IN THE ROYAL COURT OF JERSEY

(SAMEDI DIVISION)

HIS MAJESTY'S ATTORNEY GENERAL

-V-

AFEX OFFSHORE LIMITED ("AOL")

STATEMENT OF FACTS PREPARED PURSUANT TO ARTICLE 3 OF THE CRIMINAL JUSTICE (DEFERRED PROSECUTION AGREEMENTS) (JERSEY) LAW 2023

Introduction

1. This is an agreed statement of facts ("**SOF**") in relation to a Deferred Prosecution Agreement (**DPA**) under the Criminal Justice (Deferred Prosecution Agreements) (Jersey) Law 2023 ("**the DPA Law"**) concerning conduct which is admitted by AOL, and which it accepts amounts to the commission by it of offences contrary to Article 37 (4) of the Proceeds of Crime (Jersey) Law 1999 ("**the 1999 Law"**). In particular, the contravention of or failures to comply with the requirements of the Money Laundering (Jersey) Order 2008 ("**the MLO**").

2. At the time of Fleetcor's acquisition of AOL in 2021 Fleetcor was unaware of the transaction executed in 2019 and now subject to this agreed statement of facts and only became aware of these matters upon AOL's receipt of a PPCE production order Notice on 16 June 2022 and subsequent investigation conducted by AOL.

3. The alleged offences are described in the indictment which reflects the alleged offending by AOL. The counts on the indictment can be divided thematically:

    a. Counts 1-5 represent—broadly—failures in relation to customer due diligence (CDD) obligations and risk assessment relating to a transaction which AOL administered in January 2019;

    b. Counts 1-4 allege a separate failure to identify the beneficial owners (as AOL understood them) of the funds involved in the transaction in a) above;

    c. Count 5 deals generally with the failure to properly scrutinise, identify and address the money laundering risks apparent to AOL from the transaction in a) above, as well as money laundering risks emerging from information AOL discovered throughout its administration of that transaction; and

    d. Counts 6-11 represent offences in relation to AOL's monitoring and compliance with Article 16 of the MLO with respect to several different client relationships.

4. There is no factual connection between Counts 1-5 and 6-11, however, both sets of allegations establish failings by AOL in multiple—core—areas of its business which taken together, seriously undermined its ability to effectively apply and maintain measures designed to prevent and forestall the risk of money laundering.

5. Although a single transaction, the facts in relation to Counts 1-5 illustrate numerous and significant departures from the standards required by the MLO. That the transaction was permitted to occur at all, exposed Jersey to a high risk of money laundering without those risks being increased by the behaviour in Counts 6-11. The actions by individuals within AOL at the time indicate that they must have realised this risk yet drove the transaction forward. The individuals at AOL involved directly in the transaction were motivated by the prospect of repeat business. This brought about circumstances where AOL's obligations under the MLO took second place and ultimately led to the commission of serious criminal offences.

6. The contraventions of the MLO in this case were serious in circumstances where there was a risk of money laundering occurring or being facilitated by AOL. AOL's conduct in its handling of the transaction represented in Counts 1-5 taken together with its other failings in Counts 6-11 was reckless. It is not suggested that this is a case where AOL intentionally failed to comply with or set out to breach the provisions of the MLO.

Counts 1 to 5

7. AOL was incorporated on 5 February 2015. Its principal activities are arranging foreign exchange and cross-border payments on behalf of its clients on an execution only basis. By virtue of carrying on that activity, it is regulated by the Jersey Financial Services Commission (the **JFSC**). The ultimate parent company of AOL (by virtue of its interest in 100% of the issued share capital of AOL) is Fleetcor Technologies, Inc., a company incorporated in the United States of America.

8. AOL employed the services of A, Emails demonstrate that A played an active part in providing guidance to the MLRO/MLCO before and after the transaction relating to counts 1 to 5 and also played a role in the drafting of policies and procedures and conducting on-site examinations that relate to counts 6 to 11. The appointment was a long term one with the aim of providing additional compliance capability and technical expertise to the business.

9. In December 2018, K, operating as a "*financial consultant*"[1], applied to open an account with AOL in Jersey. The purpose of opening an account with AOL, as it later transpired, was to receive a large "one-off" sum of money generated by the sale of a fixed income instrument and dissipate the proceeds in tranches to third parties.

10. K had been introduced to AOL by L, a finance professional personally known to B, at AOL, the two having worked together previously.[2]

1 pp.1-6, KYC K

2 p.7, Email from A confirming previous relationship with L 07.01.2019.

11. The process by which the account was opened and the way in which the subsequent transaction was processed was unusual. L acted throughout as an intermediary between AOL and an evolving cast of individuals who were involved directly and indirectly in the transaction. As L had introduced K to AOL, L's UK company was intending to take a payment of 20% of the margin that AOL itself would charge on the transaction.[3] It was clear from the outset L was not an impartial source of information. As it was later shown at the time of the transaction itself, L was actually to become one of a number of persons who stood to benefit from it. L also certified the copy of K's passport, something that should have been done by an independent third party.[4] K (via L) also provided a utility bill in K's spouse's name, and a marriage certificate.[5]

12. Email correspondence revealed that conversations must have occurred before the initial emails introducing the purpose of the relationship. A note produced by AOL on the 21st of December 2018 stated "*Cocos * sell back to bank. Eur > Eur < Aus Company German Bank*."

13. On 21 December, L provided to AOL a certified copy of K's passport and residency permit. B asked for the flow of funds and how K fitted into the structure. L stated that K and a person, J, were the "*appointed advisors*" of a company named Tek Capital, registered in Singapore, which held some Contingent Convertible (CoCo) bonds in Greensill, a bank, and had sold them back to Greensill.[6]

14. A director's resolution was supplied stating that the Tek Capital's sole director and shareholder was Shazad Ashfaq Fakhar, and that the bonds, worth €4,631,860.88, were to be disposed of to Greensill Capital Party Limited for €3 million following an arrangement by J and his team for which they would be paid a 25% fee.[7] K had been appointed to receive the funds which K would then distribute.

