VAT FRAUD MUTATION, PART 1: “PUSH” MISSING TRADE FRAUD AND DOSANJH

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81 TAX NOTES INTERNATIONAL 535 (February 8, 2016)

Richard T. Ainsworth

On August 13, 2015 the Public Prosecutor at Frankfurt/Main handed down a very significant indictment in the European effort to bring to an end missing trader intra-community (MTIC) VAT fraud in carbon emissions permits (CO2 permits). One former and seven current Deutsche Bank employees are accused of orchestrating a massive CO2 MTIC fraud carousel from within the bank. The names are not public in the Press Release, only a short description of their formal employment positions, their alleged roles in the fraud, and their current ages. The Press Release is based on the 865 page indictment.

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2 The individuals are more fully identified elsewhere. Data from all sources permits the following description:

(1) A 33 year-old account/client manager (Dominic HOFFMAN) who was the Relationship-Manager in Global Banking and managed the accounts of four trade partners of Deutsche Bank involved in CO2 Emission Trade. He allowed suspicious trade patterns concerning VAT fraud and did not perform the necessary screening when admitting new clients. In addition, neither this person nor his supervisor (2, below) reported all the available information on the clients to the internal control mechanism and thus allowed the fraudulent activities continue.

(2) A 48 year-old supervisor (Matthias Peter KRETSCHMAR) of (1), who was Head of market area Frankfurt Main.

(3) A 34 year-old commodities trader (Eva LAMBERT) is accused to have made the daily trades with the four trade partners. His 54-year-old superior was involved in the trades with his colleague as well and communicated frequently with the trade partners. Both employees did not fully inform the internal control mechanism and thus allowed the trades to continue.

(4) 54 year-old supervisor (Helmut Heinz HOHNHOLZ) of (3), who was Head of CMS Region (Frankfurt).

(5) A 36 year-old employee (Unknown) of the trade department (European Branch Sales Desk [BSD / EBSD]) is accused of being the person to manage the trades between the trade departments of the Frankfurt and London offices. In his role he coordinated and managed the trades. He also temporarily managed the accounts of a client involved in the CO2 fraud. (He replaced a different employee in order to manage the trades of the fraudulent client.)

(6) A 40 year-old account manager (Steffen RAPP) in the field of raw materials is accused of making the trades of a fraudulent company involved in CO2 fraud. He also temporary managed and coordinated the trades of trade departments of Frankfurt and London concerned with CO2 emission rights.

(7) A 46-year-old employee of the tax department (Andreas LÖSCHINGER) is accused of, being the advisor in different departments of the bank and allowed/responsible for the unauthorized VAT deduction. He did not notify the Bank of all of the information about the VAT deductions. (An internal tax consultant at Deutsche Bank).

(8) A 64-year-old former employee (Reinhard Engen UHL) with a high position at the bank as the Global Head of Capital Market Sales. He was responsible for the trades/business with CO2 emission rights is accused of allowing the lucrative trade business at his departments. In addition he did not provide all of the information to the internal control mechanism of the Bank. When there was suspicious activity he did not notify the Bank and therefore allowed the practice to continue.

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Electronic copy available at: https://ssrn.com/abstract=2770076
This litigation may well be the first of its kind. The mastermind of this massive MTIC fraud is most likely a key employee of a major international investment bank working largely with associates in the firm. Trial is set for February 15, 2016.

The most extraordinary aspect of the Deutsche Bank fraud pattern is that the key cross-border transactions (the transactions that directly support the Deutsche Bank’s return positions where improper refunds are claimed) occurred internally – between Deutsche Bank AG, London Branch and Deutsche Bank AG, Frankfurt. The pattern itself points to the location of the mastermind.

Deutsche Bank’s involvement in CO2 MTIC fraud is not a unique occurrence among large international investment banks. Similar allegations involving the facilitation of fraudulent CO2 transactions are alleged in CITIBank v HMRC. But, there are very important differences between the Deutsche Bank case and CITIBank. In CITIBank large quantities of CO2 permits are moved among the trading accounts within the bank (not between legal entities as in the Deutsche Bank case) that were held at various national registries (primarily CITIBank accounts with the UK and the French registries). These transfers, because they are among accounts within a single legal entity are non-taxable. CITIBank’s refund-generating transactions (the critical cross-border trades) all occurred with external parties (largely with the BlueNext).

CITIBank acquired CO2 permits (allegedly) from known fraud chains in the UK. The CITIBank case narrowly focuses on a set of transactions that produces a huge spike in refund requests drawn on the UK Treasury in the month of July 2009.

