

## **Amber ALERT**

# South Sudan: Illicit Finance Risks (PDF)

Date: March 2020

Reference: **0598-NECC**

This Amber Alert is issued by the United Kingdom's National Crime Agency (NCA) on behalf of the National Economic Crime Centre (NECC) and the Foreign and Commonwealth Office (FCO). It warns of serious and organised economic crime, including corruption and related money laundering, amongst others. The purpose of the alert is to raise awareness and promote preventative action.

We recommend you use this Alert to complement existing knowledge and support ongoing improvements to your business processes and procedures.

## Statement by Her Majesty's Ambassador to South Sudan

"The civil war in South Sudan has claimed the lives of over 380,000 since 2013. It has been characterised by terrible human rights abuses, including deliberate targeting of civilians, the use of rape as a weapon of war, and forced recruitment of child soldiers. Over 4 million people, a third of the population, have been displaced.

The conflict has been fuelled by corruption. Many political and military elites have used their positions to loot the country's natural resources, including revenues from oil and gas, to enrich themselves and fund continued fighting; in some instances this has funded militias and arms purchases, despite the 2018 UN arms embargo. Corruption has not only prolonged the conflict but held back development. Over half the population require emergency food assistance and violence and humanitarian access restrictions mean that there is a risk of famine in some areas, a crisis exacerbated by recent, extraordinary flooding.

A revitalised peace agreement was signed in September 2018, which has reduced violence and offers a chance for peace. But the agreement is fragile. There are few incentives for the elites and Politically Exposed Persons (PEPs) to change their behaviour and commit to long-term peace.

We need the private sector to take a balanced approach of enhanced due diligence whilst ensuring a continued flow of licit funds and investment into South Sudan. This is particularly important not only for international organisations on whom the country and its economy depend, but also the families whose livelihoods depend on remittances and legitimate business.

Unless we as the public and private sector work together on such an approach, South Sudan will be trapped in a never-ending cycle of impunity, with its people being the ones that pay the price."

## Overview

The NCA is issuing this alert to companies based in the United Kingdom (UK) about the possibility that some South Sudanese senior foreign public officials (“Politically Exposed Persons” or “PEPs”) who may be engaged in corruption and human rights abuses in South Sudan, and those who enable such activities, may use the UK financial system to move or hide proceeds of corruption or purchase real estate and other assets in the UK. This is also to allow for the flow of licit funds linked to South Sudan through the UK financial system.

Bribery and corruption undermine fair competition, public trust and are barriers to economic growth, especially in the developing world. Bribery and corruption foster a climate where illicit financial flows and other forms of lawlessness can thrive. Tackling international illicit financial flows is a top priority for the UK . Addressing these illicit financial flows is critical to protecting and promoting the UK’s role as a financial centre, and reducing the destabilising impact of illicit finance on the wider world, particularly developing countries while allowing for legitimate finance to be processed.

This report focuses on corrupt South Sudanese senior foreign political figures or PEPs who engage in human rights abuses or violations, and their financial enablers and considers the following:

- Why is South Sudanese political corruption important to the UK?
  - Illicit finance flows and the UK’s reputation
  - What is the situation in South Sudan?
  - South Sudanese political corruption
  - How corrupt foreign PEPs and their enablers access the UK
- Red Flags Related to Corrupt Foreign PEPs and their Enablers
- Who can assist us?

## What we would like you to do

The information is being shared by the NCA to help develop understanding of the threat posed by certain South Sudanese senior foreign public officials or PEPs, and their enablers who use the UK financial system to move or hide proceeds of corruption. The NCA would like UK companies, particularly financial institutions, real estate agencies, accountants, lawyers, notaries, and company and trust formation agents, boarding schools, and those involved in the sale of luxury goods to consider the information provided in this alert when undertaking their business activities in order to identify suspicious activity but also allow for legitimate transactions to take place.