15. On the same day, AOL staff carried out a screening check on Tek Capital using their screening platform which found minimal information (and no formation date) and therefore designated it with a red risk rating.[8] AOL staff should immediately have queried the commercial rationale behind a transaction that appeared to involve J and K for no real reason, and that involved a Singapore-registered company about which minimal independent information was available, selling bonds back to a German bank via a Jersey financial institution. On 22 December 2018 account opening forms for K were provided.[9]

16. On 24 December, B e-mailed L raising concerns about the information L provided. L requested a copy of the distribution and assignment agreement regarding the CoCo bonds. He also requested further information regarding Tek Capital as AOL had been unable to verify the company "*through open online sources*." B requested address verification for K. L responded stating:

> *"I am happy to send the documents re: TEKCapital etc but the incoming payment to you will come from Lloyds banks account of the law firm 2ndopinionnow who have done their due diligence as did Greensill Bank before making the payment to the law firm...".*[10]

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3 *Ibid,* and p.12, Email confirming this sent 18.01.2019.
4 p.15, Email from L forwarding certified passport 21.12.2018.
5 pp.19-20, Email from L to B 24.12.23.
6 pp.26-28, Email from L to B explaining flow of funds 21.12.2018.
7 pp.31-34, TekCapital Shareholders Resolution.
8 p.35, RDC check on Tek Capital.
9 p.36, Email from L enclosing account opening forms 22.12.2018.
10 p.37, Email between L and B 24.12.2018.

17. This information was not relevant to whether AOL still had to do its own due diligence itself. Nothing suggests that any information from the due diligence process done by the law firm or Lloyds Bank was ever sought or obtained by AOL.

18. Earlier that day L e-mailed B a copy of a utility bill provided by K's spouse for their address in Dubai. Within the e-mail he stated:

> *"As for the consultancy role [K] is, as far as I understand self-employed and works with [J] on a consultancy basis."*[11]

19. On 30 December, L emailed B to state that they had just been through a third KYC/AML process with Lloyds bank and that "*we will need to move ahead now with the account for K*."[12] The tone of L's reply was terse and encouraged urgency. This suggests that B had chased the information/KYC from him.

20. The following day, 31 December, B suggested they spoke on the phone and afterwards L sent over K's marriage certificate. A Private Client Account Opening Checklist – Compliance Sign Off Sheet dated 31 December was completed by both B and the former Compliance Officer & MLRO, C. C rated the relationship as "high risk."

21. On 2 January 2019, the sign-off sheet was countersigned by C and D, a director at AOL. Within the section entitled: "*Any additional comments to support acceptance of the account*," the following is recorded and signed by C:

> "*Refer extensive emails and EDD completed on source of funds, the client and beneficiaries*."[13]

22. There was at this point no EDD completed on the source of funds or the client or beneficiaries whatsoever. From the evidence available, beyond the basic information on K, not even basic due diligence had been performed. The "*high risk*" box contained a note stating that "*enhanced due diligence must be carried out for all High-Risk Clients*." B emailed L to say that everything was "*lined up*" for the account and it would be opened once they had the distribution agreement.

23. On 3 January 2019 instructions were sent from J to AOL stating that small payments should be made immediately[14]:

    a) €25,000 to "Pavlistova" in the Czech Republic with the reference "Tek Capital"; to Tek Capital;
    b) €50,000 to Lucky Holdings, a company in Dubai with the reference to Tek Capital and contact person as "Muhammad Omar" (later shown to be director/owner at Zemlar Limited); and
    c) The balance was to be held in K's account until further instructions. A rationale requested by B but never obtained.

24. A handwritten note by B apparently dated "*4th*" reads:

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11 p.39, p.42, Email from L forwarding utility bill 24.12.2018.
12 p.47, Email from L to B 30.12.2018.
13 s.1-2, Compliance sign off sheet 31 December 2018.
14 pp.55-57, Email from J to B 03.01.2019.

"*Tek Capital Invest CoCos (1) > Greensill hold CoCos (2) No . Cash capital raise > Greensill"* and then, under a line*, "Greensill > Tekcap buy Cocos, No longer want the Cocos, Greensill sold cocos to Tekcap Tekcap Cash.*"[15]

25. On 7 January AOL's compliance department asked why the money was being paid to K in a personal capacity rather than to Tek Capital and B passed on this query via email to L, adding *"once I know the above and some further information on the beneficiary details, we will be in a position to open the account and trade".* L said he would explain in a telephone call.[16]

26. On 8 January, an RDC report was undertaken, in relation to Shazad Ashfaq Fakhar and was designated as "high risk". The RDC platform identified a "PEP concern" regarding Shazad Ashfaq Fakhar. He is documented as having a professional relationship with Hussain Mahyoob Sultan Al Junaidy, a politically exposed Emirati individual who had founded an oil company and "*maintains a link with the oil industry through a number of oil-related companies*."[17]

27. Apart from this, no attempt was made by AOL to identify or verify him, despite him being ostensibly the beneficial owner of the funds.

28. On 9 January, an email arrived from K discussing the beneficiaries, who were now stated as being:

    a. "*Martina Pavlistova*" in the Czech Republic with the reference now changed to "Marie *Bukhari*"

    b. Lucky Holdings with the reference now changed to "advance payment."[18]

29. B responded to her asking for the reason for these two payments. L later explained, in an email dated 14th Jan 2019: 'Martina Pavlistova and Marie B worked on the deal regarding Zemlar Limited and Ms. Martina Pavlistova is receiving funds on behalf of both'.

30. B then created a "*flow of funds*" and "*rationale*" document which he emailed to C. This explained that Tek Capital/Shazad Ashfaq Fakhar sold CoCos to Greensill as part of a fund-raising drive in 2011 and that they were now being bought back *by* Tek Capital.[19] This was factually incorrect (the CoCos were meant to have been sold by Greensill) and makes no sense if money was being sent *to* Tek Capital.

31. The rationale document stated that Shazad Ashfaq Fakhar had participated in raising money for Greensill by selling Cocos to Greensill, but they did not have adequate capital value and Greensill had decided they could be sold back at a nominal price of €3m. The document also contained the comments "*We know the reasoning for the transaction; we know all parties concerned and have no negative findings on RCD or google searches*."[20]

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15 p.58, B's handwritten note (4).
16 p.59, Email from B to L 07.01.2019.
17 pp.60-62, RDC check re Shazad Ashfaq Fakhar 08.01.2019
18 pp.64-65, Emails between K and B re transfers 09.01.2019.
19 p.66-69, "Flow of Funds Document".
20 *ibid*

32. This statement had no basis in fact. AOL knew almost nothing about most of the parties concerned and had made no attempt to understand the source of money or make contact with key persons. This is demonstrated by a later development in the transaction: the ultimate beneficial owner of the funds was actually found to be someone else entirely, Nasir Ali Bukhari. AOL had no information on Shazad Ashfaq Fakhar himself or either of the suggested beneficiaries. The document contained comments that AOL would make a "*significant margin*" on the transaction and that Greensill and 2nd Opinion Now were prospective clients of theirs, indicating a possible commercial motive for ensuring the transaction came off successfully.

