premise that any SARs relating to persons of interest on PNC or *Centaur* would be flagged on the SARs database; thus removing the requirement for them to conduct these checks.

HMIC findings

7.2 This revisit established that TRaVI FIU (formerly CRI) now complete *Centaur* checks on all the standard intelligence packages it produces. All developed intelligence packages produced by the RIS SARs team located in London Custom House are subject to *Centaur* checks by the RIS National Coordination Unit prior to being forwarded to CI or SI.

7.3 However as at the time of the original inspection, standard intelligence packages are still not routinely subject to PNC checks. When asked the reason for this, HMRC put forward an explanation that it was disproportionate and not practical given the volume of standard intelligence packages. This was supported by a three month trial in 2012 conducted by HMRC where all SARs derived standard intelligence packages were checked on PNC. The results showed that in 6% (11 of 164 cases) there was a health and safety concern and this trial demonstrated to HMRC that blanket PNC checks would be disproportionate. It should be noted that PNC checks can be undertaken at any stage of an investigation. The PNC checks are always undertaken where the SAR, *Centaur* or an internet search indicates that the individual identified in the SAR may pose a physical risk to HMRC officers.

7.4 In summary, this revisit established that *Centaur* checks are now completed in all cases but that PNC checks are not being routinely conducted on intelligence packages. **Therefore HMIC finds that this recommendation has been only partially discharged.**

Recommendation 8

The HMRC team embedded in the Serious Organised Crime Agency have refused less than 10 per cent of Proceeds of Crime Act consent requests it received in each of the last four years. HMIC recommends that HMRC develops a strategic policy on the handling of Proceeds of Crime Act 'Consent' requests, implement a formal national referral process, and ensures details of all refused Proceeds of Crime Act 'Consent' requests are recorded on Centaur. HMIC further recommends that HMRC should engage with the financial sector to understand and address the drop in Proceeds of Crime Act 'Consent' referrals.

Background

- 8.1 HMIC's 2011 inspection reported that if a financial institution, business or individual was asked to undertake a financial transaction which they were suspicious about, there was a statutory (Proceeds of Crime Act 2002) requirement for them to seek the appropriate consent (referred to as a 'POCA consent') from SOCA (now the NCA) to proceed. SOCA then had seven days to decide whether to refuse consent for the transaction to take place.
- 8.2 The 2011 report highlighted that there was no formal system for the referral of 'POCA consents' from the HMRC team embedded in SOCA to the operational teams in RIS. It also found that a significant number of consent requests were allowed to proceed, simply because there were insufficient resources in HMRC to deal with the requests. This created a risk to the opportunity to recover criminal finances and problems for any subsequent investigations.

HMIC findings

- 8.3 As part of this revisit HMIC interviewed the RIS Consents and Bank Liaison Team which was responsible for managing ‘POCA consents’ and liaising with banking institutions. They confirmed that HMRC has not developed a strategic policy on the handling of ‘POCA consents’ and has not implemented a formal national referral process for consents. In addition, ‘POCA consent’ requests that are refused are not recorded on *Centaur*, as the RIS Consents and Bank Liaison Team had decided that it was not a proportionate thing to do.
- 8.4 Although the RIS Consents and Bank Liaison Team was hosting a seminar with representatives from the financial sector during the revisit, HMIC found that face-to-face liaison with the financial sector is not regularly undertaken due to limited resources for travel and subsistence.
- 8.5 HMRC’s *HMIC Proceeds of Crime Action Plan* states that it is “working with the financial sector to work jointly on awareness and ensuring the risk picture is captured and that includes looking at the use of *Centaur*.”²⁷ If HMRC has determined that consent requests should not be recorded on *Centaur*, this should also be set out in the action plan. With the exception of the RIS Consents and Bank Liaison Team’s increased liaison with the financial sector, HMRC has not made any real progress with this recommendation, therefore, **HMIC finds that it is only partially discharged.**

²⁷ *HMIC POC Action Plan.*

Recommendation 9

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

Background

9.1 HMIC's 2011 inspection report highlighted that HMRC, having identified Dubai as a major conduit and destination for the proceeds from Missing Trader Intra-Community (MTIC) VAT fraud²⁸, instigated negotiations with Dubai authorities to develop asset-sharing agreements. However, this was an isolated case. The report further detailed that there were ongoing asset-sharing treaty discussions, led by the Home Office with five countries. However, HMRC had not sought engagement in or contributed to these discussions.