July 2009 is a unique moment in time for CO2 fraud. This is the month sandwiched between the French decision to exempt CO2 permits (June 2009), and the UK decision to zero-rate them (August 2009). There was a lot of anxiety among traders, and considerable speculation about how the market might be changing in response to the fraud and the law changes. Large numbers of investor (and fraudsters) were re-assessing and adjusting their positions.

For fraudsters to use large international investment bank as the linchpin of massive CO2 MTIC fraud is not surprising. This would not be a common occurrence in the original MTIC frauds which involved tangible property (commonly cell phones or computer chips).

3 In MTIC fraud the key players are at the end of the chain not the beginning. In other words, it is not the missing trader, or the buffers that are critical to the fraud; it is the distributor. Although MTIC fraud cannot occur without a missing trader (who fails to file a return), the fraud is not funded until the distributor exports the supply and files a claim for refund. This is where the fisc is compromised. This is where the fraud actually occurs. This is also where MTIC is developing (mutating) today. Dosanjh, CITIBank and the Deutsche Bank are all distributors. The all make MTIC happen, and when taken together they illustrate how MTIC is changing. Prior to Deutsche Bank the distributor only represented one hand of the final cross-border trade. Deutsche Bank is the first instance where a single enterprise controls both sides of the critical trade that funds the fraud.

A CO2 permit is different. It is a “better” vehicle for this fraud, because it is a supply akin to a security, or an investment instrument.\(^5\) The CO2 market is highly automated, and easily integrates with the investment function at large banks. The “permit” itself is simply computer code stored on a server at a government registry. As a consequence, this particular type of MTIC fraud flows easily through the technology-intensive investment banking system.

MTIC fraud has criminal and civil permutations depending on the degree of intent. Stated another way, and from the perspective of the investment banks (CITIBank and Deutsche Bank in this instance), the concern is: Does the allegation involve a “push-type MTIC” or a “pull-type MTIC” fraud? That is, when suspect CO2 permits came to the bank through fraud chains, were these permits “pushed” into the trading arms of an unsuspecting investment bank whose employees should have known better (a civil offense), or were these permits “pulled” into an investment bank by employees anxious to accrue bonuses, and who knew what they were doing (a potentially criminal offense). If the later is the case, then the follow-up question is: How far up the institutional chain of command can this criminal knowledge of fraud be attributed?

To get a well-rounded perspective of this moment in time the \textit{R v Sandeep Singh Dosanjh} \(^6\) case should be considered alongside \textit{CITIBank} and \textit{Deutsche Bank}. Dosanjh is the first CO2 MTIC case anywhere. Dosanjh is the mastermind of this fraud. Importantly, both the Deutsche Bank and CITIBank are clients of Dosanjh, and are directly involved in the Dosanjh fraud. Both purchase CO2 permits from the fraud chains Dosanjh sets up.

Sandeep Singh Dosanjh and two associates were convicted of stealing £39m (€41,039,261) from the UK Exchequer in 69 days (January 20, 2009 through May 6, 2009). Dosanjh was convicted of pushing CO2 from the two fraud chains he constructed thorough to a number of major investment banks and blue chip energy companies.\(^7\)


\(^6\) \textit{R v. Dosanjh (Sandeep) and others [2013] EWCA Crim 2366, par. 5 (November 20, 2013).}

\(^7\) \textit{BNP Paribas, Royal Bank of Scotland and Morgan Stanley were the other investment banks. Gazprom, Shell, BP and Climatex were the energy companies. The press accounts do not record the involvement of Morgan Stanley, but a simple check of the EU-ETS CLIMATE ACTION web page of the EU Transaction Log confirms the involvement of each of the firms, available at: \url{http://ec.europa.eu/environment/ets/sitemap_index.do}. Michael Szabo, \textit{UK CO2 Fraudsters trade Rolls Royces for Jail Time}, \textit{REUTERS – INDUSTRY} (June 19, 2012) available at: \url{http://in.reuters.com/article/2012/06/19/idINL5E8HJF9R20120619http://in.reuters.com/article/2012/06/19/idINL5E8HJF9R20120619}
After hearings in the Dosanjh case HMRC investigators explained to the press that these “blue chip” companies should have known better than to get involved. The investigators apparently did not view this case as a pulling-type of MTIC fraud. It was not a fraud orchestrated by the “blue chip” companies. If there was criminal intent, it was on the part of Dosanjh (pushing), not on the part of the institutions (or their employees) pulling CO2 permits into these companies.

