Environmental Crime - Greenwashing - Legal

Greenwashing:

Interest in sustainable investing has grown significantly in recent years, and investors are increasingly seeking investments that promote positive environmental and social impact. As the market for sustainable investing has grown, so has the focus on greenwashing, which includes:

- The use of undefined terms such as “natural,” “eco-friendly,” or “green” on products without evidence to back up the claim.
- Exaggerated sustainability credentials and selective disclosures in annual corporate reports and investor materials.

Greenwashing and, consequently, falsification of credentials can result in significant penalties and reputational damage. This scenario shows how the legal sector in Jersey could be exploited by those engaged in greenwashing and environmental crimes.

Background:

During their onboarding process, a Jersey law firm has identified adverse media reports while conducting due diligence on a potential new client. Mr X is the Ultimate Beneficial Owner (UBO) of an asset management company (Company A) in a well-regulated and understood jurisdiction. Mr X has approached the law firm for legal advice regarding the acquisition of a Jersey property under the high-value residency scheme.

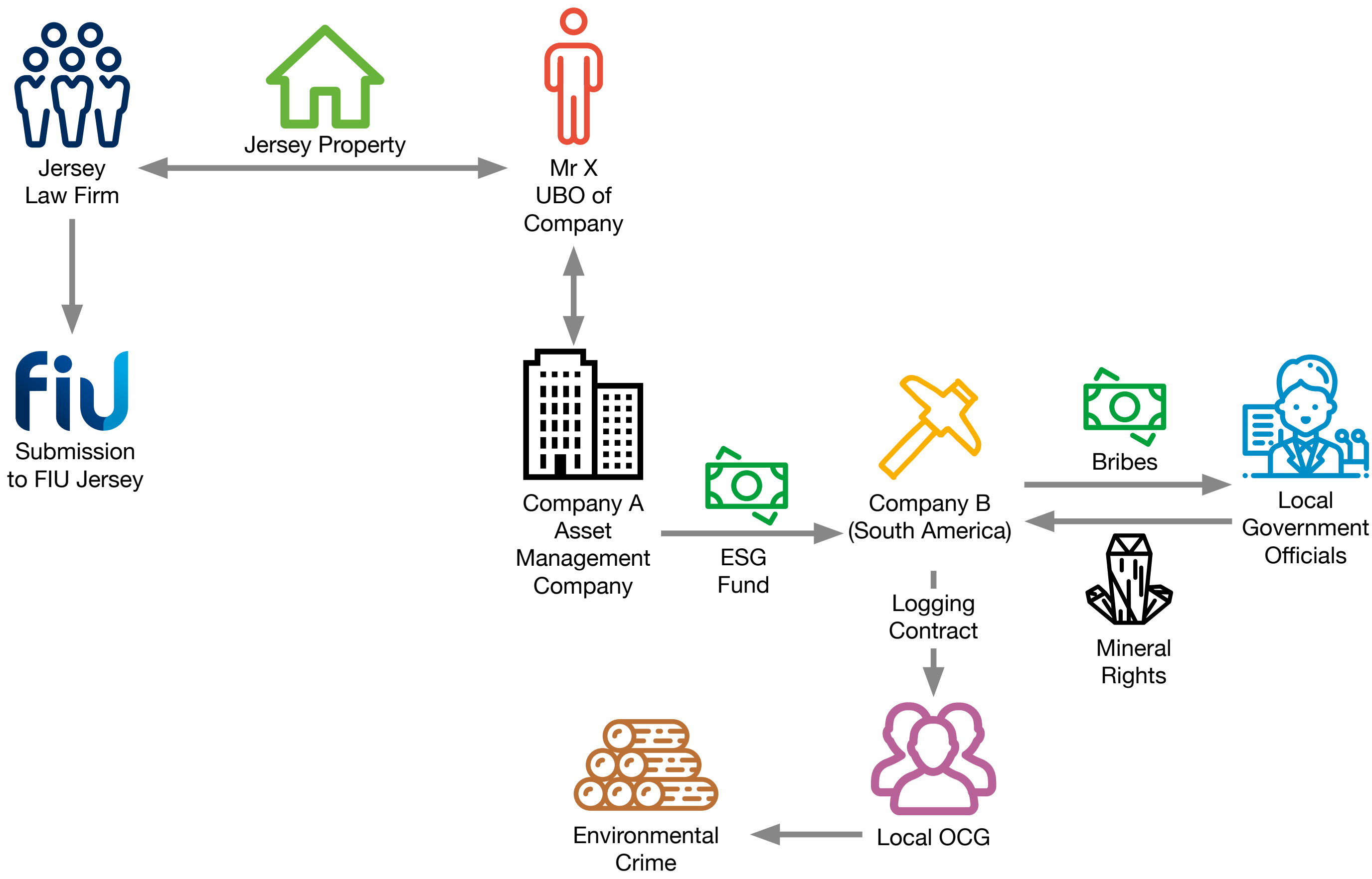
Mr X is neither a national of, nor a resident in, a high-risk jurisdiction. The bank statement provided by Mr X for verification purposes is from a regulated bank in an “equivalent” jurisdiction. Mr X indicated that his Source of Wealth (SoW) is from inheritance, salary, savings and investments.