HMIC findings

9.2 HMRC is now working with the Home Office Cyber and Financial Crime Unit, which leads on asset-sharing agreements with other countries. HMRC is also now represented on the appropriate taskforces.

9.3 HMRC is also continuing to liaise actively with the Dubai authorities to overcome recent challenges to the asset-sharing agreements it has with them.

²⁸ MTIC fraud is a method of criminal attack on the VAT system involving the international carousel of goods.

- 9.4 HMRC's network of Fiscal Crime Liaison Officers (FCLO) posted in UK diplomatic missions abroad is increasingly focused on the recovery of criminal finances. An initiative highlighted to HMIC was where the FCLO network and the CI Confiscation Enforcement Team have worked directly with the Spanish revenue authorities to identify individuals with assets in Spain who are subject to unenforced POCA confiscation orders. This initiative is producing intelligence packages for action by Spanish customs.
- 9.5 HMIC is confident that, at the time of this revisit, HMRC was engaging proactively with those stakeholders such as the Home Office, responsible for the negotiation of international asset-sharing agreements. HMIC also welcomes the increased focus on the recovery of criminal finances by HMRC's FCLO network. **Therefore HMIC finds that this recommendation has been discharged.**

Recommendation 10

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

Background

- 10.1 A key objective in the Criminal Finances Strategic Framework (CFSF) was to identify “opportunities to further undermine criminal financial gains by pursuing money laundering offences in addition (or as an alternative) to other offences”²⁹.
- 10.2 HMIC’s 2011 inspection report highlighted that CI policy dictated that a Financial Investigator (FI)³⁰ must be appointed at the start of all investigations. This FI would primarily be responsible for undertaking a money laundering investigation. A separate FI should also be appointed to handle the restraint and confiscation aspect of the investigation. Limited resources had reduced CI’s ability to deliver this policy, and forced it to prioritise money laundering investigations to the most serious cases.
- 10.3 There was also inconsistency in the approach to the use of the financial orders provided by POCA.
- 10.4 The aim of this recommendation was to encourage CI teams to put financial enquiries at the centre of the investigation, and to consider the use of money laundering and POCA financial investigation tools.

²⁹ *An inspection of HMRC’s performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud*, paragraph 3.1.

³⁰ An FI is an accredited officer responsible for conducting the financial enquiries in an investigation.

HMIC findings

- 10.5 CI was unable to provide details of any activity it had undertaken prior to late 2013 as a result of this recommendation.
- 10.6 CI is structured across three regions. The head of each region has considerable autonomy in the structure of his or her team. HMIC believes that this leads to inconsistent approaches to investigation across the directorate.
- 10.7 At the time of this revisit, the use of accredited FI's varied across the regions. In all regions there were FIs from Financial Investigation Teams (FIT) co-located with the case team investigators³¹. These officers primarily focused on restraint and confiscation actions which generally commence after conviction. One region, additionally, also embedded FIs within the operational case teams. In the regions that did not have embedded FIs, the FIT financial investigators' focus was overwhelmingly on POCA restraint and confiscation, with little attention given to the other potential financial elements of the investigation.
- 10.8 This is reflected in the use of financial strategies. CI case managers were mandated to maintain a case management record (CMR) for each investigation. This should have included the investigative strategy and plan; details of the investigation team; and a summary of progress and targets. The CMR template included a section for the restraint and confiscation plan, but lacked a section for a 'holistic case financial plan'. However, there are prompts to seek financial investigator support and guidance. The entries in CMR restraint and confiscation plans varied in length and quality. During this revisit there was evidence of CMRs that were not regularly updated to reflect developments in the financial aspect of the case.

³¹ The CI case team investigators investigate the range of HMRC offences, both organised and mass market and evasion. Aside from an input within their foundation training, they have not received any accredited financial investigation training.