Investigators were strongly critical of a number of major international banks that had financed the trades. "There was a massive failure on the part of the financial institutions to 'know your customers', which allowed this to happen," one said.8

This three-part paper places these cases, Dosanjh, CITIBank, and Deutsche Bank, on a continuum. The overall intent is to contrast a classic push-type MTIC fraud represented by the Dosanjh case with a pull-type MTIC fraud represented by the Deutsche Bank case. CITIBank is a transitional case. These three UK-centric cases stretch for 14 months, from the beginning of 2009 into early 2010. They highlight a transition in the structure of MTIC fraud as it moved from the criminal periphery (Dosanjh) into the heart of institutional commerce (Deutsche Bank). It highlights the need for sophisticated (technology-intensive) internal controls within the largest commercial players in global markets, and the need for comparably sophisticated government oversight of these markets and players.

This paper also considers several other fraud-related events in the very middle of this time-line including:

(a) the fraud-precipitated collapse of the BlueNext (June 2 through June 9, 2009),
(b) the French exemption (without deduction) of CO2 permits (June 10, 2009),9

8 David Connett, Carbon Credit Scam would have cost Britain £2bn, THE INDEPENDENT (June 24, 2012). The Dosanjh case (in tandem with the apparent involvement of blue chip institutions) led directly to the UK’s decision to adopt a preventive zero-rate in CO2 permits. Connett explains further:

The Attorney General was ill in bed when British customs investigators turned up demanding urgent legal advice on a tax matter. But the matter wouldn't wait and they refused to go away.

Without the Government's senior law officer's immediate legal opinion, they warned, Britain faced being scammed out of £2bn.

Baroness Scotland was roused from her sickbed and confirmed that the trade minister, Stephen Timms, had the power to zero rate VAT. Within 48 hours, investigators had blocked a loophole in a scheme set up with the laudable aim of combating climate change. Shrewd criminals were exploiting that loophole to rob the Exchequer of up to £1m a week.

Details of the dramatic move to end carbon credit fraud emerged this weekend after three members of a UK gang aiming to steal "as much money as possible" from the public purse were jailed for up to 35 years. Sandeep Singh Dosanjh, Navdeep Singh Gill and Ranjot Singh Chahal, were found guilty of stealing £38m.

Available at: http://www.independent.co.uk/news/uk/home-news/carbon-credit-scam-would-have-cost-britain-2bn-7878760.html

(c) the Dutch reverse charge of CO2 permits (July 15, 2009),
(d) the UK zero-rating of CO2 permits (August 1, 2009),
and (e) the German police raids at Deutsche Bank (April 28, 2010).

This paper recommends a policy change. It recommends sophisticated, technology-intensive internal and external controls of the market (in the long-term) to pre-empt the need for Draconian criminal enforcement measures. But it also recognizes that if those measures are deemed necessary (in the short-term) then enforcement needs to adjust its focus when the facts of the case suggest that the fraud is a pull-type MTIC (Deutsche Bank) instead of the traditional push-type MTIC (Dosanjh).

In MTIC cases the ultimate search is always for the mastermind. Not who could possibly have designed the fraud (most of the people reading this paper could have done that), but who is the person that had actual, operational control of the fraud. The transition from Dosanjh to Deutsche Bank is a transition from the external mastermind at the periphery, to the internal mastermind at the center.

This analysis points directly at the Deutsche Bank case. This case (which goes to trial February 15, 2016) represents the first thorough consideration of a pull-type MTIC fraud in any country. It is expected that among the seven current plus one former employee of the Deutsche Bank we will find the mastermind of this fraud. In the unlikely event that it is not one of these eight individuals, then the mastermind will assuredly be found to be a very close (almost intimate) associate of this group of eight.

In the author’s opinion, this is an unlikely outcome. The volumes of CO2 permits passing through the Deutsche Bank, and the speed of the transactions mandate a degree of actual control and responsiveness that would almost require an open phone line from the bank to the external mastermind, not to mention a dedicated internal “enforcer” of the fraud activities.

This paper presents substantial analysis in three parts: (1) the Dosanjh case, and the external mastermind; (2) CITIBank, and the transition to pull-type MTIC; and (3) the Deutsche Bank case, and the internal mastermind.

Dosanjh was convicted of stealing £39m from January 20 through May 6, 2009, CITIBank is presently responding to allegations that it improperly claimed £9,893,821 in

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input deductions in July 2009,\textsuperscript{12} and the \textit{Deutsche Bank} is allegedly involved in a €220 million fraud based on improper deductions claimed from September 2009 through February 2010.\textsuperscript{13}

As will be set out further below, this end date (February 2010) in the \textit{Deutsche Bank} case is problematical. It is abundantly clear from the EU-ETS that the alleged fraud that Deutsche Bank was engage in continued through the end of April 2010. Not only that, but the volumes involved doubled in the final months (March and April 2010). It is not at all clear why the Prosecutor’s case ends in February instead of April 2010. See the time line in figure 1 below:

\begin{quote}
Figure 1: 
Time-line: CO2 MTIC fraud cases and law changes considered before & after collapse of the BlueNext with K0 Brokers sales to Deutsche Bank isolated.
\end{quote}

