

行政院所屬各機關因公出國人員出國報告書

(出國類別：國際會議)

參加「亞太防制洗錢組織」第 11 屆年會 (APG Annual Meeting 2008)

出國報告

出 國 人	法務部檢察司	陳司長文琪、黃檢察官元冠
	法務部調查局洗錢防制中心	藍調查專員家瑞、鄧調查員文法
	外交部條約法律司	丁專門委員洪偉
	金融監督管理委員會銀行局	張副組長子浩、劉稽核燕玲
	中央銀行金融業務檢查處	林科長銘寬
	內政部警政署刑事警察局	陳研究員振發、李警務正明道
	駐印尼台北經濟貿易代表處	謝秘書明錫

出國地點：印尼峇里島

出國時間：97 年 7 月 7-11 日

報告日期：97 年 9 月 * 日

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我國代表團參加 2008 年「亞太防制洗錢組織」第 11 屆年會情形

一、前言

「亞太防制洗錢組織」(Asia Pacific Group on Money Laundering, APG) 於 2008 年 7 月 7-11 日假印尼峇里島的 Nusadua 的 Westin Hotel 國際會議中心舉行一連召開五天，第一天為技術研討會及各工作組會議 (Pre-Plenary Seminars and Meetings)，第二至五日為會員大會 (Plenary Meetings)，計有來自 38 會員國家、聯合國毒品犯罪防制署 (UNODC)、世界銀行 (World Bank)、國際貨幣基金會 (IMF)、防制洗錢金融行動工作組織 (FATF)、觀察員國 (Observers) 及準會員組織 (Associate members) 之代表三百餘人與會。

我國代表團由法務部檢察司陳司長文琪、黃檢察官元冠、法務部調查局洗錢防制中心藍調查專員家瑞、鄧調查員文法、外交部條約法律司丁專門委員洪偉、金融監督管理委員會銀行局張副組長子浩、劉稽核燕玲、中央銀行金融業務檢查處林科長銘寬、內政部警政署刑事警察局陳研究員振發、李警務正明道及駐印尼台北經濟貿易代表處謝秘書明錫等 11 人組成。行前由法務部於 6 月 18 日召集各機關與會代表舉行協調會議，決議由陳司長擔任團長、林科長擔任副團長、藍調查專員擔任執行秘書、謝秘書擔任聯絡官，並就參與本次年會應準備事項、相關團務與分工事項取得共識。參與年會過程中依既定目標，分別提出我國反洗錢與打擊資助恐怖分子之書面「國家報告」(Jurisdiction Report)、「相互評鑑建議進展報告」(ME Progress Report)，並作口頭補充報告，在研討會議中提出案例報告，各項正式會議中發言參與討論，充分彰顯我國政府在反洗錢與打擊資助恐怖分子之積極作為與成效，會外與各國代表建立友誼，為防制洗錢國際合作奠定基礎，成果極為豐碩。

二、與會情形：

(一) 我國代表團於 7 月 6 日分別搭機前往印尼峇里島，7 月 7 日早上於

會場報到會合，展開為期 5 天之會議。會議結束後，於 7 月 11 日及 12 日分別搭機返台。

(二) 本屆年會由「亞太防制洗錢組織」澳洲聯邦警政署署長凱爾帝先生 (Mr. Mick Keelty) 及印尼金融情報中心首長胡森博士 (Dr. Yunus Husein) 共同主持，會議議程及與會代表名單分如附件 1、2。

(三) 我國參與本次會議提報之「國家報告」(jurisdiction report) 及「進展報告」(progress report) 中、英交版本分如附件 3、4、5、6。藍調查專員於技術協助與訓練論壇中提報之案例報告投影片如附件 7。

三、 會議重要內容

(一) 第一天 (7 月 7 日星期一)

1. 上午為技術訓練課程，分別為風險評估工具、金融分析技術訓練及金融情報中心與調查機關之反洗錢與打擊資助恐怖分子電腦軟體介紹-包括聯合國毒品犯罪防制署 (UNDOC) 所開發出來之 GoAML, GoCase, GoATR 三套軟體，可惜該等軟體僅供聯合國會員國使用，我國無法取得。
2. 下午為三場研討會分別同時進行，分別為「建立有效之反洗錢與反恐銀行監理機制:處理重要系統性問題之方法」(Establishing an Effective AML/CFT Supervisory Regime: Approaches to addressing System Issues)、「調查與追查犯罪資產及恐怖分子資產:金融情報中心與執法面臨之實務問題」(Investigation and tracing assets (proceeds of crime and terrorist assets): practical issues for FIUs and law enforcement) 及「資產沒收與充公:起訴機關面臨之實務問題」(Forfeiture and confiscation: practical issues for prosecution)

agencies)，我國代表團依機關屬性，金融監督管理委員會銀行局張副組長子浩、劉稽核燕玲及中央銀行金融業務檢查處林科長銘寬參加第一場，外交部條約法律司丁專門委員洪偉、法務部調查局洗錢防制中心藍調查專員家瑞、鄧調查員文法、內政部警政署刑事警察局陳研究員振發、李警務正明道及駐印尼台北經濟貿易代表處謝秘書明錫參加第二場，法務部檢察司陳司長文琪、黃檢察官元冠參加第三場。其中藍調查專員於第二場研討會提出30分鐘之案例報告非常成功，許多國家在研討會結束後均前來向我國致意，對我國洗錢防制成效表示讚許，特別是FATF與會代表及APG的David Shannon前來道賀，日本代表團亦表示我國金融情報中心功能非常強，希望未來多與我國交流。

(二) 第二天：(7月8日星期二)

1. 上午

(1) 開幕式。

(2) 討論會員問題—通過馬爾地夫及東帝汶新會員資格，會員數增加到38個國家與地區。

(3) 討論APG架構、運作及工作重點

A、通過去年(96)年會會議紀錄。

B、報告執委會過去一年會議情形及成效，以及改選未來一年之代表，北亞地區因澳門希望蒙古能夠延任一年，蒙古代表亦有意續任，我國代表團重申過去達成以輪流方式但得延任一次擔任執委會代表之共識，支持蒙古續任一年。新執委會的地區代表分別為蒙古、斯里蘭卡、泰國、馬紹爾群島及加拿大。

C、APG2007-2008 年度預算為澳幣 2,078,725，實際支出 2,128,725，不足 50,000，2008-2009 收入預算為 1,952,350，支出預算為 2,129,897，不足 177,547。我

國 2007-2008 年繳交年會為澳幣 53,200，2008-2009 年應繳 56,869，增加 3,669 元。

D、2008 年 APG 資訊與溝通策略，主要將加強與私人企業在防制洗錢與打擊資助恐怖分子之聯繫溝通，美國強調必須付諸行動執行，不能口惠而實不至。

2. 下午

(1) 2007 年 APG 年會通過審查評鑑報告之國家提出書面及口頭報告，並進行大會討論。計有泰國、澳門、蒙古、馬來西亞、柬埔寨及我國等 6 個國家與地區。我國由團長陳司長文琪作口頭報告，並接受提問，只有斐濟對我國提出「為何在去年 1 月即接受評鑑，有關整併洗錢防制法第 7 條及第 8 條授權規定事項迄今尚在訂定中，今年下半年有可望執行？」，由金管會代表答復：「主要原因係涉及金融行業甚多且牽涉層面較廣，且事涉人民權益，需要較多時間與業者溝通，以形成共識，預計在本年下半年應可完成並執行」。另由調查局洗錢防制中心代表對柬埔寨提問「是否有訂定相關規定供金融情報中心人員在分析疑似洗錢交易時遵循之用及如何保護相關隱私？」柬埔寨代表答復該國金融情報中心始於今年初建立，內部相關作業標準尚難完備，將會逐步改善。

(2) 2004-2006 年 APG 年會通過審查評鑑報告之國家提出書面報告並進行大會討論。計有萬那度、美國、斐濟、斯里蘭卡、薩摩亞、澳洲、印度、尼泊爾、汶萊、紐艾、巴基斯坦、馬紹爾群島、紐西蘭、庫克群島、孟加拉、韓國及菲律賓等國。

(三) 第三天：(7 月 9 日星期三)

全天分別討論加拿大、新加坡、香港及印尼之相互評鑑報告，我國被指定擔任印尼在金融監理方面之提問國，由金管及中央銀行代表提問，提出之問題如附件 8。

(四) 第四天：(7月10日星期四)

1. 討論緬甸及帛琉相互評鑑報告。
2. APG執行問題工作組報告 (APG Implementation Issues Working (IIWG) Group) 目前及未來策略執行計畫 (STRATEGIC IMPLEMENTATION PLANNING) 之工作重點包括：
 - 引導各國辨識自己採行之反洗錢與打擊資助恐怖分子系統所面臨風險與弱點；
 - 引導各國在執行必要反洗錢與打擊資助恐怖分子作為時，如何依風險優先順序原則，將資源有效應用；
 - 加強各國對於國際防制洗錢金融行動工作組織 (FATF) 有關「反洗錢與打擊資助恐怖分子」40+9項建議之瞭解，以及在遵循與效能上之要求；
 - 促使各國對於相互評鑑報告所提改善建議應列為優先執行項目；
 - 促使各國指定負責執行國際要求標準之主要與次要機關；
 - 促使各國對於改善建議之執行訂定目標及完成期限；
 - 促使各國找出執行時之問題障礙；
 - 加速各國完成反洗錢與打擊資助恐怖分子之細部執行計畫；
 - 促使各國瞭解在執行國際反洗錢與打擊資助恐怖分子要求標準時所需要之技術協助。
3. 國際合作問題 (International cooperation issues):
 - 在2007-2008年，有2個「亞太防制洗錢組織」會員國被「國際合作審查工作組」(ICRG) 考慮是否列入之觀察名單，分別是巴基斯坦及緬甸。
 - 在2008年2月「國際防制洗錢金融行動工作組織」會員大會中，在「國際合作審查工作組」建議下，發表對一些國家之公開聲明，其中包括巴基斯坦。

- 在2008年6月「國際防制洗錢金融行動工作組織」會員大會中，又在「國際合作審查工作組」建議下，重申確認2月發表之公開聲明。
 - 巴基斯坦將繼續被「國際合作審查工作組」監控與檢查，直到對反洗錢法律缺陷之改善能夠符合國際要求。
4. APG國際合作及資訊分享（APG international cooperation and information sharing），主要討論APG與其他國際組織進行聯合評鑑之評鑑報告應如何審查之問題，因攸關評鑑員重複出席報告及評鑑報告審查確認等，因與會各國代表意見不一，並無具體之結論。

（五）第五天：（7月11日星期五）

1. APG與FATF聯合主導之反貪瀆與反洗錢問題之計畫執行情形：
- 專案小組發現每年全球貪瀆所得資產超過美金1兆。
 - 各國在反貪瀆作為普遍出現之缺失：
 - 未能將反洗錢系統納入反貪瀆作為之中。
 - 缺乏國內相關機關間之合作。
 - 國內法律限制造成國際合作的障礙。
 - 在亞太地區無任何國家要求金融機構對國內之對於「高知名度政治人物」（PEPs）提高警覺，加強客戶審查，造成反貪瀆系統一個主要弱點。
 - 專案小組提出建議：
 - 各國應認可／簽署國際反貪瀆涉及洗錢與財產沒收有關之公約、協定。
 - 增加洗錢與貪瀆訓練與警覺性。
 - 採取作為以防制「高知名度政治人物」對金融機構造成之洗錢風險。
 - 增進反貪瀆及洗錢防制相關機關之聯繫與合作。

- 建立貪瀆洗錢態樣。
 - 在金融情報中心內部對涉及反貪瀆案件之作為與警覺，應受到避免政治干擾。
2. 執行FATF特別建議第VIII項有關非營利組織之各國國內非營利組織檢討計畫執行情形，我國對國內之非營利組織檢討報告於2006年已提報APG。
 3. 技術協助與訓練問題，由各提供資源之國際組織提出報告，包括世界銀行、國際貨幣基金會、聯合國毒品犯罪防制署、亞洲銀行等提出口頭報告。
 4. 討論APG共同主席、執委會成員及未來APG相關會議：
 - (1) 確認未來一年執委會成員：2位現任共同主席所屬國家、卸任共同主席所屬國家及區域代表，包括蒙古、斯里蘭卡、泰國、馬紹爾群島及加拿大。
 - (2) 未來共同主席之一由新加坡商業部代表Mr. Ong Hian Sun擔任。
 - (3) 2009年年會將於澳洲布里斯班舉行，2010年在新加坡舉行；2008年洗錢態樣研討會將在斯里蘭卡舉行，2009年在柬埔寨舉行。

四、參與會外活動情形

- (一) 我國代表團團員全部參加大會安排之社交活動，包括第一天晚間之歡迎會、第二天晚間印尼中央銀行舉辦之宴會、第四天晚間印尼國家警署舉辦之餞行晚宴，增加與各國互動機會。
- (二) 運用會外時間，分別與各國代表團溝通，促使各國瞭解我國推動反洗錢與打擊資助恐怖分子之成效，並交換有關打擊洗錢犯罪與國際合作經驗，掌握洗錢與資助恐怖分子新興手法與防制方式，有效提高我國國際能見度，間接有助於我國推展相關工作。