- 10.9 HMIC found only a few examples where CMRs showed that there had been broader financial planning. The restraint and confiscation plans for some organised crime investigations – especially those where money laundering charges were being pursued - included more detailed financial plans and details of how POCA financial investigation tools and money laundering were being used to further the investigation. However, this was not the case in all organised crime investigations. CMRs relating to mass market and evasion investigations conducted in branches also lacked evidence that financial investigation was being conducted without appropriate explanation. HMIC’s revisit echoed the findings of HMRC’s Operational Tasking and Performance (OTP) report that concluded, “financial planning has been poor”³².
- 10.10 Assurance of CMRs is provided through monthly reviews by the senior officer on each investigation. This is supplemented, on organised crime investigations, by a monthly review by the branch assistant director and a quarterly critical review by the regional deputy director, often with input from the OTP. Although the assistant directors review all organised crime CMRs, there was no requirement for them to sign off cases where money laundering is not to be pursued. Therefore, this aspect of the recommendation has not been actioned. Mass market and evasion investigations because of the high volume are not routinely assured by assistant directors. This assurance gap could be addressed if CI Branch Assurance Managers (these are HMRC officers who are tasked with assuring operational activity, systems and key management actions of the branch) were tasked to quality assure the completion of the CMRs.
- 10.11 This revisit revealed that inconsistencies were not limited to the completion and maintenance of financial plans. The requirement for investigators to actively consider money laundering in all cases is not being met.

³² *OTP Review: Criminal Finances and Recovery*, HMRC paragraph 4.2

- 10.12 Case teams' use of financial investigation tools also remained sporadic. In one team with embedded FIs they were regularly using production orders in every investigation and actively considering the use of other POCA orders. However, this was not the case in any of the teams that did not have embedded FIs.
- 10.13 This revisit identified two main reasons for the absence of any consideration of money laundering and the use of POCA financial investigation tools.
- 10.14 First, CI has been driven by the performance targets for increased charging decisions stemming from the CSR. This has largely led to mass market and evasion investigations being narrowly focused on the primary offence and not on money laundering, in order to maximise case throughput. Interviewees mentioned two cases that had clear money laundering elements, where money laundering investigations had not been conducted alongside the primary offence, due to insufficient resources. Resolving the tension between case throughput targets and the importance of placing financial investigation at the core of all investigations remains a clear challenge for HMRC.
- 10.15 Second, interviews with investigators revealed that many still lack an understanding of the potential benefits of pursuing money laundering investigations. Many were under the mistaken belief that if the offender had no assets, there would be no benefit in considering money laundering and using the associated POCA financial investigation tools. There was also a mistaken belief among many case team investigators that POCA financial investigation tools, such as account monitoring orders, could only be utilised by a financial investigator – an issue highlighted in the OTP report³³. Investigators from other teams explained how they have recognised the value of POCA orders only after they have been used by colleagues.

³³ *ibid*, paragraph 4.2.

10.16 The OTP review findings are consistent with those of this revisit. The OTP was critical of financial investigation in CI. In particular, it highlighted regional inconsistencies and the need for comprehensive financial planning. In order to address these issues, the OTP has developed a mind map to assist the planning of investigations; and conducted seminars for CI team leaders in an effort to improve case development and investigation planning; and engender greater emphasis and consideration of financial recovery options.

10.17 HMIC found that in relation to this recommendation little progress has been made and the quality of many case financial plans remains unsatisfactory. In addition, financial investigation is not at the heart of CI investigations across the regions and its scope is very limited in most mass market and evasion investigations. **Therefore HMIC finds that this recommendation has not been discharged.**

Recommendation 11

HMIC recommends that Criminal Investigation establish whether the simultaneous execution of search warrants under Proceeds of Crime Act and Police and Criminal Evidence Act at the same premises represents best legal practice. Whichever approach achieves legal approval should be actively disseminated to all investigators.

Background

11.1 HMIC's 2011 inspection report outlined concerns about the way HMRC use POCA and PACE search and seizure warrants.

HMIC findings

11.2 HMRC have acted on this recommendation. Appropriate legal advice has been sought and the Enforcement Handbook was updated accordingly in June 2012. **HMIC finds that this recommendation has been discharged.**

Recommendation 12

Investigators fail to fully record all appropriate operational decisions in Case Decision Logs. Therefore, Her Majesty's Inspectorate of Constabulary recommends that HMRC ensure and assure investigators record both positive and negative decisions, in accordance with the Enforcement Handbook's requirements.

