

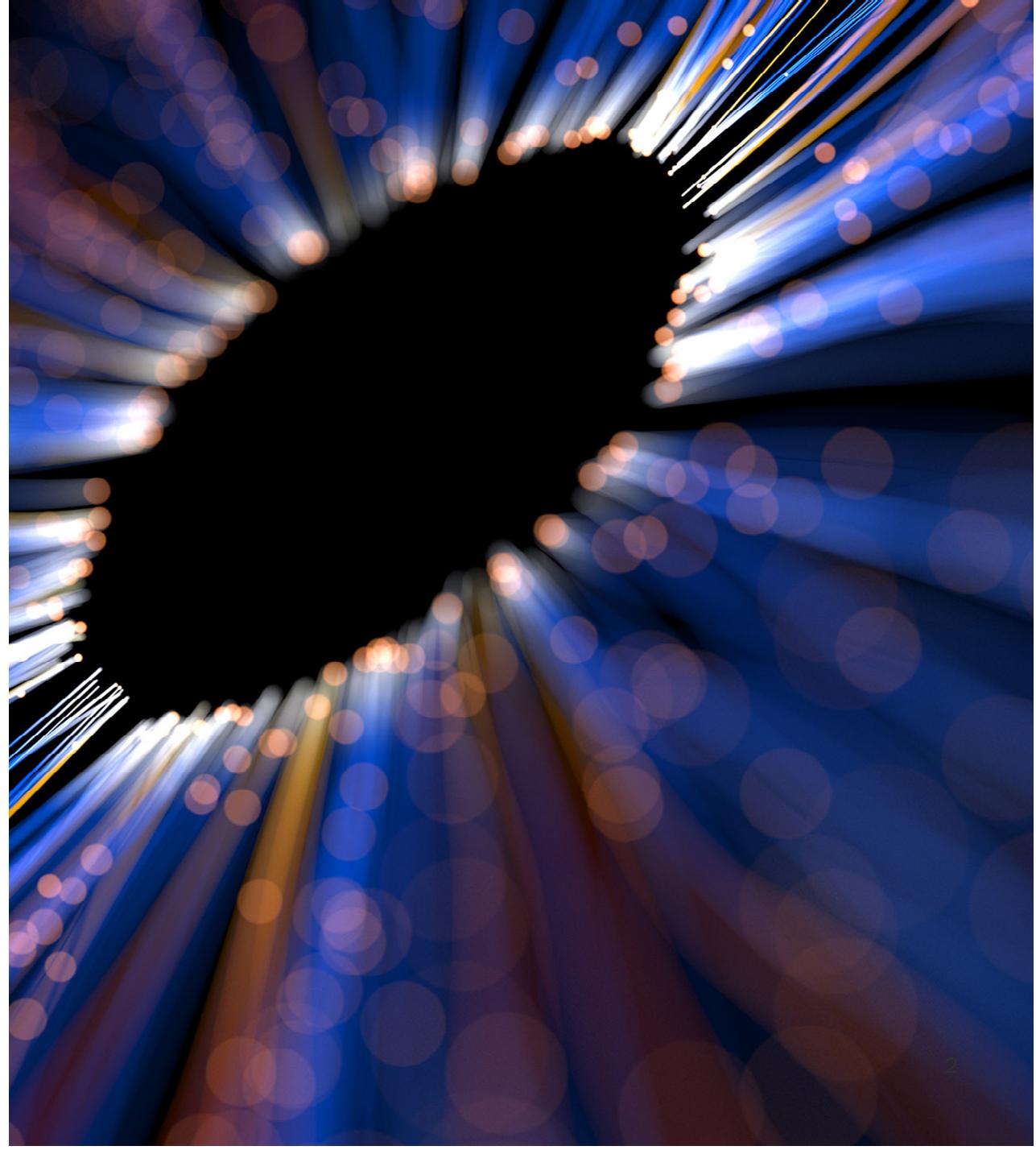
Update financial-economic crime

Financial Markets Legal
Update – the webinar series

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Wednesday 1 July 2020

Agenda

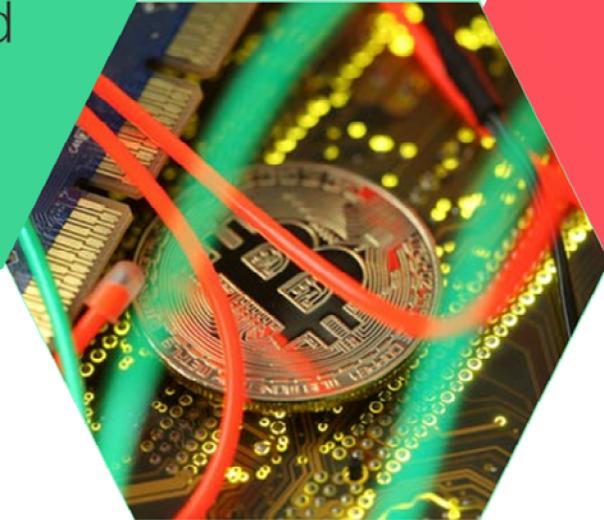
1. Introduction
2. AML and money laundering case law
3. Fraud – case law and trends
4. Criminal liability of management
5. COVID-19 and FEC
6. Takeaways