The National Crime Agency (NCA) is a national law enforcement agency which leads the UK's fight to cut serious and organised crime. The NCA Alerts process is the way in which we provide information to non-law enforcement bodies including the private sector to combat and disrupt serious crime. To help us to improve this service, we would welcome any feedback you have on both the Alert itself and the information provided to you. Please email all feedback to [alerts@nca.gov.uk](mailto:alerts@nca.gov.uk) and include the reference '**0598-NECC**' in the subject line.

## Information Report

### Illicit finance flows and the UK's reputation.

The UK is one of the world's leading international centres with a strong and open economy.<sup>1</sup> The UK's standing as a global financial centre, the ease of doing business, its openness to overseas investment, status as a major overseas investor and exporter all make it attractive for corrupt senior public officials (referred to as Politically Exposed Persons or "PEPs"<sup>2</sup>), and associated persons to transfer illicit

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<sup>1</sup> HM Government and UK Finance, *National Economic Crime Plan: 2019-2022* (July 2019). Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/816215/2019-22\\_Economic\\_Crime\\_Plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816215/2019-22_Economic_Crime_Plan.pdf)

<sup>2</sup> Politically exposed persons are defined as defined by s35(12)(a-c), *The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017*, as follows: (a) "politically exposed person" or "PEP" means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official; (b) "family member" of a politically

finance and assets into and through the UK. The UK is committed to cracking down on the corrupt political elites who seek to hide the proceeds of corruption in the UK, and stemming the flow of illicit finance through the UK.

### **What is the situation in South Sudan?**

The UK's Department for International Development has highlighted that South Sudan is one of the world's most fragile countries and has been beset by conflict since it was created in 2011.<sup>3</sup> It is facing a severe and protracted humanitarian crisis, exacerbated by economic collapse. Weak government capacity exacerbated by a lack of commitment by the elite to their country's development means that financial discipline is poor, with public spending rarely in line with the approved Budget<sup>4</sup>. The country's main asset – oil – benefits few South Sudanese. Over half of the population requires emergency food assistance. Around a third of the population are displaced, including over 2 million refugees who have fled to neighbouring countries.<sup>5</sup>

### **South Sudanese Political Corruption.**

The revitalised peace agreement (R-ARCSS) signed in September 2018 has reduced levels of armed conflict and associated human rights violations/abuses. But where fighting has continued, all parties to conflict have continued to deliberately target and kill civilians, commit sexual violence, recruit children and forcibly displace communities with impunity. Certain South Sudanese PEPs, representing both the government and the opposition, are reported to have engaged in and profited from corrupt practices. The use of enablers is one way that corrupt PEPs access the UK and international financial system to move or hide illicit proceeds, evade financial

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*exposed person includes— (i) a spouse or civil partner of the PEP; (ii) children of the PEP and the spouses or civil partners of the PEP's children; (iii) parents of the PEP; (c) "known close associate" of a PEP means— (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP; (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP.* Available at: <http://www.legislation.gov.uk/uksi/2019/253/contents/made>

<sup>3</sup> Department for International Development, *DFID South Sudan Profile: July 2018* (2018). Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/723770/South-Sudan-July-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723770/South-Sudan-July-2018.pdf)

<sup>4</sup> IMF (2019) *Staff Report for the 2019 Article IV Consultation Process*, available at <https://www.imf.org/~/media/Files/Publications/CR/2019/1SSDEA2019001.ashx>

<sup>5</sup> DFID, *Ibid.*

and economic sanctions, or otherwise engage in illegal activity, including related human rights abuses. The Financial Crime Enforcement Network, in its advisory on South Sudan, highlighted the corruption risks faced by the country. The link to this report can be found in the footnotes.<sup>6</sup>

## **How Corrupt Foreign PEPs and their enablers access the UK.**

To assist UK companies to insulate themselves from corruption and protect the UK from the illicit use by corrupt foreign PEPs, family members, associates and their enablers, this alert highlights a number of typologies used to access the UK to obscure and launder the illicit proceeds of high-level political corruption. For example, the typologies used by enablers of corrupt foreign PEPs may include abuse of regional banking facilities, the misappropriation of state assets, the exploitation of the real estate sector, or any combination of these typologies.<sup>7</sup>

### *Abuse of regional banking facilities*

The funds accumulated through the proceeds of South Sudanese corruption are moved to accounts outside of South Sudan, including through Kenya and Uganda, into the UK.

