

EXCLUSIVE INTERVIEW

Martin Woods



In this exclusive interview KYC360 talks to one of the world's leading AML commentators Martin Woods. Best known as the 'Wachovia Whistleblower' Martin was formerly a Metropolitan Police Officer and latterly the Head of Financial Crime at Thomson Reuters.

You are best known as the 'Wachovia Whistleblower'. If you knew at the time what you know now would you have blown the whistle? Was it worth it? Has anything changed as a result of what you did?

I am often asked questions about my experience at Wachovia Bank and whether blowing the whistle, as I did in 2008 was something I have lived to regret. For the record, it was substantially the dedication, professional and outstanding detective ability on the part of United States federal agents which led to the actions taken against the bank including the imposition of a financial penalty of \$160 million. Moreover, there were many other AML professionals within the bank who were confronting issues, customers and colleagues who presented differing money laundering

risks. It wasn't the Martin Woods show. That said, I did go a step further than my colleagues and I blew the whistle. In addition, I filed hundreds of SARs related not only to Mexican drug trafficking, but also Russian/Eastern European organised crime.

It is right to state my actions put me in direct conflict with senior management within the bank. These included country heads (not the UK country head, he was very supportive of my actions), business unit managers, the head of South America and senior compliance manager colleagues. It subsequently struck me that I was viewed as the problem.

This was compounded by a perverse process the bank applied, within which the money making business units of

the bank scored the quality of service provided by the support function business units of the bank. For several years compliance had ranked number one on the scorecard and the head of compliance had been handsomely rewarded with 200%+ bonuses. Consequently, the Head of Compliance and his well rewarded lieutenants viewed the scorecard as the most important document in the entire compliance programme.

It should come as no surprise to you and your readers that there came a time when compliance fell from the top of the scorecard. This caused significant angst with the Head of Compliance who determined I was personally responsible for the 'disaster' which had befallen him and his bonus. He packed his frustration, anger and a clean shirt into an overnight bag and flew to London to confront me. For sure he wanted to fire me and, had I have been in America, he would have done so. UK employment law and the US regulators protected me. Senior inspectors within the OCC and Federal Reserve liked me and my departure would have presented a problem to the bank.

So, the Head of Compliance used the partnership approach and sought a sympathetic and co-operative reaction from me. He explained the importance and relevance of the scorecard, he told me of his 200%+ bonuses (for the record

my bonus was 25%, in monetary terms). He initially blamed London for what had happened, before pointedly and directly blaming me. I explained my actions and told him he was mistaken. I elaborated, informing him that I had given the money-making business units the news (their clients were laundering money) their heads needed, whereas he had given them the news their hearts (and his wallet, I didn't actually say this, but I'm sure you understand the point) wanted. Thus, I told him it was in fact his fault (I did actually say that).

Needless to say, he didn't take that too well.

Thereafter he and his lieutenants embarked upon a course of action to terminate me (as an employee, not as a person). Subsequently, I blew the whistle, issued legal proceedings against the bank and ultimately testified against the bank before a US task force in Miami.

What has changed? Well Wachovia was bought by Wells Fargo, the head of compliance lost his job as well as a small fortune, when the bank's share price dropped 90%+. Years later Wells Fargo embarked upon a deceptive campaign to manipulate client relationships and sell accounts customers didn't ask for and didn't know they had bought. This was linked to the business of 'cross-selling' banking services and products

to customers. The prevailing market ratio in the US was an average of three products or services to a customer, whereas the Wells Fargo ratio was eight. This prompted the then, subsequently disgraced CEO John Stumpf to extol 'Eight is great'. Investors were happy, the share price rose and Warren Buffet labelled Wells Fargo his favourite bank.

This fraudulent campaign turned into a pyramid scheme through which branch managers, regional managers, senior managers and more benefitted from the sale of these accounts. Those who did not support the fraudulent campaign were shunned and some were dismissed. There were some whistleblowers who contacted the bank's confidential reporting line, they too were sacked.

