



The Role for Financial Institutions in Combatting Human Trafficking in South East Asia

Contents

Introduction 3

Where is the risk?

What are the challenges for Financial Institutions in combatting human trafficking? 4

A. Data

B. Legal and structural barriers

What can Financial Institutions do? 5

Acknowledgements

Publication by PricewaterhouseCoopers Consulting (Singapore) Pte Ltd with contribution from Liberty Shared as industry knowledge expert.

Liberty Shared aims to prevent human trafficking through legal advocacy, technological interventions, and strategic collaborations with NGOs, corporations, and financial institutions globally.

<https://libertyshared.org/>

LIBERTY SHARED
CREATING AN ENVIRONMENT
SAFE FROM TRAFFICKING

Introduction



Human trafficking poses enormous risk for financial institutions. We outline the challenge and propose positive steps they can take to contend with the risk and combat the human suffering caused.

Human trafficking is a global value chain that involves over 40.3 million victims¹. The victims are generally amongst the poorest in the world, often seeking to improve their lives through a job. Instead, they find themselves trapped in a cycle of mental and physical abuse, violence and coercion. The scale and depth of human suffering is apparent but what is less obvious is the important role that Financial Institutions (FIs) play in identifying, intercepting and sanctioning these activities.

Human trafficking refers to the labour value chain that involves the “recruitment, transportation, transfer, harboring, or receipt of persons by improper means (such as force, abduction, fraud, or coercion) for an improper purpose, most commonly forced labour or sexual exploitation”². This piece will focus largely on the issue of forced labour which represents 81% of all human trafficking cases³. Forced labour refers to “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily”⁴.

Human trafficking is conducted for the purpose of financial gain and is estimated to be worth US\$150 billion⁵. Given the scale of this activity, traffickers are likely to be customers of FIs that process the transactions which enable the activities of these traffickers and consequently the same FIs have the potential to act to identify and prevent these activities.

What is more, data indicates that there is a concentration of human trafficking in South East Asia. Countries in the region, such as Cambodia (16.8 people in modern slavery per 1000 population), Myanmar (11 people per 1000 population), Thailand (8.9 people per 1000 population) and Malaysia (6.9 people per 1000 population) have a significantly higher incidence of modern slavery compared to the global average (5.4 people per 1000 population)⁶. Therefore FIs providing services in this region are faced with a heightened level of exposure to human trafficking risk.

Where is the risk?

For Global FIs, the area of greatest risk lies in their correspondent banking activity, where Global FIs process payments on behalf of their local and regional FI clients. A lack of direct line of sight to underlying transactions and reliance on smaller local or regional FIs who may not have sufficient resources or regulatory drivers to conduct thorough due diligence may leave the global FI exposed.

Local or regional FIs are on the front line and are directly exposed to transactions potentially linked to human trafficking. For these FIs, the risk lies in remittances that include payments for goods and services that resulted from forced labour and for acts involving sex trafficking. There is also the movement of funds by traffickers as they seek to launder their profits and income generated to spend personally or invest in legitimate business. For processing such payments, FIs could be targeted for breaches of AML law. Such exposure is not only limited to banks but also other kinds of FIs through US AML laws around international promotion of an unlawful activity. For example, such liability could apply to insurance agencies providing high-risk fishing companies with maritime insurance products without an assessment of human trafficking and forced labour risk.



What are the challenges for Financial Institutions in combatting human trafficking?

Despite steps in the right direction, many FIs currently lack the tools, systems and expertise to adequately identify and report potential human trafficking activity. There are issues surrounding the collection and sharing of data in this area, as well as significant legal and structural barriers that mean that FIs are in the position of having significant data relating to human trafficking, without the context to turn this data into actionable insights.