(三)與多國代表團表達我國可以提供有關洗錢防制作為之協助 (Technical Assistance)，特別是目前由我國負責輔導加入「艾格蒙聯盟」(the Egmont Group)之國家，已獲得良好回應，另亦與多國代表團洽談未來加強反洗錢與打擊資助恐怖分子情資交換及簽署合作備忘錄事宜，亦多有進展。

五、與會感想與建議

(一)「亞太防制洗錢組織」於 1997 年在泰國曼谷創立，目前已是亞太地區最重要的區域性防制洗錢組織，我國為創始會員國之一，積極參與會務活動，不但彰顯我國在反洗錢及打擊資助恐怖分子上與國際社會同步之決心與績效，提升我國國際形象，亦可藉此爭取國際認同，擴大我國在國際社會活動之空間。

(二)本次年會是我國去年接受「亞太防制洗錢組織」相互評鑑之後第一年參加年會，照例必須對評鑑團提出改善建議之執行作為，向大會報告，因此在今年 4 月 23 日，即由法務部召開「我國對亞太防制洗錢組織第二輪相互評鑑改善事項之策進作為會議」，促請各相關部會針對建議內容，儘速採取因應作為，並提供調查局洗錢防制中心彙整為我國提報「亞太防制洗錢組織」年會之「進展報告」(progress report)。最後在各部會共同努力之下，我國「進展報告」受到大會肯定，並未受到質疑。

(三)近年來，我國各相關部門逐漸體會指派專人參加年會之重要性與益處，不僅可以嫻熟整個會議之內容與重點，適時為我國爭取最大之權益，亦可以充分與各與會代表溝通，將我國防制洗錢績效充分展現，亦可以建立未來合作之管道，是一個我國較可以發揮之國際空間，可惜尚有部分業務相關部會可能囿於出國預算或有其他考量，未能派員參加。

(四)建議事項：

1. 繼續改善我國洗錢防制作為：雖然我國洗錢防制體制已達到相當水準，獲得國際社會的肯定，但是不管從法律制度、金融監理、執法及金融機構法規遵循等層面，都還有很大的改善空間，各相關機關應繼續就現有缺失提出改善作為。
2. 去年我國接受相互評鑑後評鑑團所提出之改善建議，法務部在今年4月23日曾召開「我國對亞太防制洗錢組織第二輪相互評鑑改善建議事項之策進作為會議」，瞭解各相關機關執行情形及需要協調事項。此一機制應該繼續維持，固定一段時間（諸如半年）召開一次會議檢討進度，畢竟每年都必須在「亞太防制洗錢組織」年會提出「進展報告」(progress report)，接受各會員國家檢視，況且未來還有可能接受第三輪相互評鑑，我國必須有所因應。

註：

1. 上述報告係我國代表團全體參與會議情形，由法務部調查局洗錢防制中心藍調查專員負責綜整。
2. 外交部與會代表丁專門委員單獨提出之「出席亞太防制洗錢組織」第11屆年會會議報告」，因內容列「密」等級，已由相關機關參處，未列在本報告之中，在此特予敘明。
3. 金融監督管理委員會與會代表張副組長子浩、劉稽核燕玲撰寫之「2008年APG技術協助與訓練論壇—『建立有效之反洗錢與反恐銀行監理機制：處理重要系統性問題之方法』研討會報告、中央銀行與會代表林科長銘寬撰寫之「由香港相互評鑑報告探討金融部門防制洗錢措施」、內政部警政署刑事警察局陳研究員振發撰寫之「亞太洗錢防制組織洗錢犯罪樣態研析報告」、李警務正明道撰寫之「亞太洗錢防制組織洗錢犯罪樣態研析-案例報告」及法務部調查局洗錢防制中心藍調查專員家瑞撰寫之「2008年APG技術協助與訓練論壇—『金融分析技術 (Financial Analysis Techniques)』研討會報告」分列於後。

2008 年 APG 技術協助與訓練論壇—「建立有效之反洗錢與反恐銀行監理機制：處理重要系統性問題之方法」研討會報告

行政院金融監督管理委員會銀行局

副組長 張子浩

稽核 劉燕玲

一、背景說明：本次研討會主題在探討如何在建立有效之反洗錢與反恐（AML/CFT）銀行監理機制，研討會由蒙古中央銀行（Bank of Mongolia）法律處處長 Mr. Gombo Edenebayar 及新加坡金融管理局（Monetary Authority of Singapore）外部關係處金融服務合作組副組長 Ms. Kristel Poh 共同主持，會議議題包括：AML/CFT 銀行監理之重要系統性問題、以風險為基礎之監理方法及案例研究（手機金融服務業之洗錢與資助恐怖主義相關問題與挑戰）。

二、AML/CFT 銀行監理之重要系統性問題

（一）世界銀行 Mr. Pierre-Laurent Chatain 及 Mr. Emile van der Does de Willebois 報告

1、有效 AML/CFT 監理之組織模式及其優缺點：

（1）銀行監理機關之監理模式

- 優點：銀行監理人員對銀行業務較為瞭解。
- 缺點：AML/CFT 非其日常監理業務，銀行監理人員並不具備 AML/CFT 專業，較缺乏執法能力。

（2）金融情報中心（FIU）或其他組織之監理模式

- 優點：較具備 AML/CFT 意識。
- 缺點：不具備銀行審慎監理專業，僅有執法能力。

（3）金融情報中心與銀行監理官之共同監理模式

- 優點：兼顧前述二種監理模式之優點。
- 缺點：需要明確及有效之機制，以解決衝突。

2、有效 AML/CFT 監理架構原則

(1) 賦予監理機構充分獨立性：

- 指日常例行性監理作為不受任何機構之裁量或控制所影響。
- 獨立性並不意味立法機構或政府決策者不能影響監理機構之整體裁量權限及政策。
- 獨立性不代表監理人員得採取不負責任之作為。
- 獨立性不代表監理人員無須對其行為負責。

(2) 促使監理官善盡職責

- 目前未有國際標準明確定義其責任。
- 各種達到善盡職責之方法：
 - a. 揭露機制（相關活動之定期公開報告）
 - b. 外部監督（外部稽核）
 - c. 業務上之良好治理及高度正直之職員。

(3) 賦予取得資訊權限：指取得疑似洗錢申報、經理人個人帳戶及第三地母公司所擁有資訊等權限，至金融機構申報行為得由銀行監理人員負責監理。

(4) 賦予適當制裁權力

- 制裁應適用於銀行及高階經理階層，然目前僅有少數國家（如：美國、英國、法國）有效運用裁制措施。
- 有效、具比例性及嚇阻效果之制裁，可能須訴諸銀行審慎監理，並需要監理人員及執法部門之合作。
- 南韓案例：
 - a. 對銀行高階經理人得施以下列制裁措施：建議解除職位、暫停執行職務、懲誡及警告。
 - b. 對金融機構得施以下列制裁措施：撤銷營業執照、暫停執行業務、勒令關閉分行、警告及要求公開違法行為。
 - c. 對銀行職員得施以下列制裁措施：懲誡性撤職、暫停執行職

務、減薪及懲誡。

■ 公開裁制案件之優缺點：

- a. 優點：公開揭露制裁得提升嚇阻效果；公開制裁得為權責機構運用之額外制裁手段。
- b. 缺點：揭露機構名稱將對銀行商譽或整體銀行業造成負面影響，並產生難以估計之後果；揭露違規機構名稱亦將影響民眾對整體銀行體系之信心。

(5) 採取標準化(standardized)或以風險為基礎之方法 (risk-based approach)

■ 採取以風險為基礎之方法需具備一些前提要件。

■ 標準化方法需包括面對面查核、書面文件分析、簿冊檢查、交易程序、紀錄及樣本測試，但仍需釐清以下問題：

- a. 實地查核需做到何種程度？交易測試？可疑活動偵查？
- b. 實地查核時如發現可疑交易時該如何處理？主動疑似洗錢申報？或要求銀行申報？

(二) 蒙古中央銀行 Mr. Gombo Edenebayar 報告

1、 爭議問題：

- (1) 法律與組織問題
- (2) 意識問題
- (3) 技術問題

2、 法律與組織問題

(1) 法律缺陷

- 必須建置全面性與完善之法規，以建立有效率之監理機制。
- 必須採行有效、嚇阻性、比例性之制裁：法律安排必須符合具強制性手段之要件。
- 蒙古案例

- a. 未明確定義重要術語（如：認識客戶 KYC、疑似洗錢申報 STR）。
- b. 未於法律中明確定義不同監理機關之角色與權責：蒙古金融情報中心於 2006 年成立，以專責處理 AML/CFT 之監理，但其他監理機構亦負責 AML/CFT 之監理。
- c. 不具嚇阻性、有效性與比例性且不清楚之制裁措施：蒙古反洗錢與反恐法 21 條條文中僅有 3 條有規定行政制裁措施。

(2) 組織問題—金融情報中心 (FIU) 或特定專業監理機構孰足以更有效承擔 AML/CFT 監理責任？

- 支持 FIU 監理之理由：較易處理疑似洗錢申報之缺失問題，且其為反洗錢與反恐法之全國行政執行機關。
- 支持特定專業機關監理之理由：較嫻熟整體銀行監理業務。

3、意識問題：明確釋義之教育訓練計劃為重要核心要件，俾提升政務層級代表人物、申報機構(包括其管理階層及經理人員)、客戶及執法人員之意識。

4、技術問題

(1) 對金融機構之 AML/CFT 法規遵循檢查

- 必須確立 AML/CFT 之評估標準
- 必須測試法規與內部機制之有效性

(2) 檢查銀行認識客戶要件，監理人員必須得：

- 檢查銀行所保管客戶文件之有效性
- 檢查銀行所保管客戶及交易資訊之有效性與完整性
- 隨機實地檢查客戶關係

(3) 檢查銀行之疑似洗錢申報要件

- 必須明確指出疑似洗錢申報案件。
- 監理人員與銀行經理人員必須對疑似洗錢申報之定義達成明

確共識。

- 執法機構或金融情報中心必須提供態樣報告或將案例轉知銀行與監理人員，俾促使其得定義洗錢案件。

(4) 監理機構、執法部門及其他相關登記機構之資訊分享：銀行監理機構與其他機構之良好合作，得預防銀行體系被罪犯濫用，尤其跨境資訊分享更為必要。

三、以風險為基礎之監理方法

(一) 新加坡金融管理局 (MAS) Ms. Kristel Poh 報告：以風險為基礎之監理方法—新加坡經驗

新加坡於 1998 年即採行以風險為基礎之監理方法 (A risk-based approach to supervision)，並將此方法適用於金融機構反洗錢與反恐作為之監理。

1、固有風險 (Inherent Risks)

- (1) 商譽風險
- (2) 法律風險
- (3) 作業風險
- (4) 信用風險
- (5) 流動性風險

2、打擊洗錢及資助恐怖份子之多重方法

- (1) 發照程序
- (2) 嚴格落實國際標準
- (3) 全面性之架構與法規
- (4) 有效監理
- (5) 積極國際合作

3、以風險為基礎監理方法之目的

- (1) 區分對達成監理目標有較高威脅之機構

(2)依據影響與風險評估對資源進行優先次序分配

4、影響及風險模型（Impact and Risk Model）

(1)評等：

- 影響評等：當發生重大事故時（如：財務或重大控制失效、延長營運中斷），對新加坡金融體系、經濟與聲譽可能造成之潛在影響。
- 風險評等：前述重大事故發生之機率。

(2) MAS 蒐集資訊來源：監理資訊回饋、機構之政策與程序、內部與外部稽核報告、外國機構—來自地主國監理機關之資訊、金融檢查報告。

(3)經由對機構之影響與風險評等，綜合考量後形成差異化管理之監理策略，針對不同等級之機構，施以不同之監理資源與強度。

(4)影響評估：考量因素

- 在不同市場參與程度之相對規模與重要性
- 零售銀行業務觸角之相對規模：客戶與代表數目、業務種類數目。

(5)風險評估：

- 檢視銀行業務：
 - a. 比對風險管理能力與風險傾向
 - b. 分析銀行營運規模與複雜性。
- 考量因素：
 - a. 零售或私人銀行（private banking）業務/資產管理業務之規模：私人銀行業務之風險係數較高。
 - b. 提供之產品與服務
 - c. 匯款交易量
 - d. 客戶之國籍（即是否為來自高風險國家）

- e. 金融機構反洗錢或反恐之缺失紀錄
- f. 金融機構之國籍（即金融機構是否來自據報為恐怖份子之金融中心）

■ 風險評估程序之主要因素

- a. 找出重大活動
- b. 評估固有風險
- c. 評估監視、治理及控制因素
- d. 決定整體風險評等

(6) 監理強度

■ 實地檢查之頻率

■ 監理機構之監視性質

■ 對被評定為風險較高之金融機構：

- a. 經常性對話與互動
- b. 定期實地作業以瞭解最新進展
- c. 聯繫董事會、資深管理階層、業務主管、內部稽核人員與風險管理經理
- d. 聯繫外國機構之母公司總部及母國監理官
- e. 制裁權力