![Time-line: CO2 MTIC fraud cases and law changes considered before & after collapse of the BlueNext with K0 Brokers sales to Deutsche Bank isolated.]

\begin{itemize}
\item \textbf{2009 ---}
\item Jan 
\item Feb 
\item Mar 
\item Apr 
\item May 
\item June 
\item 4-9 June \textit{BlueNext} Closed due to CO2 fraud
\item 6 May \textit{K0 Brokers (UK registry)} sells 27,000 units to \textit{Deutsche Bank AG, London Branch} \textit{TAXABLE}
\item 10 June French exemption w/o deduction
\item 1 August UK zero-rate
\item 18 November \textit{Rod Stone (HMRC)} Visits \textit{Deutsche Bank}
\item 19 August Dosanjh arrested
\item 28 April Police Raid \textit{Deutsche Bank}
\item \textbf{2010 ---}
\item Jan 
\item Feb 
\item Mar 
\item Apr 
\item 4-9 June \textit{BlueNext} Closed due to CO2 fraud
\item 15 July Dutch Reverse Charge
\item 18 November \textit{Rod Stone (HMRC)} Visits \textit{Deutsche Bank}
\item 28 April Police Raid \textit{Deutsche Bank}
\item \textbf{? DB ?}
\item 8 September \textit{K0 Brokers (DK registry)} sells 46,000 units to \textit{Deutsche Bank AG, London Branch} \textit{NOT TAXABLE}
\end{itemize}

\begin{itemize}
\item \textbf{(1) The R v Sandeep Singh Dosanjh case and the External Mastermind}
\end{itemize}

The first CO2 MTIC case anywhere resulted in the conviction of Sandeep Singh Dosanjh and two associates. Together they stole £39m (€41,039,261) from the UK Exchequer in 69 days (January 20, 2009 through May 6, 2009). A number of major banking institutions, and energy companies assisted Dosanjh with the fraud (whether the assistance

was provided knowingly or unknowingly is not demonstrated in the case or argued by HMRC). CITIBank and the Deutsche Bank were among the banking assistors.\(^\text{14}\)

CITIBank’s purchases were sizeable; Deutsche Bank’s purchases were limited. Dosanjh as the director and majority shareholder of KO Brokers Ltd. controlled the entity that made all the final sales.\(^\text{15}\)

CITIBank purchased 1,853,000 CO2 permits from Dosanjh’s chains; Deutsche Bank purchased 27,000.\(^\text{16}\) CITIBank made purchases throughout Dosanjh’s 69 days of fraud; Deutsche Bank made one purchase of 27,000 permits on May 6, 2009.

The *Climate Change*, EU Transaction Log (EU-TL) database confirms all of these transactions. For example, it shows that Deutsche Bank was the first purchaser of CO2 permits on May 6, 2009.\(^\text{17}\) This transaction occurred precisely at 14:31:21.452. KO Brokers Ltd. was the seller, and the buyer was Deutsche Bank AG, London Branch.\(^\text{18}\)

An estimated price for these 27,000 permits is €384,750 (with an additional VAT amount of €76,950).\(^\text{19}\) Similar estimates for the CITIBank purchases place the value of those

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\(^{14}\)BNP Paribas, Royal Bank of Scotland and Morgan Stanley are the other banking institutions involved. Morgan Stanley is not mentioned in the press or court documents, but its involvement is clear in the EU-ETS CLIMATE ACTION web page of the *EU Transaction Log*, available at: [http://ec.europa.eu/environment/ets/sitemap_index.do](http://ec.europa.eu/environment/ets/sitemap_index.do). R v. Dosanjh (Sandeep) and others [2013] EWCA Crim 2366, par. 5 (November 20, 2013); Michael Szabo, *UK CO2 Fraudsters trade Rolls Royces for Jail Time*, Reuters – Industry (June 12, 2012) available at: [http://in.reuters.com/article/2012/06/19/idINL5E8HJF9R20120619](http://in.reuters.com/article/2012/06/19/idINL5E8HJF9R20120619)

\(^{15}\)KO Brokers was incorporated September 26, 2006 to provide “consultancy and marketing services provided to drink wholesalers in other EU countries,” but there was very little business activity until the fraud began on January 20, 2009. It was only registered for VAT on January 27, 2008. Sandeep Dosanjh signed and filed four VAT returns

\[\begin{align*}
\text{VAT period ending November 2008: Reclaim for } & \text{£1019.69} \\
\text{VAT period ending February 2009: Paid } & \text{£75,842;} \\
\text{VAT period ending March 2009: Paid } & \text{£1300,489;} \\
\text{VAT period ending June 2009: Paid } & \text{£407,341.}
\end{align*}\]

October 2009 through September 2009 KO Brokers declared turnover over £265 million with a trading profit of over £5.5 million. KO Brokers issued 278 invoices for emission allowances. With respect to 185 (66%) of these invoices it sold below the Blue Next spot price. In 6 instance (2%) it sold at the spot price, and in 87 occasions (31%) it sold above the spot price.