A. Data

FIs rely heavily on data and intelligence in their efforts to combat all forms of financial crime. However, when it comes to human trafficking, the data needed is often not readily available for use. Some of the main challenges in the collection and sharing of data on human trafficking include:

1 The human trafficking value chain is a series of disparate activities carried out by unorganized actors

Forced labour - has come into greater focus during the last five years along with a focus on concomitant crimes such as money laundering and corruption. Trafficking is a chain of crimes as it consists of a continuous series of activities rather than a single event⁷. The process of abusing an individual to gain their labour without paying them requires a long chain of criminal activities, from deceit, theft (of passports), smuggling, false imprisonment, physical violence to possibly even rape and murder. The actions inflicted upon individuals are done by separate and distinct perpetrators that do not necessarily belong to transnational organized crime groups or terrorist groups. Rather, perpetrators organize and arrange themselves to collectively benefit from the movement and abuse of people for profit. Therefore, the data is collected by different stakeholders with visibility over different parts of recruitment and the business supply chain making it difficult to obtain a holistic understanding of the problem.

2 Limitations in the collection and sharing of intelligence by national government agencies and transnational organisations

In contrast to anti-terrorism and anti-drug trafficking, there is limited data gathering on human trafficking and forced labour by national security, state intelligence and law enforcement institutions. In 2009, only 25 countries collected data on human trafficking at all and by 2018 it had only risen to 65 countries⁸. The quality of data collected varies significantly between countries. There is also a lack of real intelligence and analysis from government agencies around the issue leaving them poorly positioned to provide meaningful guidance to the financial industry.

3 Lack of focus on data collection by the anti-human trafficking community

The traditional focus for NGOs and civil society actors involved in human trafficking has been on Protection, Prevention and Prosecution (the 3Ps). Until recently, business liability, economics and money, were not recognized as important levers. As a result, there has not been a focus on data collection on the financial footprint of human trafficking. In particular, data collection on human trafficking for the purposes of forced labour has been inadequate because of the complex nature of the crime⁹ and the lack of robust reporting and enforcement requirements.

4 Data collected is often not fit-for-purpose for usage by FIs and other businesses

The data that is collected about human trafficking is often collected in silos without a clear sense of intent. Therefore, it becomes difficult to leverage this data to create actionable insights. There is a systemic lack of a structured, reliable and ongoing flow of intelligence and data which is caused by an absence of national or international resourced intelligence infrastructure on the issue. There is also little consideration paid to the ways in which data should be presented and disseminated to incentivize and simplify its use by organisations with the power to act. Given the vast number of transactions that flow through the financial system on daily basis, FIs will gravitate towards a focus on those areas where data is readily accessible and usable.

When it comes to human trafficking, this approach leads to the problem of 'unknown unknowns' and false negatives. The lack of data leads risk managers to believe there is no risk when in fact the existence of the risk itself is unknown.



B. Legal and structural barriers

The current treatment of human trafficking in the legal system often fails to recognize the nature and scale of the challenge impacting both how FIs think and act about the problem of human trafficking. Some of the ways in which legal systems fall short include:

1 Current legal frameworks, criminal justice systems and enforcement mechanisms operate under narrow definitions of human trafficking

Current legal frameworks and criminal justice systems do not reflect the full range of activities inflicted upon individuals in order to profit from their labour. Liberty Shared's Legal Impact Hub has developed range of legal gap analyses for Asia that demonstrate the considerable work to be done in developing legal frameworks needed to provide a robust framework on the issue¹⁰. A common issue is that legal frameworks often do not consider the full range of purposes of trafficking and often focus narrowly on sex trafficking. Local law enforcement often lacks staff and resources dedicated to the issue. With weak laws and limited capacity for enforcement, much trafficking activity goes unimpeded by officials.

2 Human trafficking and modern slavery are not treated as equivalent to other predicate offenses for many businesses

Under current law, the financial services industry must view human trafficking as a predicate offence to money laundering. However, human trafficking, modern slavery and forced labour are still viewed as largely ethical and moral concerns for non-financial companies. Disclosure requirements under the current slate of Modern Slavery laws are generally less stringent than anti money laundering requirements under local laws. The consequences of breaches are also less severe – there are not likely to be billion dollar fines or criminal liability for being involved in forced labour or trading products that are the result of modern slavery.

3 Current databases and tools are restricted in the information they are able to share due to concerns around legal liability

The use of commercial intelligence sources by FIs for risk intelligence is widespread and a key part of their business-as-usual activity. Databases used for adverse name screening as well as search engine profiling tools all draw upon open source information.