Background

12.1 HMIC's 2011 inspection report highlighted that CI investigators were not routinely recording all relevant decisions in case decision logs (CDLs), in contravention of the requirements in the *Enforcement Handbook*. Particular reference was made in the report to:

- examples of FIs recording their decisions in file notes, day books, or other documents rather than in the relevant CDL;
- the fact that most CDLs did not include decisions to apply for POCA orders. Also cases where these decisions were recorded, too often the rationale was not sufficiently explained; and
- an almost universal failure to record negative decisions, for example where it had been decided not to apply for POCA orders.

HMIC findings

12.2 CI has replaced paper CDLs with an electronic case management system called *Chiron* on which investigators are required to record their decisions.

12.3 HMIC's audit of *Chiron*, as part of this revisit, identified that compliance with the recommendation was poor. Most cases lacked a comprehensive record on *Chiron* of

major decisions made during the investigation. The audit revealed some ongoing investigations where no decisions had been recorded on the system. While in some of these cases, case managers had maintained records of some key decisions in their daybook, or the CMR; there were many cases where no record had been made.

- 12.4 CI senior officers have attended mandatory training on decision-making which includes the importance of recording negative decisions. However, the audit revealed that very few negative decisions are recorded. The audit did not find any entries that documented decisions not to pursue money laundering or the use of POCA financial investigation tools.
- 12.5 Assurance of CDL *Chiron* entries was not routinely part of the assurance programme undertaken by either the senior officer or the assistant director and, in one branch, both thought that it was the other's responsibility. This assurance was also not undertaken by the branch assurance managers.
- 12.6 OTP's review similarly found that, "case decision records vary in content and details. Generally only a limited number of decisions are recorded in the expected/approved format".³⁴
- 12.7 Although the paper CDL system has been replaced by an electronic process, there has not been any improvement in compliance with HMRC's own policy. **HMIC finds that this recommendation has not been discharged.**

³⁴ *OTP Review: Criminal Finances and Recovery*, HMRC paragraph 3.5.

Recommendation 13

Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs engage with the Crown Prosecution Office[Service] to identify the most effective use of their provided resource to maximise the realisation of the un-enforced confiscation orders.

Background

13.1 HMIC's 2011 inspection report details that there was £240 million worth of un-enforced HMRC POCA confiscation orders. These confiscation orders were made by the court and the Revenue and Customs Prosecution Office (RCPO) had responsibility for their enforcement. CI had seconded four investigators to the Asset Forfeiture Division (AFD) in RCPO to assist with the realisation of assets.

HMIC findings

13.2 The RCPO has now been subsumed into the Crown Prosecution Service (CPS) and CI formed a Confiscation Enforcement Team (CET) in April 2011. The CET has a national responsibility for the enforcement of outstanding HMRC POCA confiscation orders. The CET was funded through the Asset Recovery Incentivisation Scheme (ARIS).³⁵ The funding ends in April 2014. A further bid will be made by CI to extend the CET for a further three years and to increase the size by two officers (one in each region).

13.3 As of the 16 September 2013, the total value of un-enforced HMRC POCA confiscation orders had increased to £518 million³⁶. CET informed HMIC that about

³⁵ ARIS is a Home Office administered scheme where law enforcement agencies receive a percentage of what they recover within strict guidelines

³⁶ Figures supplied by Confiscation Enforcement Team.

75 per cent of this total value is unenforceable. Confiscation orders can be unenforceable for a number of reasons. One is where the court imposes a confiscation order to the value of the perceived overall benefit to the criminal, rather than the actual financial benefit and recoverable assets that the criminal has. Other examples of unenforceable orders include those where individuals subject to confiscation orders have died or been deported.

13.4 CET is also working with the FCLO network, as outlined above³⁷, to enforce confiscation orders where there are Spanish assets.

13.5 At the time of the revisit, the CPS resource provided to HMRC consisted of three ARIS funded lawyers, one in each region. They have a close working relationship with the CET and the Financial Investigation Teams. The CPS lawyers advise on the enforcement of confiscation orders and on restraint and confiscation issues. The regional assistant director in London has regular meetings with CPS. **Therefore HMIC finds that this recommendation has been discharged.**

³⁷ See above, paragraph 9.4.

Recommendation 14

The draft Civil Investigation of Fraud post-implementation review recommends that Debt Management and Banking establish[es] a process to prioritise debt recovery action for debts as a result of tax evasion, including related penalties and interest. Her Majesty's Inspectorate of Constabulary recommends that such a process is established and rigorously assured.