33. Assuming this document was composed using information provided by L, it is clear that he had been actively dishonest with B, as it later became clear that Shazad Ashfaq Fakhar was not the person who participated in the capital raise: Nasir Ali Bukhari was. L knew this perfectly well as he had been involved in the original sale process, and this is proved by his email on 14 January 2019 at 13.45hrs.[21]

34. In an email B sent, B suggested to C that "*I would suggest we open the account on the proviso all bene's are confirmed with POP's and checks carried out and if, for any reason, we have an issue with any of them, we say we will send funds back to source*."[22]

35. That afternoon, another version of the flow of funds document was sent from B to C, this time correcting B's error and stating that Tek Capital *bought* CoCos from Greensill.[23] Attached to this email is a copy of a company resolution by Tek Capital Ltd concerning the sale of the bonds (worth €4,631,860.88) to Greensill Capital Party for €3m. This had been arranged by J and J's team and the fee would be 25% of the sale price, €750,000.[24]

36. B e-mailed L and stated:

> "*I have just had a call with our compliance head and there are still some reservations (despite my ongoing efforts!):*
>
> *Do you have access to any of the following;*
> *Engagement Letter between TekCapital and 2nd Opinion Now*
> *Solicitors. Distribution agreement (or confirmation of where the funds are being distributed to from AFEX)*
> *There are reservations as to why funds are flowing through K as opposed to directly back to TekCapital's account*."[25]

37. B then emailed A to update him that he had asked L for further documents and mentioned that Lloyds had now released the funds to the lawyers' account after three rounds of KYC "*so hopefully we can take a lot of comfort from this as well*."[26]

38. Since a significant degree of reliance was placed on the involvement of UK solicitors, it is pertinent to examine who they were. 2nd Opinion Now is the trading name for 2ON a law firm based in the West Midlands, which described itself as a "*leading first and second opinion firm of solicitors*."

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21 p.131, Email from L to B 14.01.2019.
22 p.75, Email from B to C 09.01.2019.
23 pp.75-76, Email from B to C attaching updated flow of funds document 09.01.2019.
24 Produced again at pp.70-80, Tek Capital resolution.
25 p.81, Email from B to L requesting further info 09.01.2019.
26 pp.82-84, Email from B to A 09.01.2019.

39. 2ON is small provincial concern which focusses primarily on legally aided criminal work. There was no indication that 2ON (or its principals) were experienced in large scale transactional work on behalf of corporate clients. Although it is a solicitor's firm regulated by the SRA it offers, in effect, a telephone/email advice service where "counsel's opinion" is secured by payment of an "up-front" fee with no refund.

40. This type of service is utilised by persons convicted of criminal offences wishing to appeal their convictions on the basis that their previous legal team was "negligent" or, a peripheral class of County Court claimants who wish to reargue low value civil claims that have been struck out on procedural grounds.

41. It is therefore highly unlikely that 2ON would be acting for a German merchant bank, it is even less likely that anyone who worked at 2ON had any real connection to private client work of this nature; 2ON do not even advertise this as one of their services. This information was not hidden; it was there to be seen if anyone at AOL had looked for it.

42. A lawyer's engagement letter from 2ON to J was then sent L. This letter refers to an investment of €6,154,181 made in NordFinanz. This bank was taken over by Greensill Capital in 2014 and the investment was converted into CoCo bonds worth €5,231,860.88. Some of these bonds were then assigned to a Leon Seynave. The payment of interest on the bonds was contingent on the bank making a profit of more than €1m which had not occurred in any of the years since 2014 and the investor had decided to "*recoup as much as you can and write off the balance as a loss*," hence the sale at the price of €3m.[27]

43. The letter was written as if Tek Capital had made the investment, which it had not. When this was later revealed, it prompted no concerns or queries as to why the letter had been written in those terms and why L had forwarded it knowing it represented the situation incorrectly. It stated:

> "*We shall work with you and your team which shall include Lwho has a mandate to share and disclose all documentation as your attorney*."[28]

44. L was not an attorney, and B, who had worked with L previously, would have known that and should have asked why the letter claimed L was.

45. A then requested information on the beneficiaries, the sale/purchase agreement between Tek Capital and Greensill, the rationale for the money not being repaid to Tek Capital, and information on the source of funds and wealth, including identification documentation for Shazad Ashfaq Fakhar He stated:

> "*It looks like the firm of Solicitors (2nd Opinion Now) and their bankers (Lloyds) have also done significant KYC / CDD on the transaction and therefore it should hopefully not be too painful to obtain the following:*
>
> - *details of intended beneficiaries and bank details; These are effectively our UBOs unless it is going back to TekCapital."*
> - *A copy of the sale and purchase agreement between Greensill and TekCapital;*
> - *Rationale of why it is not going back to Tek Capital;*

[27] pp.85-87, 2nd Opinion Now engagement letter 23.11.2018.
[28] *Ibid,* p.86.

- *More information on source of funds / wealth. The funds don't belong to K as K is only acting as agent and we need to look back to where the funds originated from, Shazad ASHFAQ. A passport copy and address confirmation would be sensible*."[29]

46. AOL was eventually provided with a copy of the agreement but obtained nothing else from this list. It is clear from what A asked that there was, at this point, a degree of effort being put into attempting to obtain the correct documents, but insufficient effort was put into following these things up.

47. On 10 January 2019, B emailed A and Cin response to A's requests:

> "*Lloyds have asked for significant information, 3 rounds worth of KYC as I understand it and as mentioned yesterday, funds were finally released to the lawyers account from a Lloyds Vostro account yesterday afternoon as Lloyds are now happy with the transaction.*
>
> *... I am waiting on full disclosure of the bene's and bank details including POP's etc, but as I understand it there will be 4 payments. [K] will be paid (and release funds from her AFEX account to [K's] personal account in [K's] own name). We have already been given 2 bene's, corporates in Dubai and Czech Republic (of which I am awaiting POP's for but have run checks and nothing has come up). And finally the remaining balance will be paid to the UBO of TekCapital – there are several companies he has and it may not be paid into the same TekCapital we know, <u>but I have had it confirmed we will be shown that it is for the same UBO;</u>*
>
> 1. *I'm not sure we are going to get this <u>– how much comfort does it actually give though?</u>*
> 2. *As above*
> 3. *We know the source and flow of funds and surely can take comfort that Greensill AG (German regulated Bank) would have checked on SOW when receiving this capital? L has said that L will introduce the ultimate BO to us as [L] has several companies dealing in FX and will open an account for one of these corporates (he has been known to L for 9 years).*[30]

48. Martina Pavlistova, the beneficiary in the Czech Republic, is clearly an individual person, not a corporate. The effect of handling this part of the transaction in this way was, that AOL would not have sight of the SPA nor any rationale as to why the money was not being paid back to Tek Capital. These were significant omissions when assessing the risk now increasing daily that the transaction posed.