(7) 結論

■ 以風險觀點檢視反洗錢與反恐議題

■ 採行影響與風險模式

■ 建置評估金融機構風險管理之架構

(二) 國際貨幣基金（IMF）Ms. Marlene Manuel 報告：以風險為基礎對銀行反恐與反洗錢（AML/CFT）計劃之評估

- 1、金融部門之 4 項重要風險：信譽、法律與法規、財務、企業存

續

2、 FATF 對銀行之相關建議：

(1)相關建議：

- 客戶審查 (CDD)：第 4 項建議 (保密、資訊取得與分享)、第 5 項建議 (客戶審查)、第 6 項建議 (高知名度政治人物 PEPs)、第 7 項建議 (跨國通匯銀行業務)、第 8 項建議 (新科技與非面對面客戶)、第 9 項建議 (中介機構)
- 第 10 項建議：交易紀錄保存
- 第 11、13、14 及 21 項建議：交易監視與申報
- 第 15 項建議：政策、程序、內控、遵循、稽核與訓練
- 第 17 項建議：制裁
- 第 18 項建議：空殼銀行
- 第 22 項建議：集團海外機構之 AML/CFT 適用問題
- 第 25 項建議：指引與回饋機制之建立
- 第 31 及 40 項建議：國內與國際合作

(2)FATF 相關建議之重點在有效性，而依賴銀行內控與指引系統之以風險為基礎監理方法，係瞭解系統是否有效之重要關鍵。

(3)新的 FATF 相關建議普遍承認洗錢與資助恐怖份子之風險及其風險管理。

(4)在以規定為基礎之觀點與以風險為基礎之彈性方法間取得平衡。

(5)納入考量之 2 種層次風險：系統性與機構性。

3、 風險概念：

(1)系統性風險：

- 適用 AML/CFT 機制之機構範圍
- 法規遵循之監理與監視程度

(2)機構性風險：CDD 與內控

- 特定規定適用於特定個案之程度
- 申請免除或簡化 AML/CFT 措施之範圍
- 強化特定個案之審查（如：高知名度政治人物與跨國通匯）

4、 巴塞爾核心原則（Basel Core Principles）：2006 年 10 月發布之第 18 項原則—濫用金融服務

“監理機關必須要求銀行建立適當之政策與程序，包括認識客戶政策，俾在金融部門推動高度道德與專業標準，預防銀行被故意或無意為犯罪活動所利用。”

5、 AML/CFT 計劃評估之重點

- (1)是否已建置必要之法律遵循政策與程序？
- (2)是否已建置必要之內控架構，俾向 FIU 申報特定交易？
- (3)內控品質與輔助之風險管理程序是否適當？

6、 AML/CFT 計畫：

(1)檢查人員之需檢視下列因素—

- 促使金融機構遵循法律義務之因素
- 降低洗錢與資助恐怖份子風險曝險之因素

(2)場外監理（Offsite Supervision）

- 從場外監理開始，建立機構風險結構（risk profile）。
- 使用質化與量化資訊分析書面活動。
- 銀行面臨之洗錢／資助恐怖份子風險包括外來、內在、金融及非金融之風險。
- 在實地檢查時，選擇至少 10 種銀行所面臨之重要風險，以極大化監理資源。

(3)評估 AML/CFT 計劃：

- 場外監理覆核確認實地檢查結論：董事會、資深管理階層、內部稽核與法令遵循人員對建立有效 AML/CFT 之承諾；首席 AML 主管聯繫及監視 AML/CFT 遵循計劃之有效性；有效執行職務資源與權力之適當性。
- 執行 AML/CFT 計劃之角色與申報關係
- 獨立於營業外集中管理、全企業之 AML/CFT 風險管理計劃之控制程度
- 政策及程序嚴謹程度—關於發現潛在風險、風險之影響及控制風險措施
- 評估內部及外部申報與紀錄保存之安排

7、重要活動（Significant Activities）：

- (1) 適用 AML/CFT 計劃於重要活動上，係測試金融機構是否符合其義務之重要工具。
- (2) 重要活動存在於事業線、服務、產品、行銷網路、代理商或仲介商等各種形式之活動
- (3) 執行以風險為基礎之交易測試，以決定政策、程序、過程及被評估之可疑活動申報系統之有效性。

8、決定金融機構之 AML/CFT 整體風險結構（aggregate risk profile）：

- (1) 在發展結論與結束檢查之檢查程序最後階段，確認金融機構之 AML/CFT 計劃是否能適當地發現、衡量、監視及控制其風險。
- (2) 獨立之測試程序：
 - 考量金融機構之風險評估及其 AML/CFT 計劃之適當性，決定金融機構之整體風險結構。
 - 當風險未予適當控制時，與資深管理階層及董事會溝通降低 AML/CFT 風險與文件不足之必要性。

(3)風險評等:在全部發現與結論基礎上，賦予負責之檢查人員決定適當之評等，包括對銀行整體綜合評等。

9、重要活動之風險矩陣

淨風險	重要活動之固有風險程度		
	低度	中度	高度
對重要活動之風險管理品質			
強	低	低	中
可接受	低	低	高
弱	高	高	高

10、 監理人員面臨之未來挑戰：

- (1) 對許多監理機關而言，以風險為基礎之反洗錢與反恐監理方法為相對較新之觀念。
- (2) 自以規定為基礎轉（rule-based；即遵守法律義務）轉移至以風險為基礎（risk-based）之監理方法
- (3) 指定衡平法律義務遵循監理需求之監理措施，同時允許銀行擁有合理之裁量空間適用其風險管理與控制機制，以反映個別銀行營運上不同程度之風險。
- (4) 由於經驗之不足及立法執行之缺漏，許多國家對於反恐議題之監理機制仍在演進中。

四、 案例研究

(一) 世界銀行 Pierre-Laurent Chatain 研究報告：手機金融服務之誠信原則

1、 手機金融服務（Mobile-Financial Service）新架構之分析：

- (1)從洗錢與資助恐怖主義（ML/FT）風險觀點，所有之商業模式可歸納為以下 4 種服務：

- 手機金融資訊服務 (Mobile Financial Information)
- 手機銀行或/及證券帳戶服務 (Mobile Banking/Securities Accounts)
- 手機支付服務 (Mobile Payments)
- 手機電子錢包 (Mobile Money)

(2) 手機金融資訊服務

- 金融機構透過電信公司提供客戶檢視個人財務資訊之途徑。
- 服務範圍包括：帳戶餘額明細、信用上限警訊、交易確認資訊、股票報價及部位、外匯報價及部位。

(3) 手機銀行或/及證券帳戶服務

- 允許使用者透過銀行或證券帳戶交易，類似其他形式之電子銀行管道（如：ATM、網路銀行或電話語音銀行服務），為金融機構與其他機構（包括：銀行、電信公司及其他第三人/機構）之合作成果，並具有無實體化分行銀行服務及擴大貧窮者使用金融服務管道等優點。
- 服務範圍包括：轉帳交易、支付帳單、結算收支、股票報價及部位、外匯報價及部位、信用額度。

(4) 手機支付服務：

- 允許使用者無須有銀行帳戶即得為付款交易，通常係透過非銀行提供服務。
- 服務範圍包括：允許使用其他形式手機金融服務業提供之全部服務、儲值功能（電子錢包）、國內與國際匯款。

(5) 手機電子錢包：

- 授權使用者透過手機使用電子錢包功能。
- 服務範圍包括：允許使用其他形式手機金融服務業提供之全部服務、儲值功能（電子錢包）、國內與國際匯款。

2、手機金融服務衍生之 ML/FT 風險

(1)各方關切重點：

- 監理機關關切重點：資訊科技安全、消費者保護、AML/CFT 問題
- 產業關切重點：過多法規斲傷產業發展。
- 決策者關切重點：金融納入（financial inclusion）受阻。

(2)風險因素及已知風險：

- 匿名性（anonymity）：缺乏客戶身分資訊、偽冒客戶身分、將鉅額交易分散成多筆小額交易以規避法令限制。
- 難以捉摸性（elusiveness）：
 - (a)集體使用（pooling）：係指多人共用手機，通常發生在較貧窮之社區，實際交易人身分往往被手機登記所有人之身分所隱匿。
 - (b)授權使用（delegation）：係指代理人代表所有人使用手機，通常發生在較富有之社區，而實際交易人之身分亦被隱匿。
- 快速性（rapidity）：交易得於任何時、地快速完成，被視為有利於洗錢與資助恐怖主義。
- 缺乏監理（poor oversight）：手機金融服務業提供者往往不受之金融機構相關法令規範，無須遵循其他金融機構所須遵循之相關洗錢防制法令。

3、目前之控制措施

風險類型	可能之 ML/TF 風險	重要防制措施

匿名性	非至分行櫃台或非面對面客戶交易	創新之認識客戶政策及確認客戶身分程序 (南非 MTN Banking)
	未經授權同意使用之手機金融交易	先進之身分確認機制 (巴西 Bradesco、南非 First National)
缺乏可追蹤性	利用手機進行多層次之洗錢	交易上限規定 (韓國 FSS)
	利用多個手機金融服務帳戶	客戶評價 (中國人民銀行澳門分行)
		申報 (韓國 FIU)
	跨國手機對手機匯款	特定服務風險評估 (香港 FIU) 確認匯出人身分 (馬來西亞 Maxis)
快速性	缺乏監視/凍結即時簡訊及結算之能力	內部控制整合系統 (巴西 Itau 銀行)
		第三人服務提供者之風險管理 (南非 Wizzit)
缺乏監理	手機銀行/證券帳戶之監理漏洞	手機銀行/證券帳戶及風險管理之準則 (菲律賓、韓國)

	<p>對新型態服務提供者缺乏法規規範與監理</p> <p>手機金融服務業空殼公司</p>	<p>監理機關與服務提供者之合作 (菲律賓、馬來西亞)</p> <p>新電子金融法律及手機金融服務業準則 (韓國)</p> <p>有關非銀行手機金融服務業之明確核照程序 (馬來西亞、韓國)</p> <p>資訊科技與反洗錢監理能力 (菲律賓)</p> <p>AML/CFT 訓練 (南非)</p>
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4、已發現之議題

- (1) FATF 相關建議已充分規範手機金融服務業之脆弱性，無須增訂新標準。
- (2) 法規並未將全部相關機構（如：電信公司、信用卡公司）均納入規範，亦未釐清其相關核照程序。
- (3) 提供金融服務之電信公司並未明確納入 AML/CFT 法規規範。
- (4) 雖然許多手機金融服務業已適用與 AML/CFT 具一致性之措施，但為商業目的，非為防制洗錢與反恐。

5、政策建言

(1) 對決策者

- 所有手機金融服務業者均必須納入以風險為基礎之洗錢防制規範。
- 在立法管制前，宜先進行風險評估。

(2)對 FIU 及執法部門

- 針對手機金融交易提供者，制定明確之規定與準則。
- 考量要求將交易管道類型相關資訊納入疑似洗錢申報範圍。

(3)對其他部門行政管理機關

- 制定與服務及風險相符之明確發照標準與監視程序。
- 明確定義各手機金融服務業利用市場商機彈性之交易上限。

(4)對監理機關

- 將相關風險納入其現地及場外監理權責範圍。

(5)私部門

- 與行政管理機關持續溝通有關新型態服務之發展。
- 引進穩健之內部控制與風險管理措施。

(二) 建立手機銀行服務 AML/CFT 監理控管機制之國家經驗報告：

1、 巴基斯坦 Mr. Syed Irfan Ali 報告

(1)無分行銀行服務 (Branchless Banking 以下簡稱 BB) 之目的

- 提供金融服務管道
- 金融納入 (Financial Inclusion)
- 專注於無法使用銀行服務之民眾
- 自傳統銀行服務轉型為創新銀行服務

(2)BB 之相關規範

- 商業/伊斯蘭/小額信貸銀行 (Micro Finance Bank) 相關規範
- 地理區域限制
- 其他現行相關法令(如：電子金融)

(3)得從事 BB 之機構

- 商業銀行
- 伊斯蘭銀行

■ 小額信貸銀行

(4)BB 交易模式

- 金融機構與其他參與者之適當協議
- 其他參與者包括：無分行銀行服務代理人、第三人服務提供者、電信業者。
- 代理人在當地即如同銀行員工提供銀行服務。
- 除銀行帳戶外，對客戶提供獨立之 BB 帳戶。
- 僅得提供有限之服務：帳戶對帳戶與個人對個人之轉帳、現金進出、小額信貸、日常水電費支付、匯款。