\(^{16}\)Deutsche Bank purchased an additional 46,000 units from KO Brokers on September 8, 2009. This was a transaction outside the factual parameters of the case. Interestingly, it is also a date falling after the arrest of Dosanjh and all of his employees.\(^\text{17}\)

Additionally, the *EU Transaction Log* indicates that on this day there were two sales of emissions permits to a French firm Gazprom Marketing & Trading of 100,000 and 160,000 AAUs, as well as three UK transactions. Those transactions were with Citigroup Global Markets Limited, which bought 20,000 AAUs and then another 55,000 AAUs. The final transaction was 59,000 AAUs that were sold to BP Gas Marketing Limited.\(^\text{18}\)

The *EU Transaction Log* indicates that within the 27,000 there were 10 bundles of AAU (Assignedd Amount Units), 8 bundles contained Portuguese AAUs, one bundle contained French AAUs, and the third contained UK AAUs. The *EU Transaction Log* indicates that KO Brokers Ltd. remained active in the CO2 market until July 31, 2009. It sold a total of 453,000 AAUs in this post May 6, 2009 period. 433,000 AAUs were sold to Gazprom Marketing & Trading, 15,000 were sold to Amarjit Singh, and 5,000 to the Royal Bank of Scotland.\(^\text{19}\)

ICE EUA, front month contract (June-09) had a closing price of EUR 14,27 on 6th of May 2009. All other
sales at €26,442,310 (with an additional VAT amount of €5,288,462). While the Deutsche Bank transaction could have “slipped under the radar” screen, it is unlikely that the same is true of the CITIBank purchases. None of the VAT on any of these transactions was remitted to the UK Treasury.  

Sandeep Singh Dosanjh was a fraud-master. He was poised to make much more than £39m in the CO2 markets, and he was not going to stop with CO2. Dosanjh was a technology-savvy 30 year old clearly living on the cutting edge of MTIC fraud. He was highly creative, and “pushed the envelope” of this fraud.

In 2009 Dosanjh’s buyers in his CO2 MTIC frauds were four of the largest EU energy companies, as well as five of the world’s largest investment banks. Dosanjh was not going to stay in CO2. He was planning to migrate into the gas and electric exchanges in 2010. Dosanjh’s authorization to trade in the energy markets (notably the electric market) was approved by UK regulators on August 4, 2010 – two days after he was released on bail for the CO2 fraud (after one full year in jail). Dosanjh was easily running about two to four years ahead of most EU fraudsters and Europol in his understanding of MTIC fraud and vulnerable markets.

The HMRC estimated that Dosanjhi would have stolen £2 billion from the UK Exchequer, if his fraud had not been stopped immediately. The HMRC attributed its

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22 Available at: http://www.independent.co.uk/news/uk/home-news/carbon-credit-scam-would-have-cost-britain-2bn-7878760.html
estimate to Dosanjh’s technological sophistication. The speed with which the UK acted to block Dosanjh (with an arrest) and CO2 fraud (with a law change) is a testament to HMRC’s concern that Dosanjh had created a particularly deadly strain of MTIC, and that it would spread:

The trades [of Sandeep Singh Dosanjh] were made in a matter of minutes via a computer system, and the stolen VAT was [immediately] transferred [through a string of banks in New Zealand, Australia, and Hong Kong] to offshore bank accounts in the United Arab Emirates to ‘clean’ the stolen cash.24

**CO2 permit trades.** HMRC argued a straight-forward set of facts in *R v. Dosanjh (Sandeep) and others* at the Southwark Crown Court. HMRC’s case was crafted to be clear, but not necessarily comprehensive. The case covered Dosanjh’s CO2 trades from January 20, 2009 through May 6, 2009 (even though KO Brokers continued to trade in CO2 up through April 21, 2010 – a full year after Dosanjh and most of his staff were arrested and put in jail).

Why was the litigation line was drawn at May 6, 2009? Was it perhaps because this was the first day that Deutsch Bank became one of Dosanjh’s buyers? From the perspective of HMRC’s overall MTIC fraud case development strategy, this line may have been important as it provided Deutsche Bank with exceptionally clear (and public) notice that it was involved in CO2 MTIC fraud and HMRC knew about it. Deutsche Bank’s first purchase on the last day of the *Dosanjh* case got its name in all of the papers.25 This seems to have been intentional.

