



# LEAKS HAPPEN: MITIGATING RISKS WHEN APPLICANTS ARE “LEAKED”

From Panama to the Pandora Papers - Exiger's Karen Kelly describes the measures investment migration programmes should implement in the face of investigative reports and data leaks.

The recent Pandora Papers leak and subsequent analysis of approximately 12 million documents by the International Consortium of Investigative Journalists (ICIJ) is but the latest in a number of leaks reported by the ICIJ, starting in 2016 with the Panama Papers. With each, the disclosure of previously unknown offshore entities and their beneficial ownership spurred increased scrutiny on individuals and companies around the globe, and the potential use of these structures to hide wealth. The Panama Papers ultimately led to numerous tax investigations, money laundering probes, subpoenas, and prosecutions. Similar outcomes could be on the horizon with the current Pandora Papers leak.

Residency and citizenship-by investment (“RCBI”) programmes have at times been scrutinised as a result of these leaks. High-net-worth individuals are typical applicants to such programmes. By virtue of their wealth, business history and connections, they often have a higher public profile and level of political exposure. This overlaps with the profile of those most likely to be singled out in leak reporting. Already, the Pandora Papers have revealed previously secret holdings and financial arrangements by current and former politicians and world leaders, celebrities, and sports figures. Some of these individuals may very well have applied to an RCBI program at some point.

There are a number of legitimate reasons for individuals and companies to establish offshore holdings, but these structures can also be used for unsavory purposes, such as tax evasion, corruption, terrorist financing, and money laundering. Even with that distinction, publicity around a current or previously approved applicant to an RCBI programme presents an inherent reputational risk.

## How can RCBI programmes mitigate that risk before and after approving an applicant?

### Third-party due diligence

The importance of comprehensive third-party due diligence for all programmes cannot be overstated. Reputable due diligence providers will employ enhanced tools and methodology to rigorously investigate declared and undeclared affiliations and sources of wealth. This must include efforts to verify declared entities and identify undisclosed affiliated entities and

individuals through reverse affiliation checks, human source inquiries, and screening of all leaked offshore information including the ICIJ database. Investigation of unearthed affiliations can point to additional jurisdictions in which an applicant has a footprint which can, in turn, lead to questions on how forthcoming an applicant has been in their disclosures. Most applicants make an effort to declare offshore entities, but this is not always the case. As a result, RCBI programmes must mandate complete disclosure by applicants.

**Mandating complete disclosure** Applicants often declare the existence of offshore entities in their applications, including basic details such as name, jurisdiction, and date formed. However, most of these jurisdictions have minimal filing requirements, meaning that – other than confirming an entity exists – there is little additional information available through the corporate registry. To mitigate risk, applicants should be required to declare the existence of these entities as well as any unfiled documentation pertaining to beneficial owners and ownership structure, shareholdings in other entities, and account activity. For undeclared offshore entities uncovered during the course of due diligence, these questions and requirements are equally, if not more, important.

### Ongoing, real-time monitoring

RCBI programmes must protect against reputational risks from both new and previously approved applicants. With each new leak, and those yet to come, media, regulators, and other interested parties are identifying notable or suspicious financial arrangements and those involved. While offshore entities are not in themselves proof that someone has engaged in criminal activity, RCBI programmes should be sensitive to even the perception that an applicant engaged in bad behavior, as it impacts a programme's reputation significantly. Real-time, technology-enabled, global monitoring in multiple languages is necessary to ensure a programme is immediately alerted should an applicant be referenced in media highlighting ties to offshore entities and any other risk-related activities. This presents an opportunity to proactively address issues by reaching out to the applicant to request additional information, as well as reviewing and updating due diligence as necessary.

RCBI programmes are not immune from the scrutiny that comes along with leaks about offshore entities and wealth, but they can prepare and develop strategies to mitigate the risk of fallout. By requiring complete and comprehensive disclosure of all applicant holdings and engaging reputable due diligence providers with a rigorous methodology to investigate affiliations and sources of wealth, programmes can address much of the risk before an applicant is approved. Adding real-time monitoring mitigates the risk further by continuously scanning for potential reputational risks to the applicant and, consequently, the programme. Leaks will still happen, but RCBI programmes will be well-positioned to respond and to defend their due diligence process. 🔄



## BIO

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Citizenship, and Visa (ICV) Practice. She has 13 years' experience managing due diligence services for residence- and citizenship-by-investment (RCBI) programmes, financial institutions, and corporations, as well as developing specialized due diligence training programmes. She participated in a large-scale RCBI programme review focusing on policies and procedures, workflow, operational support, and system implementation.