Background

14.1 Tax and duty evasion and benefit fraud are criminal offences that can be dealt with by way of criminal investigation. However, HMRC can instead choose to use a range of civil interventions to address this behaviour. The majority of HMRC's interventions against those who evade tax and duty use a range of civil interventions, which focus on the recovery of the lost revenue and application of penalties. This includes a process referred to as Civil Investigation of Fraud (CIF).³⁸ CIF is intended to tackle suspected serious fraud and evasion by using civil investigations that encourage disclosure and cooperation by the inducement of a reduced financial penalty. HMRC consider this to be a more efficient and effective method than criminal investigation in the majority of cases.

14.2 HMIC's 2011 inspection report outlined that successful civil investigations are referred to HMRC's Debt Management and Banking directorate (DMB), which is responsible for collecting the debt. Because debts were not identified or prioritised according to type, it was therefore not possible for HMRC to track what debt had or had not been written off or paid.

³⁸ Since the original inspection, CIF has been replaced by a new civil process to tackle evasion, called the Contractual Disclosure Facility.

- 14.3 A draft post-implementation review by HMRC of the CIF process recommended that DMB established a process to prioritise debt recovery action for debts because of tax evasion, including related penalties and interest. The 2011 inspection report echoed this recommendation.

HMIC findings

- 14.4 In 2011 DMB developed new processes for the prioritisation of debts. Working with compliance colleagues, DMB identified 'high risk' debt and debtors and pursued a 'campaign based approach' to its recovery. A new governance group, the Debt Planning Group (DPG), was formed in October 2012. Chaired by the Deputy Head of Debt Pursuit in DMB, and with representatives from DMB and other directorates, the DPG oversees DMB's performance in recovering these debts.
- 14.5 These new arrangements have resulted in a collegiate approach to the prioritisation of debt collection. However, this system does not prioritise debt that has resulted from tax evasion, as the 2011 inspection report recommended. The concerns raised in the 2011 report remain pertinent, namely, that DMB cannot clearly identify which debts are a result of tax evasion, therefore other directorates are largely unaware of whether money is collected following referrals they have made to DMB. Neither DMB nor LC could provide HMIC with how much debt was identified from LC and SI settlements during 2013; nor could it provide details of the amount that has been collected or written off by DMB. At the time of this revisit, a new IT system was being developed that will be able to track debt by type. However, this will not resolve the lack of prioritisation of 'evasion related' debts.
- 14.6 DMB is currently not represented on the Criminal Finance Coordination Group (CFCG). However, the E&C lead for criminal finances wants to expand the

membership of the CFCG to include DMB. This could provide the opportunity for an increased focus on the recovery of debt resulting from tax evasion.

- 14.7 HMRC has not developed a process to prioritise debts that have accrued as a result of tax evasion. This is even more important now, given CI's intention to use all HMRC options to recover criminal finances. While some progress has been made, **HMIC finds that the recommendation has not been discharged.**

Recommendation 15

There is no established national process for the dissemination of best practice within Criminal Investigation and Risk and Intelligence Service. Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs implement[s] an effective national process for identification and dissemination of best practice, both within and (where appropriate) across directorates. Specifically, Her Majesty's Revenue and Customs should conduct debriefing of the Fiscal Recovery Taskforce and Specialist Investigation Excise projects and disseminate the identified best practise to the wider Her Majesty's Revenue and Customs.

Background

- 15.1 HMIC's 2011 inspection report detailed that there was no national process for the dissemination of best practice. Furthermore, there was no process in place to disseminate learning from the Excise Project where SI used civil insolvency powers to tackle the top ten alcohol fraudsters. This project was a success and was less expensive and more effective in recovery than other processes.
- 15.2 The Fiscal Recovery Task Force (FRTF) referred to in this recommendation was a joint CI and SI initiative. It used private insolvency practitioners on a 'no win, no fee' basis to recover over £40 million from the accounts of suspected MTIC traders and protect a further £1 billion from MTIC attack.

HMIC findings

- 15.3 CI initiated an organisational learning project in September 2012. This set out to capture and disseminate best practice. However HMIC found that there have been very few submissions of good practice and interviewees stated that little had been done with the few that had been submitted.