Like many other big banks, Wells Fargo continues to wrestle with problems presented by weak AML controls, but now they are applying resources. Senior managers are listening and positive actions are being taken. Progress has been and continues to be slow, but there is progress.

Was blowing the whistle worth it? Hell yes, had I not done it I would have changed. Now call me conceited, but I like me; I like what I stand for; I like my profile, my brand and most of all my integrity. That was my real bonus at Wachovia and there is no getting away

from it, others lost their integrity. I kept mine intact.

The AML war has been raging for over thirty years now and yet the problem seems to be more acute than ever. What if anything needs to change?

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The first UK AML law was introduced in 1984 and only applied to the proceeds of drug trafficking. Subsequently, the law was extended to all crimes and the evolution of AML has seen special measures mandated for PEPs, correspondent banking and other areas of increased money laundering risk. The war has been waged longer in other countries, but it does not follow that these countries are any more effective in the fight against money laundering.

I do sincerely believe improvements are being made, they have to be, because shareholders of banks cannot continue to tolerate the losses incurred by huge penalties and the associated costs applied to fixing weak or non-existent AML programmes. That said, the root cause of the failure is a profound reluctance on the part of industry professionals, be they lawyers, accountants, trust and company service providers or bankers who ignore the crimes which have generated the sums and assets to be laundered. It is as though quarter of a million murdered Mexicans do not matter.

Only this month, it has been reported that drug poisoning deaths in the UK are now at an all-time high, but these professionals fail to link the money being laundered to these deaths or to the misery and suffering caused to so many people.

People have previously said to me 'money laundering is not a real crime'. I fundamentally disagree. Others see it as a side show, whereas professionals who enable money laundering wittingly or unwittingly see opportunity, profits, commission, bonuses and a pay rise. These same professionals do not want to look along the criminal supply chain, for fear they may become contaminated with the knowledge that the pounds, dollars, euros and rupees are soaked in the blood of people killed by the criminals who made the illicit gains.

It is an inconvenient and unwanted truth which people pursuing profits, bonuses and first place on the scorecard do not want to hear. Whilst at Wachovia I filed hundreds of SARs related to a Russian laundromat. Some of the money went through London, but the majority went through the US, in dollar transactions. The vehicles of choice for the money launderers were companies and partnerships incorporated in New Zealand and the UK. So something has changed there, the New Zealand government has introduced legislation to make it harder for criminals to use

New Zealand incorporated companies to launder money. Whereas in the UK It remains as easy as it always was. It costs £12 to set up a UK company and if you can type fast it takes less than a minute.

In my capacity as the board appointed, FSA approved MLRO at Wachovia Bank, I compiled a report titled 'Money Laundering in Latvia and Beyond'. I referenced hundreds of millions of USD transactions which were suspicious and connected some to individuals who had been referenced in other money laundering investigations. I was not praised for my work, on the contrary I was criticised, almost castigated. I was told by a senior compliance officer the matter had nothing to do with me and I should not have looked at the transactions. I had joined the dots; I had contaminated their business; challenged their judgement; offended their clients and worst of all, there was a possibility my actions would have a negative impact upon their bonus.

Nowadays, some banks reduce bonuses for staff who fail to complete AML training, which does reflect a positive change, but I am yet to learn of an increased bonus being given to an AML officer who stopped millions of dollars being laundered by closing a substantial number of hitherto profitable accounts. Most recently one bank has started to use AML in an advertising campaign, within which the bank references the

efforts made to track funds and share intelligence related to the illegal trade in ivory which results in the unlawful killing of thousand is elephants every year. The one issue which agitates me here is elephants vs humans. There are tens of thousands, likely hundreds of thousands of people killed every year because of drug trafficking. Personally I value a human life higher than that of one elephant or thousands of elephants.