49. B sent another email to L reading:

> "*Do you have anything that shows the ultimate owner of TekCapital is your client? They are also asking for name/address (passport and utility bill etc if you have it) for this client, so that we can run checks on him for the original SOW. Would be useful to have it if we are going to look to open an account for TekCapital Georgia."*[31]

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[29] p.88, Email from A to B requesting further info 09.01.2019.
[30] pp.91-93, Email from B to A 10.01.2019.
[31] pp.94, Email from B to L 10.01.2019.

50. In response to this, L provided new facts. The email L sent clearly followed a telephone conversation as it reads:

> "*The signed SPA is attached as I said TEK Capital, following a request from Greensill was holding the bonds on behalf of the ultimate beneficial owner Mr Nasir Ali Shah Bukhari. Mr Bukhari and Mr Ashfaq the Director of TEK Capital have ceased their working relationship following the sale of the CoCo bonds and TEK has been renamed Juniper Capital International. This also explains the request to remit the funds to K rather than TEK Capital now Juniper. I have also enclosed the original advisory mandate letter from TEK Capital appointing J as advisor and that any transaction has to be completed to the satisfaction of Mr Bukhari."*[32]

51. The pages in B's notebook that appear to relate to this conversation indicate that "Nasir Pakari" (sic) was "*personally known to L for 9 years*."[33]

52. L attached a letter dated 3 September 2015 appointing J as a fully indemnified "*advisor*" to Tek Capital authorising him to negotiate the sale of the bonds "*at a price acceptable to Mr Nasir Ali Shah Bukhari, Chairman KASB Group*."[34] This was the first mention of Nasir Bukhari as UBO of the funds. The fact that up until then, L had provided a wholly different view of the situation and the ownership of the money, elicited no surprise or concern from AOL staff and did not appear to affect their risk rating or management.

53. Nothing explained why K, a [redacted] living in [redacted], should receive the funds through a Jersey account, or why the funds could not be transferred to an account held by J (Tek Capital's appointed agent), or indeed to an account held by Nasir Bukhari. No attempt was made to contact Nasir Bukhari or Shazad Ashfaq Fakhar, or anyone connected with Tek Capital to verify what was written in the letter, which was over three years old.

54. L also attached a sale and Purchase agreement dated 11 December 2018 between Juniper and Greensill Capital (UK) Ltd whereby €3m would be paid to Juniper's solicitors 2nd Opinion Now and stating that after this had happened "*the Assignee [Greensill] shall not be concerned to see the application of the monies so paid*."[35]

55. An RDC screening check was performed on Nasir Bukhari which revealed a vehicle linked to him alleged to have involvement in money laundering. After making a phone call, B forwarded L's email to A and C stating:

> "*Please see the attached new documents received from L regarding this account which should allay any remaining concerns. I have run an RDC check on Nasir Bukhari, which has one concern regarding an alleged money laundering connection (RDC attached). I have spoken to L on this and sent [L] an email which he is replying to now, as soon as I have this – I will send on. Effectively, it was completely unfounded and only reported by one media outlet (that is affiliated to the opposing political party that Nasir is a supporter of). This is also the reason Lloyds spent so much time going through the KYC and have confirmed that the allegation was completely unfounded.*

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32 p.94. Email from L to B attaching SPA 10.01.2019.
33 p.97, B handwritten note (6).
34 p.94, p.98, Tek Capital Mandate 03.09.2015.
35 pp.109-102, Sale and Purchase Agreement between Greensill and Juniper 11.12.2018.

I have updated the flow of funds incorporating the new information and we will also be in receipt of Nasir's CDD shortly.'[36]

56. B sent an email to L stating that AOL had discovered a money laundering allegation against Nasir Bukhari and seeking feedback. L emailed to claim, "*As I mentioned this transaction has already been through a number of compliance, KYC/AML processes.'*[37] L stated that the Greensill team had performed an "*extensive investigation*" into the allegation against Nasir Bukhari and had concluded there was "*no substance*" to it. He forwarded an assignment agreement from Greensill dated 14 December 2018.

57. The information being provided at this stage was entirely different to that which had been provided earlier. It should have triggered concern and scrutiny, particularly given that the relationship now contained an allegation of money laundering, and a complex transaction with minimal commercial rationale. However, this did not happen. No attempt was made to verify the identity of Nasir Bukhari or to contact him and verify that he, as owner of the funds, was happy with the transaction. No attempt was made to verify what was said about Greensill's investigation into the allegations; L's comments were apparently accepted at face value.

58. A reported in an email to C and B there was "quite a lot of news" available on Nasir Bukhari including the 2017 NAB allegation. He wrote:

"There is quite a lot of news on Mr Bukhari if you google him, including an allegation of corruption by the NAB Bureau in Dec 2018. We need to do some enhanced due diligence, a deeper dive on him if we are to pay funds to an entity owned or controlled by him.

It leaves me with the question that he appears to have nothing to do with the original TekCapital yet he is the individual to benefit the most on the settlement of this CoCo issue and makes me wonder why his involvement was not more visible i.e. he was not a shareholder, controller or seemingly linked to the company in the first place.

Happy to be on the line for an NBRC meeting.'[38]

59. B emailed L asking for payment details and rationales. He commented that he still had not received the explanations sought from K. He also commented that more information had come to light on Nasir Bukhari which he would discuss with him separately.

"We will need to see the exact details of where all the funds are being made and the rationale for each payment – I am still waiting on an explanation regarding the two transfer requests I have already received from K and J. There will be stringent checks done on all beneficiaries.'[39]

60. No meaningful response to this email was received and the actions raised in it were never completed. Again, it is clear that basic questions were being asked by AOL staff, but no effort was put into following up on them or actually taking steps to manage the risk inherent in the situation.

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36 p.103-105, Email from B to A and C 10.01.2019.
37 *Ibid,* Email from L to B 10.01.2019
38 p.110, Email from A to C 10.01.2019.
39 p.113, Email from B to L 10.01.2019.

61. The matter was sufficiently serious for D and E (a senior executive at AOL)) to have a discussion relating to their concerns. An e-mail was sent on the same day from D) to F, (understood to be a an Analyst at AOL), stating:

> *"I spoke to E after I spoke to you and he had some reservations, so I am including him in this email chain.*
>
> *To confirm we have a Risk committee meeting this morning to review this specific client and are currently minuting the meeting and our approval to receive fund on behalf of the client. We have all the possible due diligence available we can obtain."*[40]

62. This was not accurate. No due diligence had been obtained on any of the main parties to the transaction. The updated flow of funds document, referred to by B, stated "*we know all parties concerned have had no negative findings on RDC or google searches*." Again, this was inaccurate as AOL did not know all the parties concerned. The email stated there was a Risk committee meeting that morning but there are no minutes of one taking place before 15 January.

