Who would credit it?

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Carbon credit fraud is a new phenomenon that seems to be on the rise. But while carbon credits are a recent development, the tactics used in the fraud are nothing new.

While carbon credits appear to have been created to make the world a greener place, they have had an unfortunate side effect. The credits have become a popular way to perpetrate fraud, with the result that many have been left out of pocket. Now, the authorities are looking closely at carbon credit trading, as awareness grows of the potential for fraud.

In April, City of London Police celebrated their first criminal convictions and prison sentences for carbon trading. Ian MacDonald and David Downes were jailed at Kingston Crown Court for being behind an international boiler room operation that moved nearly £6M of investors' money to bank accounts in Canada and the United States. Some of the money was used to fund lavish living in Marbella although City of London Police were able to trace much of it, recover it from frozen bank accounts and return it to MacDonald and Downes' victims.

The court head that MacDonald, 50, and 46-year-old Downes targeted thousands of people with offers of carbon credits and shares that they claimed were highly profitable. The truth was that they were virtually worthless. The duo had obtained the names of potential victims through the share lists of legitimate companies. Those they recruited to work for them would then cold call people, give them the hard sell and persuade them to part with their money. In some cases, they would even phone back months later and tell victims that the company they had invested in had been the subject of a hostile takeover and, as a result, people needed to buy even more shares to protect their investment.

Downes and MacDonald were eventually arrested as they flew into Heathrow from Vancouver en route to Spain. By the time of their trial, police had found more than 1,800 victims. Many knew little of the exact nature of carbon credits, which made them especially vulnerable to the likes of MacDonald and Downes. At Rahman Ravelli, we have seen how carbon credits have emerged as a potential vehicle for fraud in recent years. We were involved in the case that arose out of Operation Tulipbox, where a number of men were heavily sentenced for running a carbon credit fraud that raked in an estimated £38M. The case even prompted the government to rush through the closure of tax loopholes that otherwise would have cost the UK an estimated £2.2 billion. The case brought the issue of carbon credit fraud firmly into focus. It highlighted how a chain of bogus companies could be created to trade carbon emission allowances. Such carbon credits were devised to be bought and sold by companies in an attempt to reduce pollution. The theory was that they would give companies an incentive to cut their carbon emissions and then sell any spare carbon credits that they had. But criminals soon became aware that they could buy them VAT-free in one EU company and then sell them on in the UK. They would add the VAT to the price they sold them for in the UK but then keep the VAT money instead of paying it to the government.

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The government tackled the issue by giving carbon credits a zero VAT rating, thus preventing criminals pocketing the VAT. But while that action by the government has prevented carbon credits being the subject of MTIC (Missing Trader Intra-Community) Fraud, it has not prevented the use of them by those running boiler room operations. There is no doubt that people looking to make fraudulent gains from carbon credits use the classic boiler room ruse of telephoning people to sell them something that is worth far less than they claim. It may be that those being cold called as part of carbon credit frauds are more experienced investors than victims of other types of boiler room – as was the case with Downes and MacDonald, who targeted individuals who already had shares in companies. There may also be an element of bribery and corruption employed by those running the carbon credit fraud, in order to obtain access to the carbon credits and the right to be able to sell them. In that respect, carbon credit fraud is a slight variation on the typical boiler room. But in all other ways, carbon credit fraud is the classic boiler room model: the straightforward selling of shares of little or no value at hugely inflated prices while trying to portray an air of respectability and operating abroad so as to escape the reach of the Financial Conduct Authority (FCA).

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At Rahman Ravelli, we have handled many of the largest and most high-profile boiler room cases. We advise and represent both those who fear they may have invested in

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a boiler room fraud and those who may have worked for one but maintain they are innocent of any wrongdoing. This could well be the case when it comes to carbon credit fraud. Carbon credits exist, they are a legally recognised trading commodity and were introduced with noble intentions to cut pollution. It is not beyond the realms of possibility that someone recruited to cold call and sell carbon credits would believe they were engaged in legitimate business. Often a boiler room hires many lowly paid people who view the work as their only chance to gain genuine employment. Quite how many of them know (or are ever told) what they are selling is worthless is often hard to establish. But that can be a crucial part of any legal defence team's case should their client be prosecuted for involvement in a boiler room; regardless of what was being sold to investors.

Having extensive involvement in boiler room cases, we have seen the way people can become unwittingly involved in them. Carbon credits may be a relatively new concept but they carry the same old risks as many more established forms of investment fraud.