I do believe there is an opportunity for a bank or banks to work with communities to counter drug trafficking and protect people. It was President Kenyatta who when discussing money laundering said, 'If a plane cannot land, it won't take off'. As such, banks and other regulated business need to do more to stop money laundering, stop the plane landing and consequently prevent it from taking off in the first place , stopping the drug dealers from pursuing their trade in death, misery and suffering.

The anatomy of AML scandals at Tier 1 banks over the past decade have been remarkably similar. Do you think that's because of industry wide apathy amongst senior management or the result of defects in industry standard AML defences?

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I have always been struck by the light touch regime applied to regulated firms, which posits a different approach to compliance with laws and regulations

which apply to all other members of society. As a former police officer, I was accustomed to confronting those who break the law in order to ensure they were held to account and prevented from breaking the same law or more laws. This approach is substantially absent within the regulated sector, but this must be in accordance with government policy. If a regulator is weak, it must be because the government tolerates the weakness. So yes, the ongoing, almost never ending AML scandals within banks may have a lot to do with apathy, but they may also have a lot to do with government policy.

Absent proper accountability of the individuals who break the laws and regulations, others are effectively encouraged to do the same. It is widely acknowledged that nothing makes money like money, thus people are constantly seeking money. In banking terms, bankers seek deposits, flows and access to capital. All of which is used to advance loans and make investments with a view to making more money. As such bankers have a duty to seek out deposits, they are rewarded for doing so and almost never held accountable for taking in dirty deposits. In the short term, the bankers receive commission payments, bonuses and pay rises. In the long term these are never removed and taken back, even when it is discovered the money deposited was the proceeds of crime, which was known or should

have been known to the banker.

It is right to point out regulators and authorities appear to have failed to take adequate action to investigate the issues, prosecute offenders and consequently deter others following the same criminal path. It has been widely reported that the Russian Central bank told Danske Bank and the Danish FSA of their suspicions and concerns about money laundering with the branch in Estonia, but they appear to have been were ignored.

Eventually, an employee within Danske bank blew the whistle and now action is being taken. We await the outcome of regulatory and criminal investigations, albeit, we already know that the UK authorities as well as those in Denmark and Sweden have refused to initiate an investigation or prosecution based upon the substantial evidence of money laundering provided by Bill Browder. So is it apathy towards these big money laundering scandals within these banks, or is it policy?

The primary change required is one of attitude, culture and understanding, which will hopefully drive a shift in the overall approach to money which has been earned from criminal enterprises - enterprises which commonly cause death, devastation, misery and suffering.

Of all the industry AML defences which do you think is most defective - AML training, reliance on the traditional AML model, screening, reporting?

■ The answer is training, or more accurately, education. Again, credit to many of the banks who have implemented important improvements in this area. One bank now operates an AML Academy and spreads the training/ education to their correspondent banks. The fact is, improved awareness and training can and will have the greatest impact in defeating money laundering, terrorist financing, corruption and sanctions busting.

All of us within the global AML community need to motivate and inspire others to make the right call; the right judgment and, in doing so, deliver an improved outcome.

In addition we need to bring the public - our customers - with us, we need to improve awareness of what money laundering is. We need to show them the link between violent crimes and the laundering. Only last month the Metropolitan Police publicly stated the connection between knife crime, drugs and the money being laundered, primarily through money service businesses. The bank which has called out the connection between ivory smuggling, the slaughter of elephant and money laundering are

telling the public, their customers and potential customers, these issues are linked and therefore what we do with the money matters. I say again I want to see banks make and publish the same connections with drug trafficking, the killing of thousands of young people and the money. If the banks don't do this the journalists will, the families of those killed by drugs will and they will publicly name and shame the banks who launder the money from the sale of drugs killing the young people in our communities. Hence the need for collaboration, against the launderer and the criminals, such as drug traffickers.

Do regulators bear some responsibility for poor levels of AML supervision and the imposition of inadequate penalties?