(5)BB 法規發展之多重策略

- 研究印度、菲律賓、巴西及南非之洗錢防制與認識客戶規定。
- 研究菲律賓、巴西、南非及肯亞之成功模式。
- 銀行主導之模式較適合巴基斯坦之國情。

(6)AML/CFT 措施

- 監理機關首要關切重點：確保金融機構安全與健全、銀行客戶權利保障、打擊洗錢與資助恐怖主義行為
- 降低風險措施：
 - (a)對 BB 另訂以風險為基礎之客戶審查規定
 - (b)將 BB 帳戶分級管理：第一級為個人帳戶，採取低度認識客戶政策，並有小額交易限制；第二級為個人/商號帳戶，採取完全認識客戶政策，並有中額交易限制；第三級為公司/企業帳戶，採取完全認識客戶政策及額外之審查措施，得為大額交易。
 - (c)嚴謹之代理人篩選標準
 - (d)審慎監理法規：認識客戶政策準則、企業倫理標準及跨境

交易規定、交易紀錄保存規定、銀行通匯關係規定、可疑交易處理標準。

2、菲律賓 Mr. Joseph Everonne Santos 報告

(1) 菲國手金融服務業簡介：

- 可區分為二大模式：以銀行為中心之模式（Smart Money）、以電信業者為中心之模式（G-Cash）
- Smart Money：由 Smart 與合作銀行合作，利用手機與預付卡進行，交易結算皆由合作銀行處理，目前約有 3 千 4 百萬訂戶，使用者超過 2 百萬人，交易件數為 270 萬，交易值為美金 8 千 2 百萬。
- G-Cash：由 G-Xchange 電信公司主導，利用手機進行，交易結算皆由該電信公司處理，目前約有 2 千萬訂戶，使用者超過 1 百萬人，交易件數為 250 萬，交易值為美金 2 千 9 萬。

(2) 菲律賓中央銀行政策與監理模式

- 承認手機銀行對銀行服務效率與擴大服務管道之重要性。
- 持續回應快速發展之手機銀行服務相關科技。
- 確保手機銀行交易之適當風險管理。
- 與相關風險具一致性之法規成本與其他安全要求。
- 法律架構
 - a. 電子商務法
 - b. 銀行法
 - c. 反洗錢法
- 菲國央行相關法規
 - a. 第 471 號命令—有關外匯交易與匯兌處營運之相關法規
 - b. 第 495 號命令—有關洗錢之電子監視系統
 - c. 第 608 號命令—有關金融交之有效身分證明文件規定

- 提供手機銀行產品與服務業者，須取得菲國央行核准，俾與洗錢防制法令相符，並使菲國央行得取得系統相關資訊。
- 要求須對洗錢防制中心進行大額及疑似洗錢申報，菲國央行並須定期進行實地檢查（但對一般提供銀行服務之零售商，菲國央行目前並未有進行金檢）。
- 降低洗錢與資助恐怖份子策略：
 - a. 對所有參與者之登記制度。
 - b. 對一般商號與合夥之認可制度。
 - c. 對電子錢包與交易之每日（約美金 900）/每月（約美金 2500）交易限制
 - d. 對現金支付交易要求需提供有效或可得接受之身分證明文件。
 - e. 洗錢防制自動監視系統。
 - f. 要求外幣匯兌與匯款代理人須合法註冊登記。
 - g. 要求匯款代理人接受洗錢防制相關訓練。

(3) 議題與挑戰

- 非面對面客戶之身分確認與認識客戶政策。
- 便利商店被利用為小額現金收付中心。
- 由非銀行機構核發預付卡之問題。
- 強化菲國央監視之未來策進計劃：
 - (a) 發布規範發行者、營運者及其他參與者之電子錢包命令。
 - (b) 制定支付系統法。

五、心得與建議

- (一) 我國 AML/CFT 之主要法律「洗錢防制法」牽涉眾多機關，包括法務部、金管會、內政部(警政署、社會司及地政司)司法院、財政部(關稅總局及關政司)、經濟部、外交部與中央銀行等，每一機

關均負有重要任務，主管機關為法務部，負起協調各相關機關之重責大任。現行洗錢防制法第七條、第八條及第十條規定對大額通貨、疑似洗錢及一定金額以上外幣現鈔及有價證券出入國境，應向行政院指定之機構申報或通報，該「行政院指定之機構」係指法務部調查局洗錢防制中心(行政院 2008 年 4 月 8 日送請立法院審議之洗錢防制法部分條文修正草案說明，九十六年十二月九日修正公布之法務部調查局組織法第二條第七款已規定洗錢防制事項由該局掌理，爰明定法務部調查局為受理申報及通報之機關)。故我國屬前述之金融情報中心(法務部調查局為我國之 FIU)之監理模式，理論上雖可能有前述之 FIU 不具備銀行審慎監理專業之缺點，然因我國防制洗錢實務由法務部出面整合各單位功能，協調分工，法務部調查局執行 FIU 功能，金融機構從業人員擔任第一線防制洗錢任務，檢警調等以偵查犯罪為第二線工作，彼此相輔相成，成效良好。

(二) 手機金融服務(Mobile Financial Service)，這種因應手機普及而脫離傳統金融服務之新服務型態，近年在全球方興未艾，據估計全球僅不到十億人有銀行帳戶，卻三十億人擁有手機，透過手機而分非透過銀行帳戶從事交易，是未來不可忽視的潮流。在手機金融服務的種種型態中，手機電子錢包(Mobile Money)因可以提供國際匯款而最受矚目，據世界銀行調查，可利用手機辦理國際匯款，主要存在香港與菲律賓、馬來西亞與菲律賓及馬來西亞與印尼間，其他國家尚無此項服務功能，顯見此項功能對有大量外勞輸出及外勞引進的國家具有吸引力。我國亦引進為數眾多之菲律賓及印尼外勞，外勞將所賺的錢匯款回國，是其最重要的基本需求，惟在臺外勞基於更快、更方便及更便宜的考量，讓違法與無保障的地下通匯業者存在國內外勞的匯款市場，困擾國內社會及金融秩序。看準此一市場，目前英國伏得風(Vodafone)

與美國花旗銀行合作準備推出手機跨國匯款服務；全球行動通訊系統協會（GSMA）與萬事達卡組織（MasterCard）宣布合作推出手機跨國匯款試辦計畫，提供海外工作者更便利且更平價的服務；西聯公司和全球移動通信系統協會（GSMA）將聯合創建新型全球手機匯款服務，如果這些跨國大公司一旦推出手機跨國匯款服務，我國因有大量外勞勢必成為其目標市場。我國銀行法第 29 條規定僅銀行得辦理匯兌業務，屆時國內銀行如何與前述推出手機跨國匯款服務的跨國大公司合作，其模式是否符合法律規定，主管機關應予把關，另亦建議為爭食此一大餅，國內銀行亦可主動出擊，與國內手機電信業者合作開發新手機跨國匯款服務產品，提供客戶更好服務，賺取更大利潤。

由香港相互評鑑報告探討金融部門防制洗錢措施

中央銀行金檢處科長 林銘寬

香港於 2007 年 11 月 12 日至 11 月 23 日接受「遵循打擊清洗黑錢財務行動特別組織；FATF」及「亞太洗錢防制組織；APG」共同組成之防制洗錢相互評鑑小組辦理現地評鑑。評鑑小組成員包括 APG 秘書處（1 人）、FATF 秘書處（2 人）、加拿大（執法部門 1 人）、紐西蘭（法制部門 1 人）、英國與馬來西亞（金融部門各 1 人）共 7 人。評鑑結果有 5 項列為未遵循（Non-Compliant；NC），14 項列部分遵循（Partial Compliant；PC），20 項列大部分遵循（Largely Compliant；LC），10 項列完全遵循（Compliant；C）。

一、評鑑報告有關金融部門之建議

評鑑報告依據 FATF 所提之防制洗錢四十項建議及防止資助恐怖主義九項特別建議進行評鑑，其中金融部門主要包括第四項建議至第二十五項建議、第二十八項建議至第二十九項建議與特別建議第六項至第七項。評鑑結果列為 LC 有十項，列為 PC 有九項，列為 NC 有三項，其主要缺失如下：

（一）FATF 第五項（確認客戶）建議：評為 PC

1. 確認客戶(CDD)之義務未規定在法律或行政命令中。
2. 由於缺乏主管機關，對匯款機構、外幣兌換商只有基本之確認客戶(CDD)義務。
3. 銀行部門對非經常往來客戶辦理確認之門檻未清楚界定。
4. 香港金融管理局(HKMA)尚未實施之新指導原則(guidelines)沒有對銀行課以取得開戶目的及帳戶性質資訊之義務。
5. 確認客戶義務排除貸款商(money lenders)、信用組合(credit unions)、郵局(post office)、財務租賃公司(financial leasing companies)，惟未提出正式評估說明。

（二）FATF 第六項（高知名度政治人物）建議：評為 PC

1. 銀行與保險業之指導原則(guidelines)均未明確表示，若客戶後來發現為高知名度政治人物 (Politically Exposed Person; PEP) 而欲持續維持業務關係，須要求高階管理人員核可。

2. 對匯款機構並無明確規定須確認高知名度政治人物 (PEP) 身分。

(三) FATF 第八項 (新科技與非面對面業務) 建議：評為 LC

1. 匯款商未被要求實施教策或採取措施，以防止科技發展誤用於洗錢與資助恐怖主義。

2. 當進行非面對面交易，未要求匯款機構 (或辦理此業務之金融機構) 確認客戶身分或採取替代措施。

(四) FATF 第九項 (第三者介紹客戶) 建議：評為 PC

1. 銀行與證券部門依賴第三者介紹客戶時，介紹人有未受防制洗錢與打擊資助恐怖主義目的規範之情形。

2. 金融機構可能依賴登記於相同司法體(equivalent jurisdictions)之仲介業者介紹業務，然對此類司法體並未客觀的評估。

(五) FATF 第十項 (保存紀錄) 建議：評為 PC

1. 在法律或法規中對保存紀錄只有一般性規定 (非針對 FATF 的要求)。

2. 證券部門對保存確認紀錄、帳戶檔案及業務往來資料僅建議至少保存五年，未強制規定。

3. 對匯款機構之保存紀錄規定不完整，只要求交易金額等於或超過港幣 8,000 元須保留紀錄，且對非面對面交易未要求取得及保留確認資料。

4. 尚未決定匯款機構及外幣兌換商保存紀錄之實施程度。

5. 只有在他們有合理理由懷疑違反規定時，才要求匯款機構及外幣兌換商提供保存紀錄與資訊，如此會限制適時提供資訊給主管機關。

(六) FATF 特別建議第七項 (電匯)：評為 PC

1. 非帳戶所有人親自辦理匯款，金融機構只有在交易金額超過 (含) 8,000 港幣時才進行身分確認。

2. 辦理匯款未規定匯款機構或郵局隨著電文訊息傳送匯款人全部資訊。
3. 匯款機構遵守情形沒有監督機制。

(七) FATF 第十一項 (異常交易) 建議：評為 PC

1. 目前並未要求銀行機構對沒有明顯經濟或法定目的之大額異常交易，以書面記載其相關缺失與背景分析。
2. 未要求匯款機構及外幣兌換商特別注意大額異常交易。

(八) FATF 第十三項 (可疑交易申報) 及第十四項 (洩密) 建議：評為 LC

1. 要求申報與恐怖主義有關之交易僅限連結至恐怖活動，未包括資助恐怖組織與個人。
2. 申報疑似洗錢交易 (STR) 對洩密 (tipping-off) 之禁止，未含尚未申報金融情資中心之交易。

(九) FATF 第十五項 (內部控制與稽核) 及第二十二項 (國外分支機構) 建議：評為 LC

1. 沒有要求匯款機構、外幣兌換商及貸款商建立內部控制程序及要求篩選人員與訓練。
2. 沒有要求匯款機構、外幣兌換商之國外分支機構遵守與香港一致之防制洗錢措施，若無法做到時亦未要求國外分支機構通知香港主管機關。

(十) FATF 第十八項 (空殼銀行) 建議：評為 LC

1. 未要求確定在國外之通匯金融機構 (respondent financial institution) 不允許其帳戶為空殼銀行所用。

(十一) FATF 第十七項 (處罰) 及第二十九項 (監督) 建議：評為 PC

1. 保險部門可用之處罰範圍有限，應擴及較大之範圍。
2. 對匯款機構與外幣兌換商只有刑事處罰，其他較不嚴重之瑕疵無可用之措施。
3. 保險當局例行性監督洗錢防制措施並運用處罰很有限。
4. 對匯款機構與外幣兌換商辦理例行性監督缺乏權限。

5. 只有警察有權要求匯款機構提供資料或取得紀錄。
6. 刑事處罰只適用個人經營之匯款機構，而刑事處罰對違反者未合乎比率原則，也未適用所有洗錢防制要求。

(十二) FATF 特別建議第六項 (金錢價值移轉服務): 評為 PC

1. 沒有監督匯款機構之制度，確保其遵守 FATF 要求。唯一的監督是使用執法權 (law enforcement powers)。
2. 只有刑事處罰可用，應檢討這些處罰是否有效、合乎比率原則及有阻嚇效果。