### *Misappropriation of State Assets and subsequent laundering*

Foreign corrupt senior public officials, through their facilitators and enablers, may amass fortunes through the misappropriation of state assets and often exploit their own official positions to engage in money laundering, embezzlement of state funds, and other corrupt activities. Such senior foreign PEPs may exploit corporations, including financial institutions that wish to do business with the government, to redirect government resources for their own profit. For example, some senior public officials have used offshore leasing companies to sell a commodity such as oil, and have done so in a way that benefits them (e.g., through the use of shell companies

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<sup>6</sup> Financial Crime Enforcements Network (FinCEN), *FIN-2017-A004 : Advisory to Financial Institutions on Political Corruption Risks in South Sudan* (6 September 2017). Available at: <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2017-a004>

<sup>7</sup> FinCEN, *FIN-2018-A003: Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators* (12 June 2018). Available at: [https://www.fincen.gov/sites/default/files/advisory/2018-06-12/PEP%20Facilitator%20Advisory\\_FINAL%20508.pdf](https://www.fincen.gov/sites/default/files/advisory/2018-06-12/PEP%20Facilitator%20Advisory_FINAL%20508.pdf)

misleadingly named to give the appearance of being related to the government) instead of the government as a whole. Grossly over-priced public procurement contracts (e.g. for food for the army and Government vehicles) have also been used to transfer funds out of the country<sup>8</sup>. The funds may go through international channels to reach a bank account outside of South Sudan.

### *Corruption in the Real Estate Sector*

The funds accumulated through the proceeds of South Sudanese corruption are moved to accounts outside of South Sudan. Once the funds are held in accounts in other countries, they are used to purchase real estate (among other things) in third countries. Real estate transactions and the real estate market have certain characteristics that make them vulnerable to abuse by illicit actors, including corrupt senior public foreign officials or their facilitators and/or enablers. For example, many real estate transactions involve high-value assets, opaque entities, and processes that can limit transparency because of their complexity and diversity. In addition, the real estate market can be an attractive vehicle for laundering illicit gains because of the manner in which real estate appreciates in value, “cleans” large sums of money in a single transaction and shields illicit proceeds from market instability and exchange-rate fluctuations.

### **Red Flags Related to Corrupt Foreign PEPs and their Enablers<sup>9</sup>.**

The red flags, featuring in FATF guidance, noted below may help financial institutions and other firms identify suspected schemes that corrupt foreign PEPs and their enablers may use. In applying the red flags below, financial institutions are advised that no single transactional red flag necessarily indicates suspicious activity.

1. The use of third parties when it is not normal business practice.

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<sup>8</sup> See the examples on page 32 of the April 2019 Final report of the Panel of Experts on South Sudan, available at <http://www.undocs.org/S/2019/301>

<sup>9</sup> FATF, *FATF Guidance: Politically exposed persons (recommendations 12 and 22)* (2013). <https://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Rec12-22.pdf>; FinCEN, *FIN-2018-A003: Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators* (12 June 2018);

2. Use of third parties when it appears to shield the identity of a public official or corrupt foreign PEPs.
3. Use of family members, including young children, or close associates as legal owners or controllers.
4. Use of corporate vehicles (legal entities and legal arrangements) to obscure (i) ownership, (ii) involved industries, or (iii) countries.
5. Use of companies that have joint South Sudanese beneficial ownership and foreign beneficial ownership with interests in multiple government-controlled industries, including mining, oil, public sector procurements, and construction.
6. South Sudanese companies with business partners in overseas jurisdictions.
7. Development of joint ventures, including Special Purpose Vehicles (SPVs), with foreign companies.
8. Declarations of information from foreign PEPs that are inconsistent with other available information, such as publicly available asset declarations and published official salaries.
9. The PEP, family member, associate or enabler seeks to make use of a service that would not normally be targeted at foreign, high-value clients.
10. The PEP, family member, associate or enabler moves funds to and from countries that individual does not appear to be affiliated with.
11. The PEP, family member, associate or enabler has substantial authority over or access to state funds and assets, operations, and policies.
12. The PEP, family member, associate or enabler has ownership interest in or otherwise controls a foreign financial institution or corporation that is a counterparty or correspondent in a transaction, including outsourcing arrangements.
13. Transactions involving government contracts are directed to companies that operate in an unrelated line of business (e.g. payment for food import contract directed to textiles company).
14. Transactions involving government contracts that originate with, or are directed to, entities that are shell corporations, general "trading companies," or companies that appear to lack a general business purpose.
15. Transactions involve overpayment for invoiced goods or where the goods themselves are clearly grossly over-priced.