- 15.4 Progress on this project has been slow due to staffing issues. Furthermore, plans for a best practice intranet page have been abandoned due to concerns about potential disclosure issues.
- 15.5 A renewed impetus was brought to this project in September 2013. Dedicated staff from CI Training were in the process of being appointed to manage the good practice submissions. The intention is that they will prioritise emails using a triage system and disseminate relevant ones to the appropriate units to consider any requisite changes in legislation, policy and training. Although promising this project was in the early stages and had not delivered any results at the time of the revisit.
- 15.6 HMIC could find no evidence that the learning identified in the Excise Project (see above) was disseminated after the recommendation was made in the 2011 report.
- 15.7 Managers told HMIC that there is no national process for the dissemination of best practice in CI, RIS or across directorates. **HMIC finds that this recommendation has not been discharged.**

Conclusion

- C1. This revisit has revealed that progress has been slow. HMIC considers that HMRC has failed to adhere to and implement the 2011 reports recommendations, in a way that it would have expected.
- C2. Although HMRC developed an action plan, there was no effective governance to ensure that sufficient priority and focus was given to addressing the recommendations. HMRC's March 2013 action plan states that all recommendations had been closed. HMIC found that only three recommendations have been discharged, three partially discharged and nine have not been discharged.
- C3. Between 2011 and 2013, HMRC developed two strategic plans to put criminal finances activity into the mainstream. However, neither brought about any tangible results and by the time of this revisit neither was being pursued. HMIC considers this a missed opportunity as an effective strategy combined with strong leadership could have brought about the action that is necessary to the delivery of the nine recommendations that have not been discharged.
- C4. HMIC welcome the appointment of the new criminal finances lead for E&C. His drive is commendable and early indications are positive. However, HMRC's failure to implement so many of the recommendations in the 2011 report in an expeditious manner means, that considerable progress is still required to deliver HMRC's commitment to placing the disruption and recovery of criminal finances at the heart of HMRC activity.
- C5. HMIC would like to place on record its sincere thanks to all HMRC managers and staff who participated in this revisit.

Annex A: 2011 Report Recommendations and Summary of Revisit Findings

Recommendation	Revisit finding
<p>Recommendation 1: As the Criminal Finances Strategic Framework has not been effectively implemented, Her Majesty’s Inspectorate of Constabulary recommends that Her Majesty’s Revenue and Customs either refresh the Criminal Finances Strategic Framework or replace it with a new financial strategy. To ensure delivery of outcomes, this should be underpinned by robust governance.</p>	<p>Not discharged</p>
<p>Recommendation 2: Her Majesty’s Revenue and Customs has produced insufficient financial strategic intelligence assessments to inform the National Risk Assessment. Her Majesty’s Inspectorate of Constabulary recommends that the Fiscal Fraud Group commission sufficient strategic assessments to address the financial intelligence gaps, so that this can be used to inform the correct risk assessment of these categories within the National Risk Overview.</p>	<p>Not discharged</p>

<p>Recommendation 3: Her Majesty's Revenue and Customs lacks robust, accurate performance information and integrated measures and targets for the panoply of its proceeds of crime activity. Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs ensure and assures the accuracy of performance information to facilitate the requisite development of robust measures for directorate and cross-directorate business plans that demonstrate the mainstream use of financial asset recovery tools and processes (as envisaged in the Criminal Finances Strategic Framework)</p>	<p>Not discharged</p>
<p>Recommendation 4: The development of intelligence to support money laundering investigations is not undertaken in all criminal intelligence casework. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service Tasking and Coordination and Internal Governance Intelligence ensure that this is undertaken in all Her Majesty's Revenue and Customs criminal intelligence development packages.</p>	<p>Not discharged</p>

<p>Recommendation 5: There is considerable inconsistencies in the scope and detail of financial profiles for criminal intelligence development. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service Criminal Intelligence Group create a best practice model for the completion of financial profiles by all Case Development Teams and Internal Governance Intelligence, to include the mandatory consideration and recording of the use of Proceeds of Crime Act financial tools.</p>	<p>Not discharged</p>
<p>Recommendation 6: Her Majesty's Revenue and Customs does not maximise the potential benefits of Suspicious Activity Report intelligence. Her Majesty's Inspectorate of Constabulary recommends that Risk and Intelligence Service establish an effective governance, management, prioritisation and performance regime for the use of Suspicious Activity Reports.</p>	<p>Partially discharged</p>
<p>Recommendation 7: Police National Computer and Centaur checks are not conducted on all Suspicious Activity Report derived Standard Intelligence Packages. Her Majesty's Inspectorate of Constabulary recommends that Centre for Risk and Intelligence management ensure that these checks are conducted on all Standard Intelligence Packages developed from Suspicious Activity Reports and processed in accordance with the <i>Enforcement Handbook</i>.</p>	<p>Partially discharged</p>