(十三) FATF 第十二項 (指定非金融事業與專業人士遵守確認客戶身分) 及第二十四項 (指定非金融事業與專業人士之法規與監督) 建議: 評為 NC

1. 除了少數例外，對指定非金融事業與專業人士 (DNFBP; 會計師、不動產商、律師、公證人、信託服務提供者) 沒有相關之確認客戶義務與其他義務。
2. 除了不動產商，沒有指定之主管機關監督防制洗錢措施。
3. 除了少數例外，唯一之處罰適用於指定非金融事業與專業人士為刑法。

(十四) FATF 第二十項 (其他指定非金融事業與專業人士與安全交易技術) 建議: 評為 LC

1. 對指定非金融事業與專業人士，應定期檢討各項防制洗錢措施，以避免遭誤用。

二、由香港評鑑報告探討金融部門建議與借鏡之處

香港為地區金融中心，為利金融交易快速進行，其規範金融交易之法規，基於金融自由化之前提下，仍有若干項目未加以限制，致無法符合國際防制洗錢相關規定。本次評鑑有多項被評為部分遵循 (PC) 或未遵循 (NC)，顯示追求金融自由化在防制洗錢措施上，仍有多項努力之空間。在此，藉由探討其缺失，反觀是否亦為值得我國借鏡之處：

(一) 確認客戶身分門檻之訂定

香港對非經常往來客戶有關確認客戶身分之門檻，並未清楚界定，對匯款或外幣兌換客戶若交易金額超過港幣八千元（約一千美元）則要求確認身分。我國目前確認客戶身分門檻為新臺幣一百萬元，相較於香港雖有更明確定義，惟仍高於國際標準（一萬五千美元或歐元）。APG 於 2007 年評鑑我國時曾被提出此一問題，目前雖暫訂降為新臺幣五十萬元，惟仍待相關部門協調後盡快實施。

(二) 對高知名度政治人物 (PEP) 往來之規範

香港金融機構對高知名度政治人物往來，並未明確規範，主要在於 PEP 之定義有其敏感性。我國在銀行公會所定之「防制洗錢應注意事項」對此一問題亦僅用「對銀行商譽具有高風險之個人或團體」取代。似可規範將經報載國外之政治人物，及國內引起相關新聞議題之政治人物，由金融機構自行蒐集，若發現有異常則依據「疑似不法或顯屬異常交易之存款帳戶管理辦法」認定標準第三類進行持續性監控。

(三) 對保存記錄之規範

金融業須要保存之紀錄種類甚多，包括交易帳簿、交易憑證、一定金額以上交易確認客戶身分紀錄、異常交易之追蹤紀錄、開戶資料、結清銷戶資料（含相關身分證明文件及印鑑卡）、與客戶之通信紀錄、申報大額交易紀錄、申報疑似洗錢紀錄、客戶存入交換票據之紀錄、出納部門登錄現金收付之紀錄甚至包括為利犯罪偵察有關客戶往來及開戶之影像檔等均屬之。香港在法律或法規中對保存紀錄只有一般性規定，而非針對 FATF 有關防制洗錢作要求。其對匯款機構之保存紀錄亦僅限制港幣八千元以上。

我國相關法規亦分散於不同規定，如**商業會計法**第 38 條規範會計憑證（至少五年）、會計帳簿（至少十年）；銀行公會所訂「**銀行防制洗錢注意事項範本**」規範已結清帳戶資料（如客戶身分證明影印文件、

帳戶資料及通訊資料等，至少五年)；洗錢防制法第七條、第八條授權事項規範確認客戶身分紀錄、交易憑證、申報紀錄(至少五年)；疑似不法或顯屬異常交易之存款帳戶管理辦法第十六條規範異常交易之追蹤紀錄(至少五年)；財政部 90.4.3 台財融(一)第 90733071 號函規範開戶影像檔(至少六個月)；也有尚未規範者如存入交換票據之紀錄、出納部門登錄現金收付之紀錄。

上述規定有法律位階太低、無法律依據或尚未規定者，宜彙整後統一訂於防制洗錢相關規範中。

(四) 監督與處罰

香港保險部門缺乏較大之處罰權限，對匯款機構與外幣兌換商亦沒有辦理例行性之檢查。反觀我國金融機構之銀行業、保險業與證券業係由金管會之檢查局辦理例行性金檢，匯款機構除銀行業外並不允許其他業者辦理。外幣收兌處則由中央銀行辦理專案檢查。相較於香港，我國之監督顯較為週延。至於未經核准辦理通匯業務，事涉地下通匯之取締，近年來我國亦破獲多起案件。相較於金融交易之日漸頻繁，為防範不法人士利用新式科技進行洗錢亦讓金融業者提高警覺，除持續強化金融檢查外，對金檢人員之教育訓練，亦應加強辦理。

亞太洗錢防制組織洗錢犯罪樣態研析報告

內政部警政署刑事警察局研究員 陳振發

六、緣起

- (一) 亞太洗錢防制組織(以下簡稱 APG)專責針對亞太地區洗錢及資助恐怖分子彙整相關犯罪樣態(Typologies)報告。APG 之洗錢犯罪樣態研析工作係針對洗錢及資助恐怖分子犯罪型態加以區分及研析。自 1997 年成立以來，APG 已持續經由洗錢犯罪樣態研析工作進行資訊交流並提供各會員國有關洗錢及資助恐怖分子案件之犯罪方式、技巧及發展趨勢等。APG 洗錢犯罪樣態研析工作小組協助各會員國瞭解問題本質並策訂有效之偵查、起訴及防制作為。
- (二) 2006 年 11 月，印尼舉辦第 9 屆 APG 洗錢犯罪樣態研析工作會議。本次會議計有 34 個國家，9 個國際性組織等 200 個代表出席。2006 年 APG 洗錢犯罪樣態研析工作會議主要包括：觀光職業賭場及賭博犯罪、不動產犯罪、非法盜木及洗錢犯罪、非傳統匯款系統結算機制等議題。
- (三) 2006 年 12 月，APG 參加中國上海所舉辦之「防制洗錢金融行動工作組」(FATF)及「歐亞組織」(EAG)聯合會議，會議主要包括：毒品販運及洗錢犯罪、不動產洗錢犯罪、資助恐怖分子犯罪型態等議題。
- (四) 2007 年 11 月，APG 在泰國曼谷舉辦 APG/FATF 犯罪型態研析聯合工作會議，該會議主要包括：洗錢犯罪徵兆分析策略、資金激增、觀光職業賭場、商業網路洗錢及資助恐怖分子犯罪等議題。
- (五) 以下僅就今(2008)年印尼峇里島(Bali)APG 年會所提洗錢犯罪樣態研析報告做摘要之介紹。

七、洗錢犯罪樣態

APG 洗錢犯罪樣態研析工作主要針對洗錢犯罪案例進行資訊之蒐集、研析及整合，並與各會員國、觀察員及相關私人機構做資料之分享及交流。依據 APG 之研析，洗錢及資助恐怖分子犯罪之方式、技巧及運作模式主要歸納為以下幾種：

◎ **貪污洗錢(Association with corruption)**

貪污(行賄官員)洗錢，包括經由高知名度政治人物(politically exposed person)之所主導之案件。

◎ **外幣兌換(Currency exchanges/cash conversion)**

在低度監督國家以外幣兌換方式降低遭查緝之風險，如購買旅行支票至其他國家。

◎ **現金挾帶(Cash couriers/currency smuggling)**

直接以現金挾帶(走私)方式闖關，避免留下交易紀錄遭受查緝。

◎ **批次移轉(Structuring/smurfing)**

多筆交易之方式(存款、提款及轉帳)，經常利用多人、數筆、小額或不同帳戶進行，以規避查緝。

◎ **利用信用卡、支票及保單(credit cards, cheques, promisory notes)**

以信用卡、支票及保單等作為存放於金融機構資金之進出工具，通常為其他國家之金融機構。

◎ **易購等價商品(寶石、貴金屬)(gems, precious metals,etc)**

將不法所得購買商品以隱匿犯罪，逃避查緝，如購買鑽石後轉運至其他國家。

◎ **易購等值資產(不動產、賽馬、交通工具)(real estate, race horses, vehicles, etc)**

將不法所得投資於具可轉讓性之物品，藉由減少相關金融審查及報告資料以規避查緝。

◎ **以物易物(barter)**

避免使用金錢或金融工具交易以逃避查緝，如直接以海洛因毒品交換金條。

◎ **電匯(Wire transfers)**

通常以電子匯款至其他國家方式規避查緝。

◎ **地下通匯 (underground banking/alternative remittance services)**

以非正式之信貸網絡機制匯寄金錢。通常併以傳統或非法之地下銀行進行，以此方式移轉金錢，逃避查緝。

◎ **貿易洗錢(Trade-based ML/TF)**

假造交易清單並利用交易程序及商品規避查緝。

◎ **賭博活動(觀光賭場、賽馬、網路賭博) (Gaming activities)**

利用賭博活動隱匿犯罪所得，如向合法賭客購買勝賭彩票；以觀光賭場籌碼取代現金做為犯罪交易；利用網路賭博活動隱匿犯罪所得。

◎ **利用非營利組織(NPOs)**

以非營利組織之名義累聚恐怖活動資金，以規避查緝並分配、移轉資金。

◎ **投資資本市場(capital markets)**

在低度監督國家以投資資本市場方式隱匿犯罪所得。

◎ **以商業投資隱匿(business investment)**

洗錢之重要步驟，常結合合法商業資金以隱匿犯罪所得。

◎ **利用空殼公司(shell company)**

在低度監督國家以隱匿犯罪資金控管人之一種方式。

◎ **利用海外銀行及企業(offshore banks/businesses)**

以隱匿犯罪資金控管人並將資金從禁制國家轉出。

◎ **利用人頭帳戶(nominees)**

利用人頭帳戶隱匿犯罪資金。

◎ **利用外國銀行帳戶 (foreign bank accounts)**

將資金從禁制國家轉出並隱匿犯罪資金控管人。

◎ **使用偽變造文件 (fraud/false identification)**

以隱匿洗錢及資助恐怖分子等活動。

◎ **“守門員” 犯罪模式 (gatekeepers)**

利用律師、會計師及仲介等專業人員做為“守門員”，以隱匿不法所得及資金。通常也包括提供犯罪洗錢「專門服務」之不法官員。

◎ **利用新興付款方式 (New Payment technologies)**

利用新興付款方式洗錢及資助恐怖分子，案例包括以手機匯款系統方式。

八、 結語

隨著經濟發展全球化之趨勢，各國為便利投資者及資金往來均發展多樣化之金融交易工具及商品，然交易工具及商品越繁複，相對即予洗錢犯罪者更多之利用空間，也因對於客戶個人隱私性之保護及作業程序專業化，使犯罪查緝更形困難。本次 APG 年會所提洗錢犯罪樣態研析報告含括 20 幾種洗錢犯罪類型，依國情及體制之不同，雖不見得會發生在我國，然其犯罪手法均極具參考價值，也提供查緝人員更多面相的思惟。

亞太洗錢防制組織洗錢犯罪樣態研析-案例報告

內政部警政署刑事警察局警務正 李明道

九、前言

亞太洗錢防制組織(以下簡稱 APG)今(2008)年於印尼峇里島(Bali)年會所提洗錢犯罪樣態研析報告計發表有：貪污洗錢(Association with corruption)、外幣兌換(Currency exchanges/cash conversion)、現金挾帶(Cash couriers/currency smuggling)、批次移轉(Structuring/smurfing)、利用信用卡、支票及保單(credit cards, cheques, promisory notes)、易購等價商品(寶石、貴金屬)(gems, precious metals, etc)、易購等值資產(不動產、賽馬、交通工具)(real estate, race horses, vehicles, etc)、以物易物(barter)、電匯(Wire transfers)、地下通匯(underground banking/alternative remittance services)、貿易洗錢(Trade-based ML/TF)、賭博活動(觀光賭場、賽馬、網路賭博)(Gaming activities)、利用非營利組織(NPOs)、投資資本市場(capital markets)、以商業投資隱匿(business investment)、利用空殼公司(shell company)、利用海外銀行及企業(offshore banks/businesses)、利用人頭帳戶(nominees)、利用外國銀行帳戶(foreign bank accounts)、使用偽變造文件(fraud/false identification)、“守門員”犯罪模式(gatekeepers)及利用新興付款方式(New Payment technologies)等 20 幾種洗錢犯罪類型，以下僅就各犯罪類型彙整各國案例做摘要之介紹，俾提供我國司法機關參考。

十、案例報告

(一) 貪污洗錢(Association with corruption)

◎印尼(貪污詐取案件)

2004 年 8 月，印尼軍方某高級官員 S 先生於 B 銀行開設一限期帳戶並存入一筆總數 1 千 1 百萬美元之基金。該筆基金係軍方為配置軍人房屋所撥出之專案款項。2004 年 10 月，印尼軍方與 S 先生達成協議由 S 先生掌控該筆基金以便爭取海內外援助並為軍人及軍眷蓋建房舍，

該基金後來遭基金主席 N 先生提出及轉存入 N 先生與 S 先生之聯合帳戶，並轉投資其他項目以做為私人獲利。

◎印尼(以公款投資為私人獲利)

