



US hedge fund corruption settlement casts unfavourable light on City regulation

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A new report by RAID *'Bribery in its purest form': Och-Ziff, asset laundering and the London connection* (released 5 January 2017) sets out the repeated failure of the UK regulatory authorities over a 10-year period – despite warnings from UN Experts, due diligence studies and compliance watch lists – to take action to prevent assets acquired through corrupt means being traded on the London markets.

In September 2016, the U.S. Department of Justice (DOJ) charged Och-Ziff Capital Management Group LLC (Och-Ziff), one of the largest hedge funds in the world, with conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA).¹ The DOJ described the corrupt practices of Och-Ziff as 'bribery in its purest form'. Och-Ziff is publicly listed, and the Securities and Exchange Commission (SEC), which regulates the New York stock exchange, also announced that Och-Ziff had agreed to settle civil charges of violating the FCPA.² Overall, Och-Ziff agreed to pay combined civil and criminal penalties of \$412 million, the largest ever settlement concerning a Wall Street firm.

RAID's report examines the corrupt transactions in Democratic Republic of Congo (DRC) and suspicious payments in Zimbabwe, as detailed by the SEC and DOJ.

“All of the corrupt transactions outlined in the settlement and under a deferred prosecution agreement had a London connection: the deals were arranged through Och-Ziff's London office and many of the entities involved were London-listed”, said Patricia Feeney, RAID's Executive Director.

For many years, RAID has tracked how mining assets of dubious provenance have been laundered through UK-markets. One corruption scheme operated in the Democratic Republic of Congo, a country that has long been the focus of RAID's campaign to expose the process by which rich mineral assets were used to fund a brutal war and to reward the government's allies and vested interests in its aftermath. The US authorities also refer to a platinum deal in Zimbabwe, which RAID condemned for funding Mugabe's violent 2008 election campaign, despite the existence of sanctions.

¹ United States of America against Och-Ziff capital Management Group LLC, *Deferred Prosecution Agreement*, Cr. No. 16-516 (NGG), United States District Court Eastern District of New York, 29 September 2016, available at:

<<https://www.justice.gov/opa/file/899306/download>>. The parent company resolved the case under a deferred prosecution agreement (DPA). An Och-Ziff subsidiary, OZ Africa Management GP LLC (OZ Africa), pleaded guilty to conspiracy to violate the FCPA: see United States of America against OZ Africa Management GP, LLC, *Plea Agreement*, Cr. No. 16-515 (NGG), United States District Court Eastern District of New York, 29 September 2016, available at: <<https://www.justice.gov/opa/file/899316/download>>.

² U.S. Securities and Exchange Commission, 'Och-Ziff Hedge Fund Settles FCPA Charges Och-Ziff Executives Also Settle Charges', *Press Release*, 2016-203, 29 September 2016, available at: <<https://www.sec.gov/news/pressrelease/2016-203.html>>

“A key question is whether the UK authorities, far from preventing the platinum mine purchase or the later sale of shares controlled by sanctions targets, actually approved or licenced the transactions” said Patricia Feeney.

A number of factors contributed to the web of corruption exposed in the Och-Ziff settlement that tainted so many of the transactions of key mineral resources over the past decade, not only in the DRC, but across the African continent. The DRC, a deeply impoverished country, weakened by years of conflict and lacking strong institutions, was particularly vulnerable to the predations and schemes of an unscrupulous cabal of wheeler dealers. The scale of the corruption they embarked on is breath-taking. President Kabila amassed an estimated \$US15billion while almost 87% of the DRC’s 69 million people live on less than \$1.25 a day.

Over the past decade, at crucial moments, the UK authorities were in a position to take action over the ‘London connection’ – the key role played by Och-Ziff’s London office and the use of UK markets to list and launder African assets – that might have thwarted at least some of the corrupt deals and could have prevented ‘the flow of dirty money into the City’.

“Lessons must be learned from the Och-Ziff case and where necessary new legislation should be enacted and existing regulations more rigorously enforced to ensure that nothing on this scale happens again,” said Patricia Feeney.

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The full report, *‘Bribery in its purest form’: Och-Ziff, asset laundering and the London connection* is available at: <www.raid-uk.org>.