AML – recent developments and outlook

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AMLD 5
implemented



AMLD 6
upcoming



National
developments

Money laundering case law

§

Impact of
cryptocurrencies
and wallets

Assessment
framework
adopted by Dutch
courts



Fraud – case law and trends

§

Notable case law

- **Forgery of documents and money laundering:** Supreme Court 21-4-2020 (SNS Property Finance)
False invoices to disguise payments. Money obtained by ‘using’ a serious crime is not per se the same as money ‘originating’ from a serious crime.
- **Forgery of documents relating to a tax issue:**
 - Appeals Court Arnhem-Leeuwarden, 26-11-2019
Do fiscal motives to an agreement make this agreement a false document?;
 - Appeals Court Amsterdam, 3-6-2020
 - No intent but incidental mistake in relation to VAT obligations
- **Investment fraud:** Supreme Court 3-12-2019; Appeals Court Amsterdam, 25-9-2019
‘Web of lies’.
- **Private corruption:** Appeals Court Amsterdam, 12-8-2019
‘Proxy’ in the meaning of criminal law is wider than in the meaning of civil law.
- **Public corruption:** Appeals Court Amsterdam, 11-3-2020
Combination of bribery of a public official with forgery of documents to cover it up

Fraud

Trends

- International enforcement actions



- AFM Signal Monitor, <https://publicaties.afm.nl/signalenmonitor-voorjaar-2020/vragen-en-signalen/>

Criminal Liability of Management

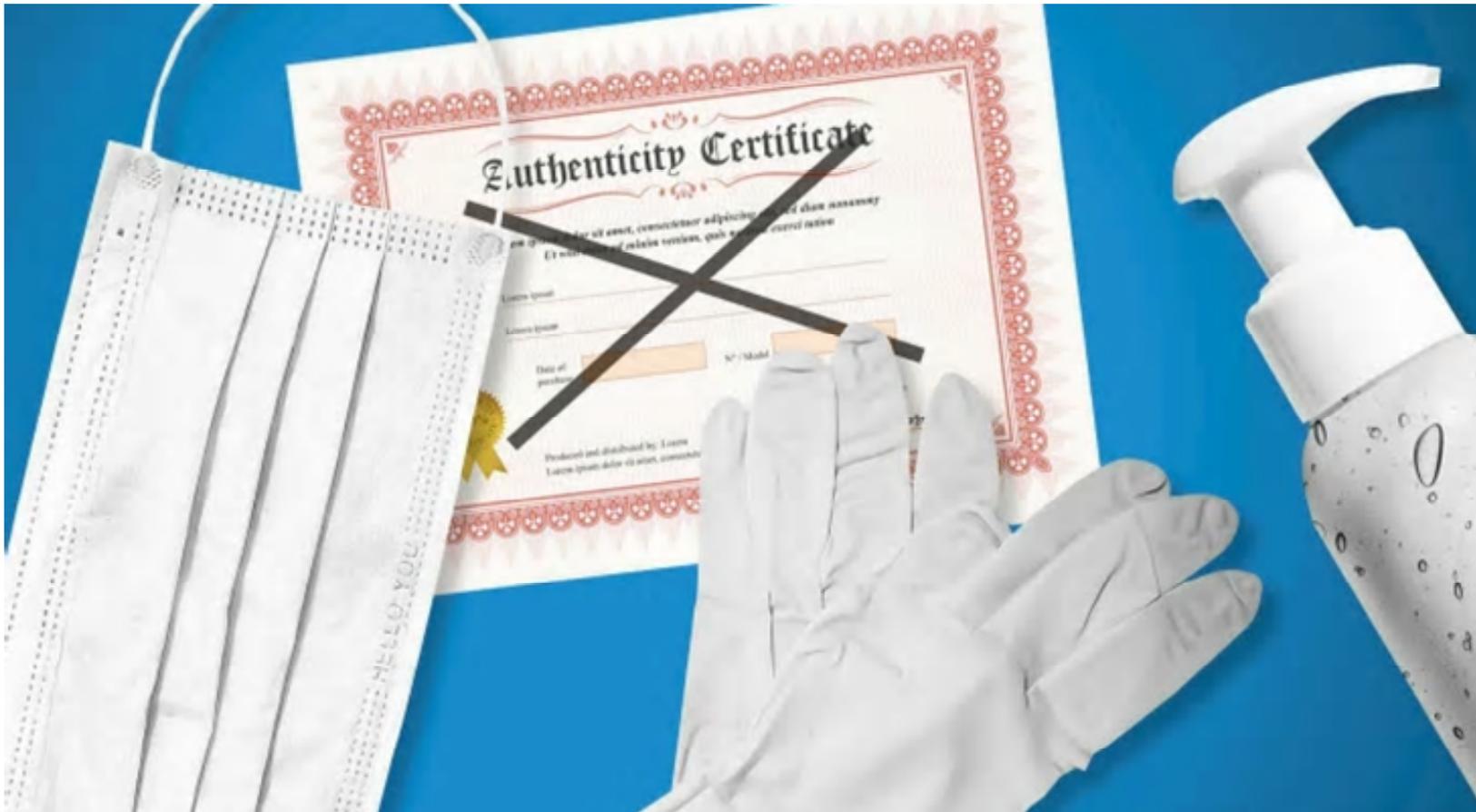
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‘Factual directorship of the corporate’s criminal conduct’

- Appeals Court Arnhem-Leeuwarden, 26-11-2019
‘Knowingly’ accepting the considerable chance of a consequence is decisive, having knowledge about the possible consequence is insufficient.

COVID-19 and FEC

Coronavirus crisis provides fertile ground for online fraudsters



Takeaways



1

Increased focus from legislator and regulators on financial institutions as gatekeepers

2

COVID-19 poses extra AML challenges

3

Money laundering is ‘a prosecutor’s darling’, but the Supreme Court is guarding the boundaries of its scope.

4

S&S COVID-19 financial crime tracker: law enforcement response, see here: [link](#)

Thank you for joining

For further information, please contact us or visit our website simmons-simmons.com.



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