63. On 11 January an email from G, the London-based director, and C, shows that concern about the transaction had travelled as far as London and that a senior individual in London had described the transaction as "*an odd one*" and was checking that it had been discussed with G. G then emailed a member of staff at AOL asking "*is this an odd one?*" to which C replied that C was "*all over this one*..."[41]

64. A obtained a different screening report on Bukhari which referred to the same allegation as the earlier one. He emailed it to C and referred to the fact that the allegation was the same as "*somewhat comforting*"[42] – presumably on the basis that no other issues had come to light. This gave rise to no further investigation. There was no attempt to obtain CDD concerning NB or contact him to ask him to verify his ownership of the funds or discuss their source. No documentation was sought or produced to verify his rights of ownership or the source of wealth. No further steps were taken to reassess the suitability of the transaction given the allegations against the UBO of the funds, or the risk that AOL might be participating in money laundering.

65. The EDD report itself had been generated by a separate Risk Screening Tool: "RiskScreen Pro Report." It contains the outcome of an open-source search of the name "Nasir Ali Shah Bukhari". Two 'red flag' and three 'yellow flag' results are highlighted. The laundering allegation related to KASB, a Pakistani bank, reappeared with a different media link as did the corruption allegation. It provided little more than an online search of Nasir Bukhari's name and did nothing to allay any concerns.

66. On 14 January K sent another set of instructions[43]:

    a. A transfer of 29,000 USD to be sent to a bank account in the Czech Republic held in the name of Martina Pavlistova, with the reference "For Marie Bukhari,"

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40 p.118, Email from D to C, among others, copied to E 10.01.2019.
41 p.122, Email from G to C 11.01.2019.
42 p.131, Email from A to C re: EDD.
43 p.132, Email from K 14.01.2019.

b. A transfer of 56,000 USD to Garanti Bankasi, Bostanli, IZMIR, Turkey with the beneficiary named as Belma Bukhari;

c. A transfer of 50,000 CAD to ZEMLAR LIMITED, Mississauga, Ontario, TD Canada Trust, Ontario.

67. K stated:

> *"An investment is being made in partnership with Zemlar Limited, 55 Village Centre Pl, Mississauga, Canada to invest in a serviced offices business in Canada. First 2 transfers (Transfer 1 and Transfer 2) are related to the fee payments being made in context of this new transaction and the balance is for the investment being made with*
> *Zemlar Limited."*

68. This was quite different to the initial request and was the third set of instructions as to where the money should go in less than a month and generated no proper consideration by AOL staff. It is notable that in the emails sent on 10 January 2019 it was made clear that the money would be sent to the same UBO, whereas Zemlar had no overt connection to either Shazad Ashfaq Fakhar or Nasir Bukhari. No attempt was made to ascertain whether the UBO authorised the money being sent to an apparently unconnected Canadian company.

69. Documents subsequently sent show that Zemlar Limited is a Canadian company which provides office space for hire. Public source documents show It is owned by three men with the same surname: Omar, including Muhammad Omar (this is the name given as a reference for Lucky Holdings in the original instructions).

70. B asked L why money was being sent to Martina Pavlistova for Marie Bukhari. J responded to L, who forwarded the email, to say they had both "*worked on the deal regarding Zemlar Limited*" and that Martina Pavlistova was receiving funds for both.[44] This is odd, as Martina Pavlistova was an intended beneficiary in the original set of instructions, long before Zemlar Limited was mentioned.

71. B asked what work they had done, who Belma Bukhari was, whether she and Marie were relatives and pointed out that the Zemlar Limited documents did not show NB as the UBO, stating that they would need CDD and Source of Wealth information "*at some point*." B added "*This deal is being scrutinised way out of my control now, so I need to know as much as possible, preferably with documents corroborating it*."[45] No response was received.

72. AOL then carried out a number of RDC checks in relation to Belma Bukhari, Marie Bukhari, and Martina Pavlistova. Each individual was determined to be 'high risk' as the platform was unable to verify their identities on the limited information provided. AOL therefore had no idea whether these persons existed or not. No attempt was made to contact these people and seek identification documents showing their addresses and names, despite the earlier email saying that all beneficiaries should be considered UBOs.

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44 pp.135-136, Emails between B and L 14.01.2019

45 p.136, Email from B to L querying transactions 14.01.2019.

73. A comment on the file note later completed on K states that on that day G had been updated "*via telephone and email*" and had agreed that "*whilst negative media reports nothing concrete. As such local decision*."[46] This shows that the Jersey office was not under any pressure from London to take on the transaction: they should have applied their own assessments and principles in a much more stringent manner.

74. That afternoon L explained in an email that Nasir Bukhari was the UBO of KASB in 2012 when the first investment in what became Greensill was made. *L himself* had advised on the transaction. Nasir Bukhari had been "*put under pressure*" by Greensill to move the ownership of the CoCos to another entity and Tek Capital was used for that purpose. L forwarded an email chain from 2014 including correspondence with MA from Greensill.[47] This was a further-different set of instructions and an issue that should have triggered further scrutiny by AOL

75. Despite the main discovery relating to Nasir Bukhari being an allegation that he had laundered funds through KASB, AOL made no further enquiries as to why KASB or its apparent UBO had invested in the German bank and why the money was now going back to Nasir Bukhari in theory but in reality, was being sent to Canada. No questions were asked about the plainly suspicious issue of the bank requesting the ownership of the bonds to be moved to another entity and whether this had anything to do with the allegations of money laundering.

76. By 16.11 that afternoon B had received permission from C to pay Zemlar Limited and K but asked L if the other smaller fee payments could be "*dissolved*" as he feared he would not get sign-off on them.[48]

77. L responded that the investor would now split the funds into two parts, between K and Zemlar Limited, so that the majority would go to Zemlar Limited, but an increased sum would be sent to K as fees. J then stated that "*K will re-issue payment instructions for the payment to Zemlar Limited and the onward payments associated with the fees tomorrow*."[49] It was made quite clear that K was going to send fees on to other as yet unidentified persons.

78. On 15 January AOL's New Business and Risk committee met to discuss K with the result that K's account was made operational. Despite claiming that the committee discussed the full rationale for onboarding K, the minutes do not suggest that the meeting was detailed or lengthy: they state that it was held at 11am, and by 11.41 B was emailing K and L to state that B was pleased to report the account was now open and operational.

79. The minutes read:

> *"The following individuals were present:*
>
> *D –;*
> *C –; H –;*
> *I –.*
>
> *Minutes of this meeting (TAB 67) were prepared by C and record the following in respect of 'New Business':*

[46] p.140, File Note –K
[47] pp.70-73, Email from L to B forwarding email chain from 2014, 14.01.2019
[48] p.135. Email from B to L.
[49] S.3, Email from J to B 14.01.2019.