A jury verdict was quickly issued on June 14, 2014.26 Two parallel fraud chains were described. Each chain was composed of three entities, the first being a missing trader that purchased CO2 permits from a counter-party in another Member State. Each entity bought and sold in a prescribed (linear) manner. There were no cross-chain sales, and no sales outside the assigned chain. Both chains fed into KO Brokers Ltd., which was owned and operated exclusively by Sandeep Dosanjh.

All transactions were planned and controlled by Sandeep Singh Dosanjh. There are wire-taps in the case where calls are made to associates insisting that they act quickly on transactions, *pushing* the CO2 through the chain in a timely and orderly manner. He was a true mastermind of this fraud. He clearly pushed tainted CO2 permits (offered at a below market price) into the investment banks and energy companies. Figure 2 (below) sets out the fraud chains presented in this case:

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26 There is no written judgment in a jury verdict.
Once in the possession of KO Brokers the CO2 permits were then either re-sold to a “blue chip” company in another Member State (in which case KO Brokers functioned as a “distributor”) or they were re-sold to a “blue chip” company within the UK (in which case KO Brokers functioned as a “final buffer.”) After AGH Associates Ltd. and Infiniti UK Ltd. were deregistered (May 7, 2009) KO Brokers Ltd carried out only one further trade in CO2 permits with a UK supplier (that occurred on May 15, 2009).

The foreign-established “blue chip” companies involved in Dosanjh’s fraud were Gazprom Marketing and Trading Powernext, a French company, Climatefx SA, a Danish company, and Morgan Stanley Capital Group Inc., a US company. The UK-established companies were Shell Trading International Ltd., BP Gas Marketing Limited, Citigroup Global Markets Ltd., Royal Bank of Scotland plc, BNP Paribas, and Deutsche Bank AG,

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27 There are some stray instances where KO Brokers sold small lots to individuals who had investment accounts with a registry. No discussion of these sales are part of the case. For example, on July 17, 2009 KO Brokers sold 15,000 emissions permits to the Danish registry account of Amarjit Singh who held a pension account in that national registry, although he was a resident of Lisbon Portugal.

28 Domestic (UK) transactions were by far the largest category of sales. Approximately 99% of the sales from KO Brokers went to UK registered entities.

29 An interesting side-note involving Morgan Stanley concerns the details of the single trade between KO Brokers and Morgan Stanley, which occurred on March 26, 2009. KO Brokers charged VAT on the sale, and Morgan Stanley refused to pay citing its registration in the USA. Although Sandeep Dosanjh attempted to collect the VAT directly, none was ever paid. Morgan Stanley was not involved in any subsequent deals with KO Brokers. E-mail transcripts of the Sandeep Dosanjh/ Morgan Stanley exchanges were submitted to the court, but are not publicly available.
London Branch. The domestic buyers immediately re-sold the CO2 permits outside the UK. Figure 3 (below) sets out these transactions.

**Money laundering.** Dosanjh was not only technologically adept at constructing fraud chains for the fraudulent supplies, he was also skilled at quickly moving the proceeds of the fraud off shore. Dosanjh possessed all of the critical attributes of a CO2 MTIC mastermind. He set up chains of fraud companies, structured the trades, controlled the traders, and orchestrated the money movements. Payments along Dosanjh’s chains were made through banking platforms he established. The Court of Appeals notes:

The proceeds were swiftly moved offshore into banking platforms, in particular, commercial banks in Hong Kong, Australia and New Zealand. These operated in a manner described as being analogous to a solicitor’s client

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30 Listed by transaction volumes, the “blue chip” firms were:

**IN THE ENERGY SECTOR:**
- Gazprom Marketing & Trading Powernext – 12,792,000
- Shell Trading International Ltd. – 6,303,000
- BP Gas Marketing Limited – 2,967,000
- Climate FX SA – 433,000

**IN THE FINANCIAL SECTOR:**
- Citigroup Global Markets Ltd. – 1,853,000
- Royal Bank of Scotland plc – 938,000
- BNP Paribas – 260,000
- Morgan Stanley Capital Group Inc. – 50,000
- Deutsche Bank AG, London Branch – 27,000
account. All the money went into one account but there were internal ledgers used to allocate it between the sub-accounts of the traders. This meant the true nature of the transfers was effectively disguised and difficult to detect.31

The first chain (Swift-to-Allianz-to-AGH-to-KO Brokers) used a payment platform in a Hong Kong bank;32 the second chain (Mak-to-Helio-to-Infiniti-to-KO Brokers) used a different payment platform at a New Zealand bank.33 Both payment platforms transferred funds to different companies in Dubai, UAE. The flow of funds like the trading operations, were highly automated and completely separate. Dosanjh designed everything to be separate, independent. Problems in one chain, or payment structure would not impact activity in others.