Mr X has been evasive when asked to provide information or documents to corroborate his SoW/Source of Funds (SoF). Several follow-up calls and email requests have been ignored. When contact was finally established, Mr X confirmed that he would send all the relevant documentation, but to date, this has not been provided.

Open-source research identified that Mr X is regularly photographed with people in positions of influence, including Politically Exposed Persons (PEPs). There are no relevant matches for Mr X on World-Check.

Situation:

- An environmental investigative journalist’s report has alleged that Company A may have contravened its jurisdiction’s anti-greenwashing rules and financial services laws in relation to the advertising and investment strategy of one of its Environmental, Social, and Governance (ESG) funds.
- The report claims that the jurisdiction’s regulator is investigating Company A and its directors for alleged greenwashing, as the prospectus of the ESG Fund and its publicly available marketing materials state that the fund would only pursue sustainable investment strategies.
- The report further alleges that the fund has made substantial investments in a gold mining company in South America (Company B) whose recent annual report shows a significant increase in profits.



- Further adverse media suggests that Company B is under investigation in its South American jurisdiction for involvement in dam collapses, the illegal mining of gold, and the harvesting of balsa wood, which are reportedly damaging the ecological integrity of the region and adversely impacting Indigenous communities.
- The article asserts that Company B bribed local government officials to purchase mineral rights and land, then engaged local Organised Crime Groups (OCGs) to clear it. There are further allegations that the collapse of mines owned by Company B has resulted in the deaths of multiple local residents.
- As a result of the negative adverse media reports combined with Mr X's unwillingness to provide documents and information to corroborate his SoW and SoF, the Jersey law firm decides to terminate the onboarding of Mr X and reports this matter to the FIU.

Indicators:

- Adverse media relating to companies linked to Mr X, raising allegations of greenwashing and environmental crimes.
- An unwillingness to provide documentary evidence to corroborate his SoW/SoF.
- Close association to PEPs.
- Operations in jurisdictions at high risk for bribery, corruption, and environmental crime.

FIU Actions:

- The FIU reviews all submissions, grades and prioritises them as appropriate.
- The FIU undertakes further detailed research, assessment and analysis to corroborate the suspicion.
- The FIU has a range of open, closed, and privileged sources that it uses, alongside advanced technology, to analyse, assess, and corroborate data and suspicions.
- FIU staff are all trained in environmental crime methodologies and identification, and additional sources and expertise are consulted for further guidance and advice.
- The FIU engages with local agencies and internationally with other FIUs to request additional information from other relevant stakeholders.
- The FIU disseminates intelligence to relevant jurisdictions with a nexus to the case.

FIU Comment:

- Reporting in a timely manner by the Jersey law firm and subsequent termination of the relationship with Mr X reduces the legal, regulatory and reputational risk to the island's legal sector and to Jersey as an International Finance Centre (IFC).
- Legal professionals must clearly establish who their client is and the source of funding for the property purchase.
- While the Jersey law firm was unable to corroborate the adverse media reports themselves, reporting to the FIU enables greater international cooperation, resulting in increased visibility by relevant agencies in applicable countries, as well as fulfilling the Jersey law firm's own reporting requirements.

Outcomes:

- The Jersey law firm declines the business due to concerns about reputational risk and financial crime.
- Mr X and Company A are investigated by their local regulator.
- Company B is investigated by the law enforcement of its jurisdiction, in partnership with global agencies.

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Have a suspicion about a financial transaction? Submit a Suspicious Activity Report (SAR) via the PolSAR Portal. Access the portal via a web browser and the following url:

go.fiu.je/SAR

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