Yes, they do, but once again I ask, are they applying government policy? If this is not policy then there are structural failures of accountability of regulators to governments and then to the people. Most recently the FCA published a thematic review (TR19/4), titled 'Understanding the Money Laundering Risks in the Capital Markets' Within the review at 1.7 the FCA states the following:-

'We found that participants were generally at the early stages of their thinking in relation to the money-laundering risk and need to do more to understand their exposure'. The FCA

praised itself and its actions for causing these participants (regulated firms) to do more. Remember, this is a June 2019 FCA publication, within which, at 1.16 the FCA states:-

'Firms authorised by the FCS under the Financial Services and Markets Act 2000 (FSMA) are required by our Handbook to have systems and controls to counter the risk that they are misused for the purpose of all types of financial crime , including money laundering . . .'

The two are not ten paragraphs apart, one states these FCA regulated firms have had the obligation to implement AML systems and controls since 2000 and the other states they have only just started to think about the money laundering risks, let alone the controls to counter such risks, in 2019. What happened? Did these FCA regulated firms have a free pass for the past 19 years? What was the regulator doing? Was there any kind of AML regulatory supervision at all? Is there to be any penalty or sanction for 19 years of apparent failure?

So yes, the regulators share the blame.

Do you think regulatory capture and moral hazard play a part in AML enforcement and bank behaviours? If so how can the AML war ever be won?

Don't get me started. I know why I do what I do, but I do not understand what the regulator does or is supposed to do. Some may interpret their inaction as a policy to keep the markets moving and the money flowing, regardless of where it comes from. The war will never be won without a plan and without a leader who wants to win the war. I don't believe the new Prime Minister is that leader, at least not for this battle/war.

If we join the dots, between violent crime and the global financial crisis, we can observe there are fewer police officers, reduced public services, including youth engagement and youth projects. Why? The answer is the government gave all of our money to the banks, so that they could carry on. Carry on doing what? There has been scandal after scandal and yet almost minimal accountability. Terry Hayes the LIBOR fixer stands out as one of an infinitely small number of people prosecuted for criminal conduct within the regulated sector.

In regards to fixing, when the FCA published the enforcement notices against banks (not bankers) involved in fixing the FX rates, they published quotes from traders. One quote put in writing by a trader stated, 'If you are not cheating,

you are not trying'. How on earth can the morality of decency, honesty and integrity within the industry reach such a low point that a trader can write that? What the FCA never told us was what, if any action they took against that individual. Where is the accountability?

There is a disconnect between the industry and the rest of society. Consequently those minded to break the law do so with a sense of impunity. It was the late, great Robert Morgenthau, former District Attorney of New York who said to me, 'Crime on the streets and crime in the suites, justice must be fair and equal to all'. Sadly it is not.

As well as seeing bad industry practices you must have seen some good. Which AML defence strategies or policies have really impressed you and why?

I like this question, because for all of the negative commentary above, this gives me an opportunity to highlight the impressive work being carried out by groups and individuals who are taking the fight to the launderers. I so welcome the Unexplained Wealth Orders and I am grateful to those people in the background who have brought about this legislation. It has the power to make criminals think again: if they stash their ill-gotten gains in the UK they now risk them being taken away by the good guys.

Consent was a good piece of law in the UK, albeit I do not believe the government has applied adequate resources to recoup substantial benefits and sums from these SARs. I welcome the provisions of the Criminal Finances Act which make it a corporate offence to launder the proceeds of tax evasion.

I am a fan of the rules-based approach in some jurisdictions, such as Australia, and I am a big fan of the collaboration work being undertaken by David Lewis and his colleagues at the FATF. I firmly believe our collaboration, within the global AML community can be and will be a force for good, through which we will save lives and we will improve upon the paltry figure of 1% seizure of laundered funds.

We should learn from the passenger airline industry, because it has a lot in common with regulated financial services, in that both industries are heavily regulated, shareholder driven and customer accountable. Core to each business is the discipline of 'know your customer' (KYC) and yet one industry is far more successful in this area. Since 9/11 no US passenger planes have been successfully attacked. The bad guys lose this war every single day. And every single day in excess of 102,000 planes will fly more than 3,000,000 miles around the world from one place to another.