However, these services operate under strict guidelines on the information they can include in order to manage their legal risk. For example, British labour rights activist Andy Hall was sued for defamation by a Thai company for his report on labour practices employed by the company¹¹. Additionally, the decline in investigative journalism has had a negative impact on the quantity and quality of information that is reported and easily accessible through reputed publications. Therefore, when it comes to human trafficking, only a portion of what is recorded is reported and only a fraction of that is useable in commercial risk management tools.

The current treatment of human trafficking by the legal system limits the ability of FIs to act on this issue. However, the most meaningful impact of this may be to create a mindset of FIs that views the issue of human trafficking, and particularly forced labour, as only a matter of moral and ethical consideration rather than as a source of regulatory, legal and reputational risk to their business.

What can Financial Institutions do?

FIs face a challenging landscape in terms of the availability of data as well the lack of support from the legal system. However, FIs could be doing more to actively mitigate these challenges and manage their own risk exposure to avoid unwittingly being used to support human trafficking value chains.

1 Embed an awareness and understanding of human trafficking into all risk activities

The first step to tackling the problem of the abetting of human trafficking through the financial system is for FIs to acknowledge that there is a problem. The lack of data surrounding this issue can lure even the best-intentioned FIs and financial crime professionals into a false sense of confidence that they are not involved in this global problem.

It is important for FIs to recognize that human trafficking is difficult to manage by simply leveraging existing tools such as negative news and name screening. An understanding of human trafficking therefore needs to be embedded into the broader risk culture of the bank- in front, middle and back office, that will trickle down into all aspects of an FI's risk program such as risk assessment, internal controls processes and policies. There is already much existing best practice from law enforcement, NGOs and international organizations such as the Financial Action Task Force (FATF) that could be incorporated. FIs may not always have the expertise internally to implement such a transformation, so could look to include external professional advisors to support this process.

2 Strengthen industry and geographic-based risk assessments for commercial and corporate banking services

FIs should look to put in place a risk-based approach around human trafficking leveraging existing data collected on clients. Industries which directly or indirectly use unskilled manual labour have a higher propensity to engage in forced labour practices. In countries where there are few requirements around governance, internal controls and reporting for companies in these industries, there is likely to be an increased risk of human trafficking and forced labour. Commercial and corporate banking services, such as providing letters of credit, credit facilities and corporate loans require banks to develop a deeper understanding of their relationships with clients.

Risk assessment that considers the intersection of industry and client risk and product risk would allow FIs to establish a preliminary understanding of the risk profile of their clients and adjust their client profiles to match their own risk appetite. Overall, this would reduce the likelihood of whole industries or geographies being designated high risk and prevent the loss of commercial opportunities for FIs in these industries.

Conducting such an assessment would be beneficial not only during onboarding but also for periodic review performed on existing clients. Based on the initial results, FIs would be able to focus their efforts on conducting more thorough reviews of particular high risk clients and put in the additional investigation effort for complex cases. FIs could also use this to encourage and incentivize high-risk clients to introduce or strengthen internal controls and governance. Such an approach would reward good actors in the system and create commercial penalties for the bad actors.

3 Collaborate across industry to support data sharing efforts

Governments, international organisations, law enforcement agencies, NGOs and civil society actors have invested much in tackling the challenges of human trafficking for forced labour. The impact of such efforts can be magnified significantly by finding ways to effectively convey the intelligence these organisations have in a manner that can be leveraged by FIs. Civil society actors and FIs should work together to establish an understanding around how to share data effectively and in a manner that is fit-for-purpose and actionable. Areas of mutual cooperation should include setting standards for information sharing and evidence quality, identifying high priority issues and finding ways to leverage new technology. Such collaboration would facilitate the incorporation of human trafficking into FI's business-as-usual Anti-Financial Crime activities.

Data sharing between FIs will allow the issue to be tackled as a global value chain and improve industry standards on tackling human trafficking. The financial industry as a whole can also take action and leverage their collective buying power to encourage commercial intelligence resources to more thoroughly capture insights on human trafficking from the ground and find innovative new ways of capturing and sharing data.