"Private Client Accounts graded high risk due to location in Saudi Arabia: K

The accounts were reviewed and the nature of the relationship discussed with no objections in relation to the on-boarding and future operations of the accounts. The Committee did discuss the full rationale for on-boarding K and referenced supporting documents held on the clients file. C confirmed that a more detailed file note would be completed now that all required EDD has been obtained."[50]

80. There is no evidence to suggest that any of the required EDD had been obtained apart from K's KYC documents and the company documents for Zemlar Limited. K did not live in Saudi Arabia and no mention of it had been made before. Nothing had been obtained in relation to Nasir Bukhari or Shazad Ashfaq Fakhar despite these persons apparently being the UBOs. Insufficient SOW or SOF information had been obtained.

81. No contact had been made with Nasir Bukhari. Nothing had been obtained from J. No comment was made about the continually changing transaction details, or the risk assessment of moving funds belonging to someone that AOL had never met, who was alleged to be involved in money laundering and corruption, against a background of commercial irrationality and inconsistent instructions. It is hard to discern what meaningful steps, if any, the New Business and Risk Committee took at this meeting.

82. An email was then received by B from K concerning the funds left in K's account. K stated they were to be distributed thus:

    a. €335,000 to L (subject 'Invoice no 2019-1001 acquisition')

    b. €335,000 to J (ref "loan from K/Family)

    c. remaining smaller tranche to K's own account in Dubai.[51]

83. The fees no longer corresponded to the sums mentioned in the original agreement (where they were quoted as being 25%), and the owner of the funds had not been asked about this.

84. There was no attempt to ask why totally different instructions and beneficiaries were now being supplied, and no attempt to ask about the references which bore no relation to the suggestion that the payments were for fees. The paperwork had made it clear J was to benefit as an advisor, yet the payment was being labelled as a loan from K. J was, according to the original Tek Capital resolution, going to be paid €750,000 for J and J's team. However, J and L were paid the same fee, totaling €670,000 and K herself received €140,000.

[50] pp154-157, NBRC Committee Minutes 15.01.2019.
[51] pp.158-163, Email from K to B with instructions 15.01.2019.

85. AOL did not seek any commercial rationale for this. No payments were made to Belma Bukhari or Marie Bukhari or Martina Pavlistova, despite their "work" on the deal. No concern was raised about the fact that L was now known to be a significant beneficiary of the transaction, despite being ostensibly nothing more than a business introducer and intermediary, and no concern was raised about the impartiality or reliability of the information he provided or his possible motives. That afternoon, C emailed various AOL staff members and teams including his "*approval to set up the bene's as B has requested*."[52]

86. On 16 January, the day after the committee met, C filled out a Risk Assessment form which concluded that there was an "*increased risk*." Nothing was done to reconsider or stop the transaction.[53]

87. On 17January 2019, AOL made the transaction.

88. The same morning C sent an email to B entitled "*Apologies*..." in which he expressed regret for C's negative body language that morning and stated "*Bottomline is you won the business and made a great profit...kudos to you. Onwards to the next trade*..."[54]

89. The exchange indicates one of B responses as being "*No worries, it's a shame it wasn't what we thought it would be, but there we g*o." This related to the K's transaction and is believed to relate to the fact that the fee charged for services rendered would not yield a significant fee from the margin applied to the transaction.

90. On 24 January, an internal SAR was logged on the SAR register, by C himself. The internal SAR has not been recovered. It is not clear what caused him to change his mind about the transaction between 17 and 24 January but he had evidently reflected on the matter.

91. A peculiarity of the structure at AOL was that C worked part time for AOL and part time for a treasury services company called [redacted], based in [redacted] that provided Directors to AOL and profited from trades that it supported. C through the agreement with [redacted] also benefited personally from business generated by AOL. The obvious conflicts of interest between being [redacted] at AOL, with a responsibility for [redacted] and [redacted] a company that profited from transactions made from AOL were clearly evident. The conflict of interest had generated considerable discussion between senior AOL staff. One of the AOL Directors together with B wished to terminate the arrangement and this was achieved following the acquisition of AOL by Fleetcor.

92. On 18-19 February 2019 it is known that two in-depth due diligence reports concerning Nasir Bukhari were received by AOL. One of these was issued by DDIQ, with the subject being Nasir Ali Shah Bukhari, stating "*Submitted by:* [redated]. *Processed on: 18 Feb, 2019*."[55] Another was produced by KYC Worldwide and is entitled "*Enhanced Due Diligence Report for Nasir Ali Shah Bukhari*." One copy of the KYC Worldwide report states it was commissioned by [redacted], but this appears to have been covered up by a sheet of paper when the document was scanned or copied. The first report appears to represent the raw data on which the second was composed.

52 p.164, Email from C to employees of AOL 15.01.2019.
53 pp.174-177, K Risk Assessment 16.01.2019.
54 S.3-4, Email from C to B 17.01.2019
55 pp.178-262, Due Diligence Report on NB 18.02.2019.

93. The EDD reports appeared within the AOL system on 21 February. It is not known who commissioned or paid for these, but it seems likely that C, who worked part time for [redacted], commissioned the report himself. AOL's record notes that the report arrived on 21 February and the day after, C forwarded the reports to A stating that both were now in the "g drive." On 26 February, he sent the report to B in an email entitled "*sorry*..."[56] on 23 February, A had emailed C to state that the recommendations in the report needed action/consideration and asking whether the report should be addressed to AOL rather than [redacted]. A also noted that they should note the wider account structuring beyond what KYC Worldwide would have known, and that the report should be tabled to the NBRC.

94. On Saturday 16 March 2019, K sent an email to B asking whether K could use her AOL account to convert HKD 400,000 into USD and GBP and send the USD to K in Dubai and the GBP to K's brother in London. B responded to state that they could not send funds to an account in someone else's name as they could not facilitate third party payments. K emailed back with some further details, and B forwarded it to C with the words "*Thoughts please Yoda*."

95. C must have told him to reject the business as B then sent an email to K in which B re-stated the position about not generally making third-party payments and it does not appear that K pursued the matter further. It does, however, indicate that AOL had re-considered the risks with regards K and markedly changed its approach and was no longer prepared to assist payments to other persons connected to K.[57]

Article 16 – the Obliged Persons regime.

96. Articles 6-11 relate to AOL's use of the "*Obliged Persons regime*" under Article 16 of the MLO. The JFSC was due to undertake a routine themed examination of AOL's use of Article 16 in June 2023. It was agreed that Baker Regulatory Services (BRS), who had been retained by AOL in respect of ECCU's investigation of the K transaction, should undertake a review of the use of Article 16 and include any breaches that they noted in the Self-Report for the Deferred Prosecution Agreement.