Dosanjh’s agility is apparent when Hong Kong authorities closed the account associated with the payment platform used by the AGH chain on April 9, 2009. Closing the account immediately stopped trading through the chain.

Dosanjh immediately replaced the Hong Kong account in six days (April 15, 2009) with an Australian payment platform (Technocash) he set up with an account held by a Swedish entity (Prime Savings and Trust Credit Union) at an Australian bank (the West Pak Bank). Once again, the funds were directed to a company in Dubai (Astra Trading FEZ).

Importantly, payments were never kept in a KO Brokers account in the UK. All funds for sales by KO Brokers were always sent directly overseas. Astra Trading received €162.5 million from KO Brokers’ trades. Figure 4 (below) sets out the financial flows:

31 R v. Dosanjh (Sandeep) and others [2013] EWCA Crim 2366, par. 10 (November 20, 2013).
32 The Infiniti chain used Ultimate Financial Services (UFS) as a payment platform with an account in the ANZ National Bank in New Zealand. Deposited funds were quickly re-transferred to Astra Trading FZE (a Dubai, UAE-based company controlled by Pardeep Singh Dosanjh).
33 The AGH chain used Trade Alliance Financial Group in the Standard Chartered Bank of Hong Kong. When the Trade Alliance account was closed by the Hong Kong authorities the AGH chain used a money service company called Technocash Pty which set up an account in the name of Prime Savings and Trust (a Swedish registered credit union) at West Pac bank in Australia.
Thus, when Deutsche Bank purchased 27,000 CO2 permits from KO Brokers on the 6th of May 2009 for €384,750 including an additional €76,950 of VAT, the entire €461,700 was remitted immediately to the Ultimate Financial Services account in the ANZ bank. The critical question is: When this transaction was contemplated did the employees at Deutsche Bank find (or, should they have found) indicia of fraud in the following facts:

- a reasonably large transaction,
- to a newly formed UK company,
- with payment (including VAT) remitted outside the country.

A follow-up question might well be: Were the Deutsche Bank employees getting an education in CO2 MTIC fraud that they might be able to apply when the time came?

The Deutsche Bank payment was traced by HMRC. It was made to KO Brokers, but placed in a sub-account (at the ANZ Bank of New Zealand) and used to pay KO Broker’s debt to Infiniti UK Ltd. in the same account. The funds were then used to immediately pay Infiniti’s debt to Helio Technical Services Ltd, and then to pay Helio’s debt to Mak & Co. (the missing trader). After Mak, the funds were forwarded to Astra Trading FEZ in the UAE where they were kept in an account at a branch of the Royal Bank of Scotland.

*Arrests and scope of trading.* HMRC’s case against Dosanjh begins with transactions on January 20, 2009, and ends with transactions completed on May 6, 2009. January 20 is the true starting-date for KO Brokers’ entry into the CO2 market. When AGH Associates Ltd. and Infiniti UK Ltd. were deregistered on May 7, 2009, KO Brokers stopped purchasing
carbon emissions permits from UK suppliers. The sole exception is a trade on May 15, 2009. However, KO Brokers remained active in the CO2 trade, it is just that it purchased only from foreign parties making sales to UK and foreign buyers.

For example, KO Brokers made trades through the UK registry between June 15, and July 30, 2009. It purchased 408,000 CO2 permits in fifteen transactions from a Spanish firm (Capital Markets Holdings SA) out of that firm’s French registry. It made three more acquisitions between June 5, 2009 and July 16, 2009 from the same Spanish company, but this time out of Capital Markets Holding’s Spanish registry account. Permits were re-sold to domestic and foreign buyers.

Through its Danish registry account KO Brokers remained active even longer. On April 21, 2010 it sold 66,000 CO2 permits to Ditta Mohammad of NTC Global, an Estonian company.34 On September 8 and 9, 2009 KO Brokers bought 112,000 CO2 permits in three transaction, again from Capital Markets Holdings S.A., and re-sold them the very next day (September 9, 2009) in two bundles, one of which was a deal for 66,000 permits with a Swiss company (Climate FX S.A.), and a second bundle of 46,000 permits was sold to Deutsche Bank AG, London Branch.

Any transactions in emissions certificates with KO Brokers after August 19, 2009 should have raised rather clear ethical concerns for any UK financial institution. Sandeep Singh Dosanjh and most of his staff were arrested on this day. None would be free on bail for at least a year (during the first week of August 2010).