4 Effectively engage the first line of defense

The business interacts directly with clients, has first-hand detailed knowledge about the relevant industry and country, and is able to conduct detailed investigations where needed. The first line of defense therefore is better placed than compliance or internal audit teams to gain intelligence on human trafficking activities. As a result, interventions that target the first line of defense such as training on spotting indicators of human trafficking and tools to conduct initial investigations around human trafficking are likely to be most effective.

5 Strengthen visibility across correspondent banking relationships

Correspondent banking relationships can be a source of risk for global banks. Many companies in high-risk industries conduct their activities through smaller, regional banks. These smaller respondent banks are less likely to have the skills and resources required to conduct effective due diligence on their clients. Therefore, correspondent banks may be indirectly exposed to illegal activities and there is a need for them to gain greater visibility of the human trafficking risk in these relationships. Correspondent banks should act to educate their respondent banks to effectively tackle this risk by providing training on identifying human trafficking risk factors and closely monitor transactions conducted to identify suspicious transaction typologies. Again, in addition to managing the legal, regulatory and reputational risk, there is a commercial incentive for both the correspondent and respondent bank to maintain a transparent and mutually beneficial relationship.



In addition to managing legal and reputational risk, developing a robust risk based approach to assessing human trafficking risk in clients can drive business interests as it would allow FIs to avoid the trap of blacklisting entire industries or countries, and instead identify and exclude specific bad actors, allowing FIs to reap the commercial benefits of providing financial services to good actors that would have previously been outside of risk appetite.

Human trafficking for the purposes of forced labour is hard to recognize as there are many stakeholders with varying degrees of awareness of their role in the forced labour value chain. Indeed, many financial institutions are unaware of their own contributions to this value chain. It is important for FIs to not only recognise the scale and depth of human suffering associated with human trafficking but also to acknowledge their own agency in combatting the problem. Forced labour value chains do not look remarkably different to legitimate business activities from an FI's perspective. However, for the victims of human trafficking and forced labour, the differences are very real.

Combatting human trafficking through its financial footprint is challenging which means that it cannot be an afterthought for FIs. It needs to be a part of the way they do business and requires them to be proactive in their efforts. This would allow FIs to develop a substantive understanding of their own risk exposure, avoid high-risk clients and incentivize the introduction of robust controls by clients. They will need to work with other FIs, law enforcement, governments, NGOs to bridge the gaps in data availability and applicability of legal standards. Embedding a human trafficking lens into all the FI's risk activities would allow them to effectively contend with the nature and scale of the challenge. The cost of the human suffering associated with human trafficking and forced labour is too high for complacency from any institutions with the power to act.



Notes

¹ ILO https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_574717/lang--en/index.htm

² United Nations <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

³ ILO https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_574717/lang--en/index.htm

⁴ ILO https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_574717/lang--en/index.htm

⁵ ILO https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm

⁶ Global Slavery Index 2018

⁷ Liberty Asia/Thomson Reuters Foundation <https://www.trust.org/contentAsset/raw-data/b9ceb4e8-b745-485c-8c4f-c8f3253220e1/file>

⁸ UNODC https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf

⁹ PBS <https://www.pbs.org/wgbh/frontline/article/why-labor-trafficking-is-so-hard-to-track/>

¹⁰ Liberty Shared <https://legal.libertyshared.org/liberty-asia-publications>

¹¹ The Telegraph <https://www.telegraph.co.uk/news/2018/05/31/thai-court-dismisses-criminal-defamation-charges-against-british/>



Contacts



Richard Major

PwC South East Asia Financial Crime Unit

richard.j.major@pwc.com

+65 9117 7740



Nick Davison

PwC South East Asia Financial Crime Unit

nick.davison@pwc.com

+65 8515 4966



Duncan Jepson

Managing Director, Liberty Shared

duncan@libertyshared.org

<https://libertyshared.org>

LIBERTY SHARED
CREATING AN ENVIRONMENT
SAFE FROM TRAFFICKING



This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers Consulting (Singapore) Pte Ltd. ("PwC"), its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. © 2019 PricewaterhouseCoopers Consulting (Singapore) Pte Ltd. All rights reserved. "PwC" refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see <http://www.pwc.com/structure> for further details.