<p>Recommendation 8: Her Majesty’s Revenue and Customs team imbedded in the Serious Organised Crime Agency have refused less than 10 per cent of Proceeds of Crime Act consent requests it received in each of the last four years. Her Majesty’s Inspectorate of Constabulary recommends that Her Majesty’s Revenue and Customs develop a strategic policy on the handling of Proceeds of Crime Act ‘Consent’ requests, implement a formal national referral process, and ensures details of all refused Proceeds of Crime Act consent requests are recorded on Centaur. Her Majesty’s Inspectorate of Constabulary further recommends that Her Majesty’s Revenue and Customs should engage with the financial sector to understand and address the drop in Proceeds of Crime Act ‘Consent’ referrals.</p>	<p>Partially discharged</p>
<p>Recommendation 9: Her Majesty’s Revenue and Customs’ proactivity in driving negotiations with the Dubai Authorities to develop an asset-sharing treaty is commendable. Her Majesty’s Inspectorate of Constabulary recommends that Her Majesty’s Revenue and Customs adopt a similar proactive approach to other external stakeholders responsible for the negotiation of international asset-sharing agreements/treaties, to ensure that their interests are recognised and covered.</p>	<p>Discharged</p>

<p>Recommendation 10: Her Majesty's Inspectorate of Constabulary recommends that a case financial plan is created and maintained for all criminal investigations that highlight opportunities for money laundering investigations and the use of Proceeds of Crime Act financial tools to be pursued in the case. If money laundering is not pursued, this decision must be signed off by an operational assistant director.</p>	<p>Not discharged</p>
<p>Recommendation 11: Her Majesty's Inspectorate of Constabulary recommends that Criminal Investigation establish whether the simultaneous execution of search warrants under Proceeds of Crime Act and Police and Criminal Evidence Act at the same premises represents best legal practice. Whichever approach achieves legal approval should be actively disseminated to all investigators.</p>	<p>Discharged</p>
<p>Recommendation 12: Investigators fail to fully record all appropriate operational decisions in Case Decision Logs. Therefore, Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs ensure and assure investigators record both positive and negative decisions, in accordance with the Enforcement Handbook's requirements.</p>	<p>Not discharged</p>

<p>Recommendation 13: Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs engage with the Crown Prosecution Office to identify the most effective use of their provided resource to maximise the realisation of the un-enforced confiscation orders.</p>	<p>Discharged</p>
<p>Recommendation 14: The draft Civil Investigation of Fraud post-implementation review recommends that Debt Management and Banking establish a process to prioritise debt recovery action for debts as a result of tax evasion, including related penalties and interest. Her Majesty's Inspectorate of Constabulary recommends that such a process is established and rigorously assured.</p>	<p>Not discharged</p>
<p>Recommendation 15: There is no established national process for the dissemination of best practice within Criminal Investigation and Risk and Intelligence Service. Her Majesty's Inspectorate of Constabulary recommends that Her Majesty's Revenue and Customs implement an effective national process for identification and dissemination of best practice, both within and (where appropriate) across directorates. Specifically, Her Majesty's Revenue and Customs should conduct debriefing of the Fiscal Recovery Taskforce and Specialist Investigation Excise projects and disseminate the identified best practise to the wider Her Majesty's Revenue and Customs.</p>	<p>Not discharged</p>

Annex B: 2009 Inspection Terms of Reference

An inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax, duty and benefit evasion, which they investigate through either criminal investigation or civil investigation of fraud (CIF) processes.