The person who most likely consummated the post-August 19, 2009 transactions from the KO Brokers side (and our concern is primarily with the Deutsche Bank purchase) was Sandeep’s second cousin, Pardeep Singh Dosanjh. Pardeep was considered by the Criminal Appeals court to be the other “prime organizer” of the KO Brokers fraud.35 When HMRC set out to arrest all the key players in the KO Brokers fraud on the morning of August 19, 2009 Pardeep escaped capture, and fled the country.36 He has not been found, and remains a fugitive at large.37

34 Mohammad Zeeshan Ditta was removed from the Board of NTC Global on April 13, 2010.
35 R v. Dosanjh (Sandeep) and others [2013] EWCA Crim 2366, par. 1 (November 20, 2013).
36 HMRC searched three locations for Pardeep (9 Queen Street, Gravesend; 164 Singlewell Road, Gravesend; 70 Kent Road, Gravesend), and several automobiles parked outside these residences, collected cell phones and computers. Although it was clear from phone records that Pardeep was in the UK on August 19th, he was not apprehended.
37 The key individuals, their date of arrest, and their release from detention on bail are as follows:

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth/ Age on arrest</th>
<th>Arrest Date</th>
<th>Release from detention on bail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pardeep Singh Dosanjh</td>
<td>March 6, 1986 (23)</td>
<td>Failed to arrest, attempt August 19, 2009</td>
<td>August 6, 2010</td>
</tr>
<tr>
<td>Dhanvinder Singh Basra</td>
<td>January 18, 1986 (23)</td>
<td>August 19, 2009</td>
<td>August 6, 2010</td>
</tr>
<tr>
<td>Navdeep Singh Gill</td>
<td>March 14, 1980 (29)</td>
<td>August 19, 2009</td>
<td>August 9, 2010</td>
</tr>
</tbody>
</table>
| Karamjeet Sohi              | February 1980 (29)           | No arrest effort – Director of Infiniti |}

Electronic copy available at: https://ssrn.com/abstract=2770076
If red flags were not raised for Deutsche Bank when it purchased 27,000 permits on May 6, then they should have been raised when it purchased the second batch of 46,000 permits from KO Brokers in September 2009. Approximately €656,420 was paid for the permits. There is a real concern with internal controls at Deutsche Bank at this point in time.

How could a regulated financial institution purchase CO2 permits from a company whose owners and employees were under arrest and suspected of participating in CO2 MTIC fraud? If Deutsche Bank was not dealing with people from their jail cells, then they were negotiating with Pardeep Singh Dosanjh, who was fleeing an active HMRC arrest warrant for CO2 MTIC fraud. Under the UK’s Financial Services Agency (FSA) rules, Deutsche Bank was obliged to investigate this transaction in sufficient detail to know (or at least strongly believe) that the deal was not tainted.38

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth</th>
<th>Age</th>
<th>Date of Arrest</th>
<th>Date of Release</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sandeep Harry</td>
<td>December 22, 1984</td>
<td>(24)</td>
<td>August 19, 2009</td>
<td>August 6, 2010</td>
</tr>
<tr>
<td>Kernjit Singh Gill</td>
<td>September 14, 1981</td>
<td>(27)</td>
<td>August 19, 2009</td>
<td>August 9, 2010</td>
</tr>
<tr>
<td>Gurvinder Bains</td>
<td>May 8, 1980</td>
<td>(29)</td>
<td>No arrest effort – Director of AGH</td>
<td></td>
</tr>
<tr>
<td>Pritpal Singh</td>
<td>April 23, 1986</td>
<td>(23)</td>
<td>August 19, 2009</td>
<td>August 6, 2010</td>
</tr>
</tbody>
</table>

38 Deutsche Bank is registered with the UK’s Financial Services Agency (FSA). The FSA was set up in 2000 to regulate financial markets, exchanges and firms engaged in the market. One of the objectives of the FSA is to reduce the extent to which it is possible for a regulated firm to be used for a purpose connected with financial crimes. Regulated businesses should have in place appropriate procedures to identify both financial crimes and anti-money laundering. The procedures include know your customer controls, transaction monitoring and market surveillance. Regulated firms must also have a fraud policy statement concerning these activities. Know your customer, transaction monitoring and market surveillance are core activities. See also British Bankers Association guidance through the Joint Money Laundering Steering Group. Firms need to know their customers to guard against fraud, impersonation fraud, and the risk of committing offenses under the Proceeds of Crime Act 2002 and the Terrorism Act 2008 related to money laundering and terrorist financing. Firms identify customers by obtaining a range of information about them. The verification of the identity consists of verifying information against documents, or data from a reliable and independent source.