97. The Obliged Persons regime allows Jersey financial services businesses to rely, in certain prescribed circumstances, on the identification measures undertaken by other Jersey financial services businesses or those who carry on equivalent business, rather than undertaking those identification measures themselves. The conditions for the permitting of such reliance are set out in Article 16.

98. The review by BRS has identified four breaches of this order in relation to failures by AOL to comply with the requirements of Article 16 in respect of testing whether the obliged person has policies and procedures relating to the application of the Article 13 identification requirements. It should be noted that initially this provision was Article 16(5) of the MLO, but, on 12 February 2020, this was renumbered as 16(8) following the coming into force of the Money Laundering (Amendment No.11) (Jersey) Order 2020.

99. The law in 2019 stated:

> **16 Reliance on relevant person or person carrying on equivalent business**
>
> . . .

[56] ~~p.263, Email from A to B 22.02.2019~~
[57] S.5-6. Email from K to B 18.03.19.

(5) Where a relevant person relies upon an obliged person to apply the identification measures referred to in paragraph (1)(a) or (1)(b), as the case may be, the relevant person shall –

(a) conduct such tests in such manner and at such intervals as the relevant person deems appropriate in all the circumstances in order to establish whether the obliged person –

(i) has appropriate policies and procedures in place to apply the identification measures described in Article 13(1), by virtue of Article 13(1)(a) or 13(1)(c)(ii), or in Article 15(1), by virtue of Article15(1)(b), 15(3) or 15(5), or

(ii) if the obliged person is not in Jersey, has appropriate policies and procedures in place to apply similar identification measures that satisfy the FATF recommendations in respect of identification measures; and

(b) conduct such tests in such manner and at such intervals as the relevant person deems appropriate in all the circumstances in order to establish whether the obliged person –

(i) keeps the evidence that the obliged person has obtained during the course of applying identification measures in respect of a person, and

(ii) provides the relevant person with that evidence without delay if requested to do so by the relevant person.

100. From February 2020 it read

16 Reliance on relevant person or person carrying on equivalent business

…

(8) A relevant person who relies on an obliged person under this Article must conduct such tests in such manner and at such intervals as the relevant person considers appropriate in all the circumstances in order to establish whether –

(a) the obliged person has appropriate and consistent policies and procedures in place to apply reliance identification measures;

(b) if the obliged person has not already provided the evidence to the relevant person, the obliged person –

(i) keeps the evidence that the obliged person has obtained during the course of applying reliance identification measures in respect of a person, and

(ii) if requested by the relevant person, provides the relevant person with that evidence without delay; and

(c) the obliged person may be prevented, by application of a law, from providing the required information or evidence.

101. The policies and procedures that AOL themselves applied to this situation are not always clear. BRS located various documents relating to AOL's internal Article 16 policies. Not all of these are dated; others have clearly been amended over the years making it hard to ascertain what the policy said at an earlier date.

102. A 2017 document entitled "*Obliged Person – CDD testing policy and programme*" states that the value and frequency of trades dictated whether the testing should be site-based or desk-based. Desk-based testing is not specifically stated to include examination of whether the obliged person has correct policies and procedures relating to identification processes; this is a requirement only for a site visit. The document requires that obliged persons should be tested within 12 months of the relationship starting. The document states that in 2017 AOL had two obliged person relationships and had undertaken one transaction. The document did not state the timeframe within which testing should take place.

103. A 2018 version of this document entitled "*Obliged Person – CDD testing policy and programme 2018*" indicates that the testing policy remained now required testing to take place within 18 months of the relationship starting. AOL noted that it had six obliged person relationships but only one of these (X) had any activity that year, amounting to three trades with a total value of £34million. The document states that due to the value of trades a site visit should be undertaken but as the volume was low it had been decided that UBO information should be sought for one of these relationships, and a site visit would be organised if the volume of trades increased. It was stated that a desk-based review had taken place with points 1-6 as set out in Appendix 16 undertaken.

104. An undated document exists entitled "*Obliged Persons*." It refers to Art 16(5) as the relevant article so it presumably pre-dates the change in the law in 2020 and the reference to 12 months suggests it pre-dates 2018. It states AOL will only apply AML/CFT concessions to obliged persons that are Trust and Corporate Service Providers (**TCSPs**) based in Jersey, Guernsey or Isle of Man. It refers to a "Periodic CDD testing programme to be initiated by AOL's compliance team." It also states that one of their compliance arrangements will be "*To be testing on a periodic basis. One on-site visit in the first 12 months of commencement of the reliance as well as desk- based tests*." The document also contained the following in a paragraph entitled "*CDD testing programme and periodic testing*":

    - *Carry out on-site visits to TSCP utilising a risk-based approach, based on the number, size and complexity of trades undertaken. All TSCPs to be visited within 12-months of trading. Testing framework to be developed to include a testing/oversight of section 5.1.1(44) of the Handbook.*
    - *Desk-based testing. Working with our bankers to identify trades, call on documentation from the TSCPs. Sampling to be undertaken within the first 3- months of trading for every obliged person.*

105. A file note dated 30 March 2020 referring to the 2019 CDD testing policy and programme states that it had been agreed that a site visit to Y should be arranged as it has been the most active entity in terms of trades. It then states that an on-site review of Y was undertaken in March 2020. It should be noted that this entity was "on-boarded" as an obliged person in March 2018, so more than 18 months had elapsed before any testing took place, thereby breaching AOL's own policy.

106. A document entitled "*Obliged Person Testing Policy and Programme AML/CFT Manual – Appendix 16*" states that it was revised in May 2021. Earlier versions of this document do not appear to be available. It states that the testing undertaken will depend on the volume and value of trades being undertaken and it is "anticipated" that obliged persons should be monitored and tested within the first 18 months of the account being opened. Desk-based testing will be applied to relationships where less than £20m is traded in 12 months or less than 10 introduction certificates are received in that period; a site visit will be undertaken where more than £20m is traded in 12 months or more than 10 introduction certificates are received.

107. It would therefore appear that until 2018, AOL had a policy which stated that Obliged Persons should be subject to testing within 12 months of being taken on, and after this the period in question changed to 18 months. AOL's analysis resulted in the admission of the following breaches of Article 16(5) or 16(8):

IQ EQ (Jersey) Limited

108. AOL commenced an obliged persons relationship with IQ EQ (Jersey) Limited (**IQ EQ**) in October 2019. No testing took place until 2021 and AOL was unable to ascertain whether IQ EQ had appropriate policies and procedures. AOL thereby breached the testing requirements of Art 16(8).