It can take a customer three months to open a bank account, whereas a

customer takes less than two hours to board a plane. Why are we so poor at KYC? I constantly see sales companies offering to help firms attend to the difficulties with beneficial ownership and it frustrates me. Can you imagine seeking to board a plane and when asked if the case is yours the answer provided is it belongs to a BVI company, or a Liechtenstein foundation. Guess what, the case wouldn't get on the plane. The staff at the airport would make no enquiry as to the beneficial ownership, that's not their concern. How would you feel sat on a plane with a suit case in the hold owned by a BVI company?

You see the airline industry is direct, it doesn't accommodate nonsense. That is not to say a BVI company is nonsense, but absent absolute transparency on beneficial ownership, it is nonsense. Please remember, nonsense means it makes no sense.

The other area where the airline industry outperforms the regulated financial services industry is collaboration. At every level, in a prior conversation, you referenced the airline industry efforts and awareness whenever a plane crashes. Well we have had major AML crashes in major banks for the past ten years, and what information and lessons have been shared? Moreover, the customers buy into and support the KYC at the airport. They expect to be asked, - Is this your bag? Did you pack it

yourself? Answer no and see how far it gets you.

So for lessons, look outside of our industry to the success of others in managing risk.

How if at all do you think the AML landscape will shift over the next 48 months?

Two words, civil litigation. I have been saying this for the past three years, because I do not believe our governments will pursue a criminal prosecution agenda against the corrupt bankers, lawyers, accountants, company and trust agents and others who commit and facilitate these crimes. Our mutual friend Bob Mazur advocates the sound of rattling handcuffs in the boardrooms, but I don't see that on the horizon. What I do see is shareholders and others suing banks and their executives in their individual capacity for negligence and deceit. This is being played out in the US courts against Danske Bank and the bank's former CEO and Chair of the Board. Both men made statements within the bank's annual report, which it is now argued influenced investment decisions. Post the revelation of the money laundering within the bank, it is posited the two men and the bank deceived investors. The two men stand to lose everything, which will undoubtedly change the way in which other executives think and act.

You will shortly begin hosting an AML Talkshow on KYC360. Please tell us more about the guests and topics you'll be covering and what you hope the Talkshow will achieve

I am in a privileged position to be taking part in this new initiative and I am so looking forward to sharing these conversations with fellow members of the global AML community. We have a very exciting line up of guests including David Lewis, Executive Secretary of the FATF, Bill Browder, senior officials from Global Witness, the OCCRP, the ICIJ, regulators and industry figures. I'm hoping the AML Talkshow will help raise awareness, stimulate debate and equip AML professionals with new strategies.

If you had to name one person you think has contributed more than anybody else to the global AML effort who would you nominate and why?

I have thought about this and when I did so I thought of the unknown people in the background bringing about positive change, such as the unexplained wealth orders, but this is not the work of one person. Moreover, it is not global, not yet anyway. I thought about some of the journalists at the ICIJ and OCCRP who have exposed incredible crimes, links, systems, processes and people who have laundered money. I thought about Daphne Caruana Galicia, the courageous journalist who exposed

political corruption and money laundering, before being murdered when a bomb blew her car up in Malta. But I determined this honour posthumously belongs to Sergei Magnitsky, because unlike Daphne, a journalist, Sergei was one of us, a member of our global AML community. He was investigating the fraud and tracing the money, for which a corrupt regime placed him in prison without charge, tortured him, sought to force him to falsify his findings, which he steadfastly refused to do and because of this they killed him.

Since then, others have fought on in his name, legislation has been passed in his name and because of what he did we are learning more and more about Russian organised crime, corruption and the laundering of the proceeds of the same. More than anyone his name stands out, because he always did the right thing, he believed in justice, he fought the bad guys and he has made a difference. His death was a tragedy.



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