16. Documents corroborating transactions involving government contracts (e.g. invoices) that include charges that are significantly higher prices than market rates or that include overly simple documentation or lack traditional details (e.g. valuation for goods and services).
17. Payments involving government contracts that originate from third parties that are not official government entities (e.g. shell companies).
18. Transactions involving entities or assets expropriated or taken over by corrupt regimes, including individual senior foreign officials or their associates.
19. Transactions involve transfers of funds or assets between companies with same ultimate beneficial owners or controllers (related-party transaction).
20. Transactions involve movement of funds between accounts without apparent business rationale.
21. Evidence of multiple companies operating out of the same address.
22. Transactions involving public contracts that have been awarded to companies ultimately owned or controlled by individuals responsible for awarding contracts.
23. PEPs, influential public officials and military officers holding multiple private interests in addition to their public function.

### **Who can assist us?**

The following companies can assist us in our work:

- Financial institutions, including those that provide correspondent banking facilities
- Real estate agencies and companies operating in the sale/purchase of real estate
- Accountants, lawyers, notaries and company and trust formation agents
- Private schools
- Providers of luxury goods.

## Disclaimer

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NCA Alerts are marked either Red or Amber. This is designed to indicate the urgency of the warning. Red may indicate a more immediate or specific threat, whilst those marked Amber will provide more general information that may complement existing knowledge.

## NCA Alerts Team

Recognising that the private sector is often the victim of serious organised crime and is engaged in its own efforts to prevent, deter and frustrate criminal activity, the NCA seeks to forge new relationships with business and commerce that will be to our mutual benefit – and to the criminals' cost. By issuing Alerts that warn of criminal dangers and threats, NCA seeks to arm the private sector with information and advice it can use to protect itself and the public. For further information about this NCA Alert, please contact the NCA Alerts team by email [alerts@nca.gov.uk](mailto:alerts@nca.gov.uk) or by telephoning 020 7238 3433. For more information about the National Crime Agency go to [www.nationalcrimeagency.gov.uk](http://www.nationalcrimeagency.gov.uk).

## Protecting the Public – Providing information back to the NCA

Section 7(1) of the Crime and Courts Act 2013 allows you to disclose information to the NCA, provided the disclosure is made for the purposes of discharging the NCA's functions of combating serious crime or organised crime or gathering and analysing intelligence on other kinds of crime. The disclosure of such information to the NCA will not breach any obligation of confidence you may owe to a third party or any other restrictions (however imposed) on the disclosure of this information. The disclosure of personal information about a living individual by you to the NCA must still comply with the provisions of the Data Protection Act 2018 (DPA). However, you may be satisfied that the disclosure by you of such personal information to the NCA in order to assist the NCA in carrying out its functions may be permitted by Schedule 2, Part 1 of the DPA 2018. This allows a data controller to be exempt (by means of a restriction or adaption) from provisions of the GDPR, if the personal data is processed for the following purposes:

- a) the prevention or detection of crime,*
- b) the apprehension or prosecution of offenders, or*
- c) the assessment or collection of a tax or duty or an imposition of a similar nature,*

*to the extent that the application of those provisions of the GDPR would be likely to prejudice any of the matters mentioned in paragraphs (a) to (c).*

(DPA 2018, Schedule 2, Part 1).

Any Section 7(1) information should be submitted to [alerts@nca.gov.uk](mailto:alerts@nca.gov.uk).

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