2006 年 4 月，某地方政府高級官員 X 先生，自銀行提取公款約 40 億盧比之金額轉存入同家銀行其個人名下之帳戶，藉以孳息為私人獲利所得。

◎中國香港(以地下通匯轉存第三國)

STR 發現某外國之高知名度政治人物(PEP)在香港當地開立一投資帳戶。該帳戶金額經查與該名人士之正常收入顯不相當。經調查發現該人士於短期內進出香港多次並同時存入大額現金，該帳戶並有多筆來路不明之匯入款項。該名人士隨後在該國因貪污案件遭逮捕。

(二) 外幣兌換(Currency exchanges/cash conversion)

◎加拿大(外幣兌換服務專業洗錢)

某案調查發現某毒品販運者在 A 國，並熟識當地外幣兌換服務負責人。該名毒販將其販毒獲利存放於 B 國銀行帳戶。其帳戶存款如有需要時再移轉回 A 國。當該名毒販在 D 國購買古柯鹼而需要 C 國貨幣時，即利用外幣兌換方式將 A 國貨幣轉換為 C 國貨幣。

依據加拿大 FIU 情資顯示，洗錢犯罪者廣泛利用金融服務機構將上億金額轉換為加拿大貨幣。此涉及職業洗錢犯罪集團替毒品販運組織洗錢，以便將大麻由加拿大走私販售至其他國家。

◎紐西蘭(利用外幣兌換洗錢)

紐西蘭警方調查某件由中國大陸走私進口假麻黃素案件時，發現嫌犯於奧克蘭中央企銀分行利用數家外幣兌換商號存入大筆現金。該案查出總計約 4 百萬紐幣現金於短期內透過 3 家外幣兌換商號進行洗錢。

(三) 現金挾帶(Cash couriers/currency smuggling)

◎澳大利亞(利用飛航人員挾帶現金)

某犯罪調查發現一犯罪集團將購買毒品所用之大筆現金利用飛行澳

州及越南國際航線之飛航人員挾帶轉運。飛航人員隱匿所挾帶之現金，將其攜出國後即存入越南胡志明市之代理匯款商號，並由商號將該筆金錢分別移轉至東南亞如泰國、柬埔寨及中國香港等國家。

◎紐西蘭(以香煙盒包裝挾帶現金闖關)

紐西蘭海關人員查獲旅客挾帶現金闖關案件。該名旅客將經過包裝之香煙盒置放於行李中。每一香煙盒計有 10 包香煙，每包香煙內挾藏美金 2,000 元之現金。由於嫌犯手法相當專業，其經過包裝後之香煙外觀與一般正常香煙包裝幾乎難以區別。

(四) 批次移轉(Structuring/smurfing)

◎印尼(批次匯款規避門檻)

2005 年 3 月，計有 12 筆，每筆金額為美金 9,500 元之款項由 J 國匯入 A 先生開立於雅加達外國銀行之帳戶內。第二天 A 先生即將每筆款項均以現金提領出來。本案顯示嫌犯企圖利用批次匯款方式規避 J 國之現金交易報告(CTRs)規定門檻，以逃避查緝。

◎中國香港(外國人士利用批次匯款)

2006 年 9 月，A 國居民 X 女士至香港開立銀行帳戶並以現金存入美金 14 萬元。一個月之內，該帳戶存款總數高達美金 103 萬元。經查該帳戶款項來源均係由 B 國以每筆美金 9,972 元分批匯進。調查發現一旦款項經由 X 女士提出後，X 女士即不再使用該帳戶。X 女士隨後以洗錢罪嫌遭逮捕。本案為洗錢犯罪者至國外開立銀行帳戶接收批次匯款以規避美金 1 萬元之現金交易報告規定門檻，逃避查緝。

(五) 利用信用卡、支票及保單(credit cards, cheques, promisory notes)

◎加拿大(信用卡預付避免現金交易)

某色情脫衣酒吧提供客人得以使用信用卡刷卡消費。該項刷卡消費服務並抽取 1 成之服務費。例如，客人刷卡消費 100 美元，則卡費帳單為 110 美元，每月月終帳款經由電匯存進該酒吧之銀行帳戶。這種方式可以避免現金交易。

◎馬來西亞(冒用信用卡並以現金銷贓)

吉隆坡某精品店專櫃小姐 A 女，竊得在該店以金卡及白金卡消費客人之信用卡資料。A 女在抄下客人信用卡號碼、截止日期以及信用卡背面之 3 碼辨識資料(CVV 碼)後，即冒用客人名義以網路刷卡購買電腦及週邊商品。隨後，A 女再以低價將電腦等商品轉賣予其同事及朋友，A 女並要求買方必需將貨款以現金經由存款機(cash deposit machine)存入其銀行帳戶內。

(六) 易購等價商品(寶石、貴金屬) (gems, precious metals, etc)

◎印尼(以販毒所得購買鑽石)

某犯罪集團涉嫌洗錢犯罪及大麻毒品走私，並涉及其他犯罪組織不法所得之洗錢行為。調查發現該集團於中東地區與某鑽石供應商建立犯罪網絡，並在 2002 年 7 月至 12 月間以電匯方式匯款總計約 120 萬元給該鑽石供應商。供應商隨後即將鑽石送達該犯罪集團之海外連絡人。

(七) 易購等值資產(不動產、賽馬、交通工具) (real estate, race horses, vehicles, etc)

◎巴基斯坦(貪污及洗錢相關之不動產案件)

X 先生為某地方建設發展集團召集人，在取得該職位後，X 先生即開始不動產投資。其犯罪模式如下：X 先生原擁有一小塊農地，在就職期間，其以配偶及子女名義購得價值百萬盧比之大片土地，為了掩飾這筆買賣，X 先生以「交換」土地方式掩人耳目，即偽稱其所購得之大片土地係以原有之小塊農地與 Y 先生交換而來，而事實上 X 先生並未將原有之小塊農地換給 Y 先生。之後，X 先生再將實際上所購得之大片土地轉賣給 Z 先生。經查 Z 先生係 X 先生之親戚且無財富資產可購得該大片土地，該大片土地始終為 X 先生所有。本案所有土地買賣均係 X 先生為貪污洗錢用來掩人耳目之手段。

(八) 電匯(Wire transfers)

◎泰國(人頭帳戶電匯案件)

泰國塔喀省(TAK Province)某牧場工人 S 先生在該省某銀行開立帳戶並申請 ATM 卡。之後，該帳戶於 1 個月之內由其他各省分別匯進數筆金錢總額高達 5 百多萬。同期間，於蘇潘別瑞省(Supanburi Province)經由 ATM 以多達 250 筆之轉帳將該帳戶之金額領出。經查 S 先生係受人指使開立人頭帳戶以逃避查緝，而塔喀省及蘇潘別瑞省均係毒品犯罪之高風險地區。

(九) 貿易洗錢(Trade-based ML/TF)

◎南韓(偽報清單)

A 先生自日本某零售商進口一批海水用品。該批用品實際價格為每公斤 180 日元，惟 A 先生低報每公斤價格為 100 日元。經查 A 先生以此類似之方式進口 75 次貨物總計逃漏約 1 億元韓幣之關稅。另一案例係某珠寶大盤與零售商之間相互假造買賣傳真清單以偽報交易行為。

(十) 利用非營利組織(NPOs)

◎斯里蘭卡(利用非營利組織資助恐怖分子)

LTTE 組織利用非營利組織資助恐怖分子活動。其中一慈善機構經確認名為 Tami 復興組織(TRO)。斯里蘭卡金融情報中心(FIU)已凍結該組織多數之銀行帳戶。

(十一) 利用空殼公司(shell company)

◎澳門(電匯款項至空殼公司)

T 先生以某飯店經理名義於銀行開立帳戶，期間數筆金額由不同國家以美金匯入該帳戶。隨後，T 先生即將之轉換為港幣並提領出來，其辯稱這些金額係用來購置商品，而實際上，有大筆金額係轉存進某建材公司。由於 T 先生帳戶資金與其背景顯不相稱，業經銀行向司法警察單位舉報。

(十二) 利用人頭帳戶(nominees)

◎中國香港

警方於調查某盜版光碟案件期間，發現 X 女士於銀行設立之保險箱。其姊妹 Y 女士為該犯罪集團首謀，為該銀行保險箱之實際所有人，警方隨後於保險箱內查獲現金及手錶、珠寶等總值約 2 百萬港幣之物品。本案顯係 Y 女士以其家庭成員名義掩飾犯罪所得。

(十三) “守門員” 犯罪模式(gatekeepers)

◎加拿大(利用律師信用帳戶)

某犯罪嫌疑人利用律師事務所之信用帳戶自海外購置資產以掩飾犯罪活動。該律師事務所亦被利用設立家族信用帳戶及多家公司。

◎日本(律師偽造借貸合約)

某律師與犯罪人共謀避免犯罪所得遭法院沒收。該律師指導犯罪人偽造借貸合約以假裝向友人借貸金錢，以避免資產遭法院沒收。

(十四) 利用外國銀行帳戶(foreign bank accounts)

◎南韓(利用外國空殼公司帳戶)

某 A 在美國設立空殼公司以進行洗錢。其在香港及美國地區亦設立多家空殼公司及銀行帳戶。利用這些帳戶進行數筆交易以掩飾犯罪所得，直到達到空殼公司之資金限額。

◎澳洲(批次電匯款項至外國帳戶)

某犯罪集團利用包裹轉運服務自美國走私古柯鹼。在進行每筆毒品交易之前，該集團先行將款項電匯進美國之帳戶。這些款項係該集團雇用夜店客人代為分批匯款至開立於美國地區之個人及公司帳戶。其每筆金額分別在澳幣 6 千元至 1 萬 9,995 元不等。

(十五) 使用偽變造文件(fraud/false identification)

◎印尼(利用偽造資料開立帳戶)

某嫌犯發送簡訊(SMS)給被害人告知他們中獎訊息諸如中汽車或現金大獎。被害人如回應後，該嫌即要求被害人必需先行匯款至嫌犯帳戶以做為獎品運送費用或獎金稅額。然「獎品」從未發出且調查發現嫌犯亦是利用偽造資料開立銀行帳戶，經並由 ATM 提領現金。在印尼地

區，嫌犯均是以偽造資料開立銀行帳戶並提領現金以逃避查緝。

十一、結語

以上介紹案例為本次 2008 年印尼峇里島 APG 年會洗錢犯罪樣態工作小組(Typologies Working Group)研析報告所彙整之摘要資料，經分析發現亞太地區各國因各自文化及體制上之差異性，洗錢及資助恐怖分及犯罪手法亦略有不同，然就每一個案其「處置」、「層轉」及「整合」等三大階段之洗錢犯罪特質是不變的。檢討其中犯罪手法有些類似我國目前社會狀況，有些因文化背景及政府組織架構不同，發生在我國之機率甚低，然以司法機關之查緝犯罪立場而言，各種犯罪手法均不能排除，尤其本次 APG 年會洗錢犯罪樣態工作小組整合亞太地區各會員國之人力及資源所提供之洗錢犯罪樣態案例研析，對於我國之洗錢犯罪防制工作應具相當實用之參考價值。

2008 年 APG 技術協助與訓練論壇—

「金融分析技術 (Financial Analysis Techniques)」研討會報告

調查局洗錢防制中心 藍家瑞

一、背景說明：

亞太防制洗錢組織在 2008 年第 11 屆年會的技術協助與訓練論壇中有一場「金融分析技術訓練」(Training on Financial Analysis Techniques) 研討會，主要係介紹金融情報中心處理疑似洗錢交易報告之過程與技術，如何從中找出有用之犯罪線索。研討會由美國財政部技術協助辦公室駐區顧問 Mr. Daniel P. Neau 主講。

二、金融情報中心如何鎖定及訂定疑似洗錢交易報告分析之優先順序：

大部分金融情報中心大都面臨大量疑似洗錢交易報告等待分析的困境。在理想情形下，金融情報中心分析人員應該過濾每一件疑似洗錢交易報告，但因資源不足無法做到，所以應該對於疑似洗錢交易報告予以排列優先順序，才能有效鎖定目標進行分析。

金融情報中心鎖定疑似洗錢交易目標之程序：

1. 依設定名單及相關參數進行篩選。
2. 依實際可能涉及犯罪及法律要件選出初期目標。
3. 依資料查核比對及與其他輔佐資料評估目標。
4. 選定目標。

如果在第 2、3 階段沒有出現任何被選定之目標，這些資料應回到第 1 階段重新設定篩選之參數。

在決定疑似洗錢交易報告分析之優先順序前，瞭解篩選之結果非常重要，因為被篩選出之疑似洗錢交易報告隱含特定資訊，是進行各種進階分析之關鍵。金融情報中心會進行下列 4 種類型之分析作為：