109. Counts 6 and 7 relate to this offence. The dates of the offending behaviour cover the change of legislation in early 2020 which means that two charges are necessary, but it should be noted that this will only be treated as one offence.

110. Count 11 also concerns IQ EQ. It relates to the fact that on 17 June 2022, the JFSC imposed a civil penalty of over £800,000 on them and then issued a Public Statement on 1 July 2022, relating to poor compliance with a number of aspects of the MLO 2008 including a failure to keep adequate CDD records, and a failure to establish and maintain adequate systems and controls to detect financial crime. The conduct in question took place from 2012-2016.

111. It appears that, following the Public Statement, AOL did discuss the Obliged Person status of IQ EQ at the New Business and Risk Committee meeting on 19 July 2022, but it demonstrated a lack of concern about the impact that this finding had on AOL's own reliance on IQ EQ. The Committee minutes document the view that the issues "*do* not *appear to impact AOL's relationship with IQ EQ or risk assessment*" and that *IQ EQ* should be "*considered for future obliged person testing given the news*."

112. Notwithstanding that the conduct was somewhat historic by 2022, the public statement was generally indicative of a negligent compliance culture on the part of IQ EQ and it is considered that AOL's response was inadequate in relation to what had been stated about IQ EQ's deficiencies and demonstrates a failure of AOL's own risk management systems.

Y

113. AOL commenced an obliged persons relationship with Y in December 2020. No testing took place at all; it is not entirely clear how AOL intended to deal with this relationship as the policies do not appear to relate to foreign entities outside Guernsey/the Isle of Man. However, it is clear from Art 16 (1) that where an obliged persons relationship exists involving a foreign entity, the Jersey entity must ensure that its identification measures match FATF Recommendation 10. In failing to test this at all, AOL thereby breached the testing requirements of Art 16(8). Count 8 relates to this offence.

X Limited

114. AOL commenced an obliged persons relationship with X in September 2017. A desk-based review took place in 2018 but this did not look at whether X had policies and procedures to deal with customer CDD relating to identification measures. AOL thereby breached the testing requirements of Art 16(8). Count 9 relates to this offence.

Z Limited

115. AOL commenced its obliged persons relationship with Z in March 2018. A site visit testing session took place in 2020 which was clearly outside the 18-month date period in which AOL required testing to take place. AOL thereby breached the testing requirements of Art 16(8). Count 10 relates to this offence.

The DPA process

The Self-Report

116. AOL was the subject of a criminal investigation before it filed its Self-Report.

117. The business of AOL was acquired in June 2021 by Fleetcor (a company listed on the New York Stock Exchange). At the time of acquisition Fleetcor was unaware of the issues set out in the preceding statement of facts. The actions taken by Fleetcor in response to the criminal investigation and subsequent DPA process should be viewed in the context of an incoming purchaser dealing with the consequences of AML breaches by an entity and individuals over whom (with the exception of a single article 16 breach) it had no control.

118. A production order was granted by the Deputy Bailiff on 12 July 2022 and AOL supplied the majority of the material sought by it on 8 August and 9 August 2022. Upon review, some of the material that was to be produced was missing. This was requested on 22 November 2022 and received on 30 November. AOL were cooperative throughout the production order process.

119. An invitation for voluntary interview under caution was sent to AOL on 21 February 2023.

120. It was during March 2023 Baker & Partners made contact with Law Officers' Department to invite consideration of whether a DPA might be an appropriate alternative resolution to criminal proceedings.

121. The Attorney General carefully considered the particular circumstances of this case and exercising the discretion available to him and as provided for within paragraphs 16 and 17 of the Attorney General's Guidance on Deferred Prosecution Agreements (the **Guidance**), considered that he would receive a Self-Report from AOL and suspend the interviews under caution.

122. AOL filed a Self-Report on 1 June 2023. It filed a further Self-Report on 12 July 2023 in answer to further queries concerning the conduct now represented by Counts 611. AOL have been cooperative and have engaged constructively throughout the Self- Report process.

123. In addition to the action taken in submitted the self-report, it is important to have regard to steps taken by AOL once Fleetcor had acquired the business. The current business is operating under very different governance/systems and controls

124. Moreover, the current workforce is significantly different to that pre-acquisition and the business now benefits from Group compliance resources, including detailed policies and procedures. I and C have both since left AOL. A no longer provides services to AOL.

125. After acquisition by Fleetcor the compliance processes and procedures at AOL were substantially improved including:

    a. New Board of Directors.

    b. Strengthened Oversight

    c. Improved training

    d. Upgraded technology, including Sanctions and Anti-Money Laundering Systems

    e. Improved Policies and Procedures.

126. Since Dec 2021 AOL's trading technology and processes for the business, have been completely replaced. AOL is now supported by the Corpay/Fleetcor group of companies with over twenty-five years of experience in the foreign exchange and payment business and with Group Compliance resources.

127. AOL is now part of a public company structure with its own control requirements commensurate with the requirements expected of a public company quoted on the New York Stock Exchange.

128. The previous structure of AOL was decentralized whilst the current structure is centralized resulting in more consistent practices and management and more centralized oversight of the onboarding and approval of clients. All these changes are designed to guard against a repetition of the historic criminality described in this statement of facts.

The indictment

129. Upon AOL accepting the invitation to enter into a DPA with the Attorney General Article 6 (1) (a) and (b) of the DPA Law applies: the Attorney General must subsequently initiate DPA proceedings against AOL in accordance with Article 14(1A) of the Criminal Procedure Law 2018.

130. At this stage, the Attorney General has followed the procedure to directly indict AOL and has prepared a signed indictment which has been lodged with the Judicial Greffier and served upon AOL on 9 November 2023.

131. As DPA proceedings have been initiated, the Attorney General gave notice on 17 November 2023 that the proceedings in relation to the offences specified in the indictment be suspended to enable him and AOL to enter into a deferred prosecution agreement in relation to the offences. On 12 December 2023, the Court pursuant to Article 14 (1B) of the DPA Law suspended proceedings with immediate effect and recorded the same by Acte of Court.

132. Should the Royal Court determine pursuant to Article 7 of the DPA Law that it should approve the DPA, the indictment, subject to the Court's approval, will be indorsed with the following:

> "*The Royal Court did not make any findings of fact. No process took place by which the culpability of any natural person was determined or assessed.*
>
> *Companies only act through human agency. As a result, it was necessary for the Court to consider the conduct of natural persons for that reason. The Court did not hear any evidence from any natural person nor make any invitation for them to give evidence.*
>
> *The judgment in the DPA solely dealt with the culpability of the company Afex Offshore Limited and no other person."*