Background

1. Currently, across the Law Enforcement community recovery of the proceeds of crime is less than one per cent of the amounts generated by criminal activity. Parliament has passed legislation to support activity against criminal finances with a view to drive up asset recovery. The Proceeds of Crime Act 2002 brought together pre existing legislation and created new offences and powers for use by law enforcement agencies. This and subsequent legislation sought to not only facilitate the recovery of proceeds of crime but also deny the re-investment of these sums into financing further criminality, thereby reducing the harm to society.
2. HMRC is the victim of sustained attacks upon the taxation and duty systems by opportunistic fraudsters through to Serious Organised Crime Groups. Across their Enforcement and Compliance directorates, a range of civil and criminal interventions are undertaken with a view to combat this criminality and recover the taxes and duties evaded or stolen. HMRC undertake this task by the use of inherent taxation powers and proceeds of crime legislation. By virtue of this, HMRC are a major contributor to the asset recovery agenda. However, in a recent review by the Prime Minister's Delivery Unit despite expectations of growth in the amounts of assets recovered year on year, HMRC'S performance in some areas is in decline.

3. The inspection will seek to establish the strategic, tactical and operational approach taken by HMRC to asset recovery, from identification through to collection. In particular whether HMRC's business plans, systems, processes and behaviours are making best use of the powers available to them.

Inspection aim and objectives

4. This inspection will assess the effectiveness of HMRC's systems, processes and behaviours in:-
 - Maximising seizures of cash and negotiable instruments;
 - Maximising value of criminal proceeds recovered through confiscation;
 - The use of civil recovery proceedings to recover criminal assets;
 - Mainstreaming money laundering offences within criminal investigations.

This will be undertaken through a review of key issues, including, but not necessarily limited to, those highlighted in HMIC's scoping review:

- Strategic direction, governance and assurance;
 - Intelligence flows and intelligence analysis;
 - Tasking and co-ordination;
 - Guidance and training;
 - Effective use of legislative powers;
 - Relationships and joint working both domestically and internationally
5. HMIC will assess the implementation and outcomes of the 2006 Internal Audit Review of Criminal Finances and the 2007 HMRC Strategic Framework for

tackling Criminal Finances, seeking to identify the extent to which asset recovery is mainstreamed and sufficiently prioritised in normal business activity.

6. While the focus of the inspection will centre on Criminal Investigation, Risk and Intelligence and Special Investigations directorates, other linked processes that fall outside these directorates will be reviewed, such as the effectiveness of asset recovery in relation to the investigations through Debt, Management and Banking.
7. Her Majesty's Crown Prosecution Service Inspectorate, Her Majesty's Inspectorate of Courts Administration, and the joint inspection team of HMIC are currently conducting a joint thematic review of asset recovery, which will include an assessment of RCPO's asset recovery performance. Given the necessary interface and close working arrangements that should exist between RCPO and HMRC to effect successful prosecutions and asset recovery, there are practical benefits for HMIC's inspection of HMRC to be conducted with input from HMCPSI. Inspectors from HMCPSI have no direct legislative authority to inspect HMRC; therefore, for the purposes of this inspection their inspectors will be seconded to HMIC and will operate under the terms of reference agreed with HMRC by HMIC. They will operate in accordance with HMIC's remit at all times and will principally undertake a bottom up review of case papers and interviews with operational officers.

Inspection methodology

8. The objectives will be achieved via the following:
 - Interviews with key stakeholders;
 - Interviews with HMRC personnel;

- Assessment of business plans, systems, processes, internal guidance and other documentation;
- Analysis of a range of external reports;
- Benchmark activity with comparable external agencies.

Timescale

9. This inspection will feed into the full-scale joint HMCPSP, HMICA and HMIC thematic review of asset recovery. A scoping exercise is underway to inform that thematic review which is currently scheduled to commence in Jan 2010. Issues identified up to and during the thematic review are likely to influence, and shape this inspection of HMRC. An inspection framework will be drafted that will look to incorporate the production of bespoke HMRC interim reports.

HMRC Inspection Team

5th June 2009

Annex C: 2013 Inspection Revisit Terms of Reference

- I. In June 2009, Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Revenue and Customs (HMRC) agreed terms of reference (see Annex A) for an inspection of HMRC's performance in addressing the recovery of the proceeds of crime from tax and duty evasion and benefit fraud.
- II. HMIC published its report in July 2011. HMIC made 15 recommendations and six considerations.
- III. This revisit is not an inspection but will assess HMRC's implementation of the recommendations and the supporting evidence.
- IV. This will be achieved by:
 - analysing the HMRC action plan
 - reviewing documentation
 - conducting interviews.
- V. HMIC will not be revisiting the considerations.

Timescale

28 October – 15 November 2013.....	fieldwork
16 – 31 December 2013.....	emerging findings briefing to HMRC
Early 2014	submission of report