- 資料開採是透過資料排序方式，建立資料間關聯性並辨識其聯結方

式，典型之執行方式，是透過電腦軟體工具將大量資料轉化為疑似洗錢交易格式及其他型式之資料庫。

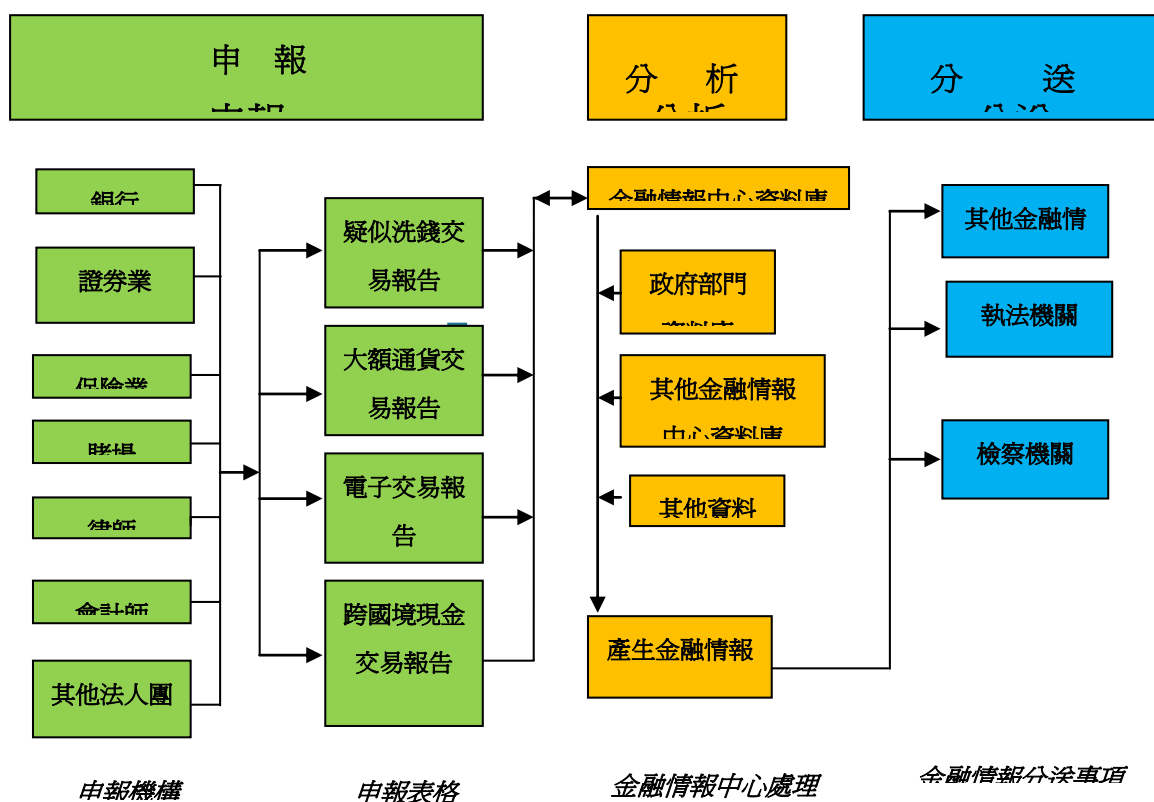
- 作業性分析是針對特定調查中案件為目標，亦即所謂戰術性的個案工作。
- 統計性分析在於評估全國性反洗錢與打擊資助恐怖分子系統效率，例如過去一年申報疑似洗錢交易報告件數，多少件涉及資助恐怖分子，多少件分送給執法機關，多少件因而被起訴，和前一時間比較有無值得特別注意之改變等。
- 策略性分析是要檢視疑似洗錢交易報告屬性的特殊關聯，該屬性可以分為 4 大類-可疑犯行、金融機制、金融工具及洗錢與資助恐怖分子技術，例如策略研究的客體之一是檢視毒品犯罪所得轉換成郵政匯票，經跨越國際運送，再存入銀行，進而再轉換成現金。在這個案例情節中，販毒是所謂「可疑犯行」、郵政匯票是所謂「金融工具」、郵局及銀行是所謂「金融機制」、而將毒品犯罪所得轉換成郵政匯票、跨國境運送、存入銀行再轉換成現金即是所謂「技術」。其他疑似洗錢交易報告之屬性，尚有職業及區域性關係之研究等。

三、疑似洗錢交易報告之內容架構：

比較各國之疑似洗錢交易報告內容，可以發現所要蒐集之資料大致分為 6 大類：

- 申報疑似洗錢交易之機構
- 實際交易人資料
- 委託交易之委託人資料
- 交易明細
- 帳戶資料
- 可疑理由陳述

四、金融情報處理流程



綠色區域表示自然人及法人向金融情報中心申報義務，橘色部分代表由金融情報中心彙集與處理並轉換為金融情報，藍色部分列出接受金融情報傳遞之對象。

叢集概念：係指從疑似洗錢交易報告或從進一步分析後得到一群自然人及法人（不管是真實或虛構）具有關聯屬性稱之。關聯屬性可以是金融活動、地址、電話、業務活動、在時間上屬於一再重複發生之事件等等。當金融情報中心分析人員為分析作為而發展出之最初叢集，相關帳戶及自然人具第二層關聯者會在圖形中形成一個叢集。這種叢集建立方式在辨識表面上無關聯之疑似洗錢交易報告上非常有用。

金融情報中心運用其他額外資訊於分析疑似洗錢交易報告：金融情報中心功能之一在於受理疑似洗錢交易申報及分析，並作為儲存其他額外資訊處所，以協助分析疑似洗錢交易報告。所謂其他額外資訊包括：

- 1) 金融情報中心依據法律受理有門檻限制之報告，如大額通貨交易報

告等；2) 政府執法及管理部門蒐集之資訊，可以協助金融情報中心分析人員；3) 可以供任何人查詢之公開商業資訊。

有門檻限制之報告對於疑似洗錢交易分析之益處：

- 提供辨識疑似洗錢交易報告對象之資料。
- 發掘有「叢集」關聯之潛在對象。
- 追查與疑似洗錢交易報告對象相關之資金流向、交易型態及資金轉換情形。
- 作為金融情報中心請求申報機構及其他金融情報中心提供進一步情報之來源。

其他金融情報中心接收之資訊來源：

- 金融情報中心間之情報交換：對於分析國際疑似洗錢活動非常有用，透過「艾格蒙聯盟」建立之情報交換平台，會員間可以取得彼此間之資料。
- 上級機關持有之情報，因金融情報中心隸屬機關不同，可以取得之資訊亦有所不同，諸如屬於中央銀行，則可以取得有關銀行證照申請資料表及其他有關銀行監理資料，如果隸屬執法機關，則可以取得相關調查報告、犯罪紀錄及其他執法機關持有之資訊。
- 金融情報中心個案資訊：金融情報中心之歷史性資料庫可以提供有關個人涉及國內或國際犯罪活動資訊。
- 疑似洗錢交易報告之補充資訊：最近有許多金融情報中心具備權力，可以在不需法院命令情形下，得以請求申報機構提供有關疑似洗錢交易報告進一步之背景資料。

政府資訊類型：

- 調查報告及犯罪歷史紀錄。
- 公司組織註冊登記資料。
- 入出境資料。

- 移民紀錄（簽證及長期居留許可資料等）
- 護照及駕照紀錄。
- 車、船及航空器登記資料。
- 情報報告。

政府相關部門蒐集各類反洗錢與打擊資助恐怖分子為目的以外之資訊，執法機關持有調查中或已存參之調查報告，對於分析涉及金融犯罪之疑似洗錢交易非常有用，而入出境及移民資料對於交易發生時當事人實際身在何處之判別有益，護照及駕照對於確認身分亦有助益，車、船及航空器登記資料可以指出財產擁有者，情報報告則能指出透過反洗錢與打擊資助恐怖分子系統以外之其他管道所發掘之可疑犯罪活動。

商業資訊類型：

- 營運記錄。
- 自然人及法人識別資料。
- 財產紀錄。
- 個人財產紀錄。
- 破產紀錄。
- 民事案件紀錄。
- 法院判決紀錄。
- 留置權紀錄(Lien Records)。

商業資訊可以提供疑似洗錢交易報告對象財富指標，這是因為商業上可用之資訊通常不需經過該當自然人或法人知悉或同意情形下即可產出。要注意的是公開之商業紀錄不能作為法院訴訟程序證據，調查人員有必要時，仍需取得具有證明能力之正式文件拷貝本，諸如商業登記資料、財產紀錄及法院訴訟文件等。

掂估資訊來源及內容之方式：

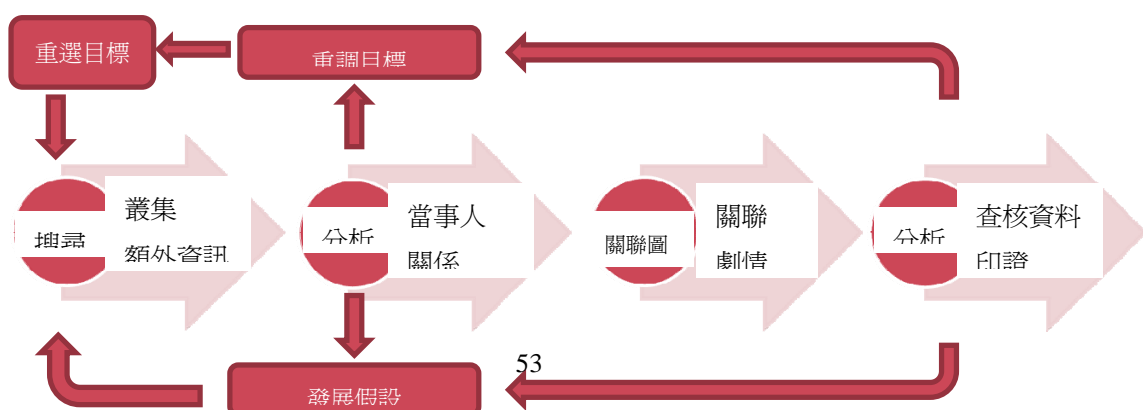
- 可靠性區分 (Reliability)
 - 可靠 (reliable)
 - 通常可靠 (usually reliable)
 - 不可靠 (unreliable)
 - 無法判定 (unknown reliability)
- 價值性區分 (Validity)
 - 確定 (confirmed)
 - 可能 (probable)
 - 懷疑 (doubtful)
 - 無法判定 (unknown validity)

金融情報中心分析人員在表達分析發現時，應該將可靠性及價值性列入考量，記得在從事分析時，資訊來源及其本身真實性必須加以評估、掂重，以產出有品質之分析結果。

五、疑似洗錢交易報告分析工具與技術：

- 分析過程 (Analytical Process)

第一階段是從搜尋資料庫並蒐集額外資訊以完成鎖定目標；第二階段是分析相關當事人關係及與可疑活動關聯性，從所有資料中描繪出可能結果，並進行印證或導出假設；第三階段是畫出關聯圖，諸如交易時間關聯、金流關聯、地理位置關聯、可疑活動關聯等；最後一個階段是查核資料並在撰寫報告之前進行印證作為，而關聯圖亦成為報告之附件。



在整個分析過程中，分析人員必須對於可疑交易做出假設性推論，該推論可能源自申報機構所提供之可疑表徵或由分析人員自己推論，並根據資料進行印證，並隨著搜尋與分析結果逐步修正。同樣地，分析目標亦需隨著資料的質量變化而重新設定，這是一個非常機動性的過程，分析人員必須針對目標一再重複分析。

➤ 疑似洗錢交易報告分析

疑似洗錢交易報告本身並不常提供足夠資訊可以進行假設推論不法活動之本質，然而這正是分析人員的職責，要去發現、解讀隱含之所有資訊。分析人員不只是一個檢視者，甚或搜尋結果所發現資訊之詳細解讀，應該從中發現更有價值之資訊，或建立事件或對象間之關聯性。

六、疑似洗錢交易報告策略分析

目的：

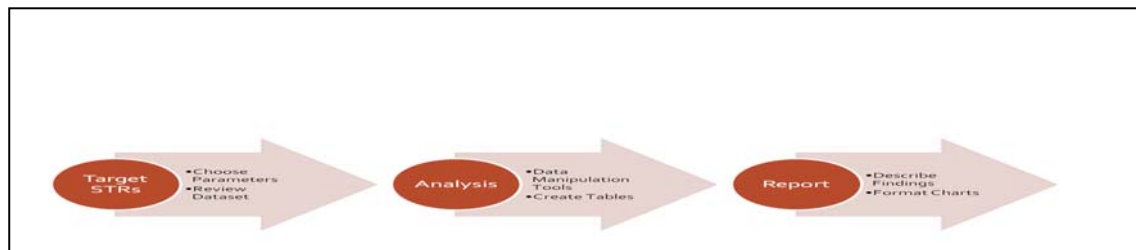
- 統計及金融情報中心年度報告使用
- 防制洗錢金融行動工作組織之反洗錢建議第 32 項之要求
- 可以評估
 - 金融行業洗錢及資助恐怖分子風險威脅
 - 金融產品洗錢及資助恐怖分子風險威脅
 - 洗錢及資助恐怖分子新興技術
 - 改善疑似洗錢交易申報機構之指引
- 洗錢與資助恐怖分子態樣(趨勢與類型)研究
- 建立疑似洗錢交易申報制度之指引

方法：

- 將疑似洗錢交易資料構成之要素加以解構並進行研究，有助於達成長期性反洗錢與打擊資助恐怖分子目標之計劃與達成。
- 就疑似洗錢交易報告欄位及可疑內容陳述進行統計分析。
- 疑似洗錢交易資料構成要素包括：

- 客戶是誰 (Who?)
- 使用之金融工具(What?)
- 金融機構地點(Where?)
- 洗錢/資助恐怖分子技術(How?)

策略分析過程



➤ 選定疑似洗錢交易目標

- 設定篩選參數：如交易金額、模式、脈絡、叢集或是特別名單
- 過濾資料庫

透過預先設定之規則與公式（諸如交易金額、交易態樣、關聯性、叢集及可疑名單等），從資料庫中找尋疑似洗錢交易報告之優先順序，為了能夠回應分析人員對於優先順序因子之變更及洗錢技術之發展，分析人員必須具備獨自從事或與資訊部門專家溝通之能力，從電腦軟體中改變搜尋規則與公式，並建立程序讓分析人員能夠建立公式與規則。金融情報中心對於疑似洗錢交易報告有 4 種處理方式，並應訂定準則程序，確保分析人員均瞭解如何處理，特別是處理敏感性疑似洗錢交易報告。許多金融情報中心要求對於敏感性疑似洗錢交易報告，必須馬上向管理階層人員報告並進行處理。其處理方式包括直接分送有關機關、進一步分析、保留疑似洗錢交易報告供進一步檢視及存入金融情報中心資料庫等。

➤ 分析

- 資料處理工具
- 建立關係表格

- 進行統計分析
- 歸納出洗錢態樣與趨勢

七、疑似洗錢交易報告分析管理工具

➤ 篩選疑似洗錢交易報告

- 程序
- 處理特殊之疑似洗錢交易報告

對於敏感性疑似洗錢交易報告，諸如涉及資助恐怖主義、貪瀆、高知名度政治人物及非常大額之異常交易等，應有處理程序可以保護金融情報中心，例如對於涉及資助恐怖主義之敏感性疑似洗錢交易報告，應立即處理並通知調查及檢察機關，俾便在必要時可以進行資金凍結或嫌犯拘押及訊問，不致有任何延誤；對於涉及貪瀆案件之敏感性疑似洗錢交易報告，不應儲存於電腦資料庫，讓無需瞭解該資訊者任意查閱。

➤ 搜尋與分析

- 資料管理
- 資料儲存

分析人員在搜尋資料庫及進行分析的任務相當複雜，即便最有經驗之分析人員亦需要有方法可以組織並保存資料分析之軌跡，因此不管是使用自動或人工作業方式於案件分配、資料庫查閱及資訊擷取及分析結果紀錄等，都需要有許多管理上之要求，分析人員及其他管理人員在工作過程中，應以書面方式加以概要記載。並且要有程序和指引讓分析人員有所遵循。

➤ 撰寫分析結果報告

- 草擬報告
- 報告審查與核准

金融情報中心應有自己的分析報告及回應資訊查詢需求之格式，基於讓受理金融情報中心分送洗錢資訊之機關對於資訊內容解讀一

致性，有必要加以標準化，當受理資訊之機關熟悉這些標準化格式，將能簡化並加速處理過程。

- 報告分送
 - 規則
 - 程序
- 歸檔：匯入金融情報中心電腦資料庫
- 稽核
- 建立疑似洗錢交易報告網絡關係

八、心得與建議

我國金融情報中心（法務部調查局洗錢防制中心）建立於1997年，在當年是亞太地區少數建立專責處理防制洗錢事務單位之國家之一，歷經十餘年的努力，我國已經建立完整的大額通貨交易申報制度、疑似洗錢交易申報制度及跨國境旅客攜帶大額外幣申報制度，而洗錢防制中心在受理金融機關申報大額通貨交易及疑似洗錢交易或海關通報旅客攜帶大額外幣入出境資料，以及受理後之分析與分送，亦已建立良好的處理程序與制度，績效亦相當顯著，我國防制洗錢之成果在國際社會獲得相當好的評價與肯定。然基於百尺竿頭的精神，本研討會中所提及的一些觀念和作為，還是有些地方值得我們借鏡：

- 疑似洗錢交易報告之重點篩選：洗錢防制中心對於每一件疑似洗錢交易報告都會進行分析，在目前人力勉強可以應付情形下自不會有問題，但未來隨著申報數量逐漸增加，可能發生無法逐一細查之情形，該如何鎖定及訂定疑似洗錢交易報告分析之優先順序，本研討會提供之經驗值得參考。
- 加強策略性分析：目前洗錢防制中心對於金融機構申報之疑似洗錢交易報告、大額通貨交易報告及海關通報旅客攜帶大額外幣入出境案都有進行統計分析，並將統計結果登載於年報之中，未來應可以加強對統計結果之策略性分析，探討國內洗錢趨勢、新興手法及

防制之道，提供金融機構發掘疑似洗錢交易及執法機關調查洗錢犯罪之參考。

- 脈絡(叢集)建立：疑似洗錢交易報告、大額通貨交易報告及跨國境攜帶大額外幣申報資料目前均已建立電腦資料庫，在分析過程中所清查之對象，往來關係亦可輸入電腦，作為日後分析其他疑似洗錢或追查不法資金流向之參考，惟囿於人力，輸入並不完整，難以發揮功效，另目前電腦應用系統亦無建立叢集之功能，未來尚有改善空間。

附 件 一

2008 年亞太洗錢防制組織第 11 屆年會會議議程

APG ANNUAL MEETING 2008

7 – 11 July 2008

Bali, Indonesia

FINAL AGENDA

Registration

All participants must register for the week's events prior to participating in any Working Group meetings. Seminars, the Annual Meeting, Technical Assistance meetings, or other official functions (eg Reception and Dinner).

Registration will take place at as follows:

- Sunday 6 July 2008: 1330 – 1430 – Lobby Westin Resort
- Monday 7 July 2008: 0800 – 1900 – Pre-Function (Nusantara 1-2)
- Tuesday 8 July 2008: 0745 – 0850 – Pre-Function (Nusantara 1-2)

For security reasons, **delegates are required to present their passports** or other **official form of identification with photograph** upon registration.

Meeting venues

All meetings associated with the APG Annual Meeting and Annual Technical Assistance and Training Forum (TA&T Forum) will be held at the Bali International Convention Centre (Westin Hotel), Nusa Dua, Bali.

Locations for all events are included in the Agenda and summarised in the meeting schedule at the end of the Agenda.

Participation in Working Group Meetings and Technical Seminars, Monday 7 July

Meetings of the APG Working Group on Typologies, the Implementation Issues Working Group and the Technical Seminars are open to **all APG members and observers**.

Participation in Annual Meeting, Tuesday 8 to Friday 11 July

The Opening Ceremony at Session I on Day 1 is an open session, open to **all APG members** and observers, the media and VIPs.

Session II, Item 4 on Day 1 is a closed confidential session and is for APG members and the FATF only.

All other sessions of the Annual Meeting are open to all participating APG members and observers.

APG Technical Assistance and Training Forum

Meetings of the Technical Assistance and Training (TA&T) Forum are open to members of the APG Donors and Providers (DAP) Group only. As part of the TA&T Forum, individual jurisdiction sessions with the DAP Group will be held in parallel with the Annual Meeting sessions. Jurisdictions will be notified of individual session times in advance.

Official Photograph

An official Annual Meeting photograph will be taken prior to morning tea on Tuesday 8 July.

Pre-Plenary Seminars and Meetings

Monday 7 July 2008

Working Group meetings, technical seminars and ME preparation meetings will be held on Monday 7 July 2008.

Separate agendas will be distributed for each of these seminars and meetings.

The program for Monday 7 July will be as follows:

- 0900 – 1030 - APG Typologies Working Group meeting (Nusantara Room 3)
- 1030 – 1100 *Morning tea* (*Pre-function - Nusantara 1-2*)
- 1100 – 1230 - APG Implementation Issues Working Group (IIWG) meeting (Nusantara Room 3)
- 0900 – 1230 - Donors and Providers Open Seminar (Jakarta Room A); Office of Technical Assistance, US Treasury Department (OTA), United Nations Office on Drugs and Crime (UNODC), World Bank; and Bank Negara Malaysia
- 1230 – 1400 *Lunch* (*Exhibition Gallery*)
- 1330 – 1700 - Three APG Technical Seminars will be held simultaneously for participants not involved in other meetings (NB registration required) as follows:
 - (1) Technical Seminar 1
Establishing an Effective AML/CFT Supervisory Regime: Approaches to addressing Systemic Issues (Jakarta Room A)
 - (2) Technical Seminar 2
Investigating and tracing assets (proceeds of crime and terrorist assets): practical issues for FIUs and law enforcement (Jakarta Room B)
 - (3) Technical Seminar 3
Forfeiture and confiscation: practical issues for prosecution agencies (Nusantara Room 3)
- 1530 – 1600 *Afternoon tea* (*Pre-function - Nusantara 1-2*)
- 1600 – 1645 - Meeting of APG Members undergoing a Mutual Evaluation in late 2009 / early 2010 (Bandung Room).

OFFICIAL RECEPTION

[All APG Members and Observers are invited to attend]

1900 – 2100 OFFICIAL RECEPTION

Venue: Pool Side, Westin Hotel

Dress: Dress standard is smart casual attire

- (iii) APG's Associate Membership of the FATF
 - a. Participation in FATF Plenary meetings 2007–08
 - b. Joint FATF/APG Typologies Meeting 2007
 - c. Relationships with other FSRBs and other activities
 - d. Review of the 40 + 9 Recommendations

Oral report by APG Secretariat and plenary discussion

[FATF Associate Membership 2008]
[FATF Associate Membership 2008 – ADD1]
- (iv) Report against APG Business Plan 2007 – 08
Oral report by APG Secretariat and plenary discussion

[Business Plan 07 – 08 report]
- (v) APG Secretariat: structure and operation
Oral report by APG Secretariat and plenary discussion

[Secretariat Structure 2008]
- (vi) Business Plan 2008 – 09
Oral report by APG Secretariat and plenary discussion

[Business Plan 08 – 09]
- (vii) APG Budget outcomes for 2007 – 08
Oral report by APG Secretariat and plenary discussion

[Budget Paper 2008 – 09]
- (viii) Proposed APG Budget for 2008 – 09
Oral report by APG Secretariat and plenary discussion

[Budget Paper 2008 – 09]
- (ix) APG Information and Communications Strategy 2008
Oral report by APG Secretariat and plenary discussion

[Revisions to Communications Strategy 2008]

1230 – 1330 Lunch

SESSION III: APG mutual evaluations and other assessments

- 1330 – 1430 6. *Previous APG Mutual Evaluations – progress reports***
- (i) Written and oral reports and plenary discussion concerning progress against recommendations made in mutual evaluation reports adopted at the 2007 Annual Meeting:
 - a) Thailand
 - b) Macao, China
 - c) Mongolia
 - d) Chinese Taipei
 - e) Malaysia
 - f) Cambodia

- 1430 – 1700** (ii) Written reports and plenary discussions concerning progress against recommendations made in mutual evaluation reports adopted from 2004 - 2006:

[1530 – 1600 Afternoon Tea]

- a) Vanuatu (2006)
 - b) United States (2006)
 - c) Fiji (2006)
 - d) Sri Lanka (2006)
 - e) Samoa (2006)
 - f) Australia (2006)
 - g) India (2005)
 - h) Nepal (2005)
 - i) Brunei Darussalam (2005)
 - j) Niue (2005)
 - k) Pakistan (2005)
 - l) Marshall Islands (2005)
 - m) New Zealand (2005)
 - n) Cook Islands (2004)
 - o) Bangladesh (2004)
 - p) Korea (2004)
 - q) Philippines (2004)
- Plenary discussion*

1700 – 1720 7. Overview

- (i) APG mutual evaluation activities and issues
Brief overview by APG Secretariat
- (ii) Global assessment activities and issues
Overview by FATF WGEI Co-chair

OFFICIAL DINNER FOR MEMBERS AND OBSERVERS

[All APG Members and Observers are invited to attend]

1900 – 2100

OFFICIAL DINNER

Venue: Poolside, Westin Hotel

Dress: Dress standard is smart casual attire

END OF DAY 1

DAY 2: Wednesday 9 July 2008

SESSION III: APG mutual evaluations and other assessments (cont.)

- 0900 – 1000** **8. *Joint FATF/APG Mutual Evaluation of Canada***
(i) Oral presentation by FATF/APG Evaluation Team of the draft Mutual Evaluation Report on Canada
(ii) Response by Canada
(iii) Plenary discussion and adoption of report **[Canada ME1]**
- 1000 – 1030** **Morning Tea**
- 1030 – 1130** **9. *Joint FATF/APG Mutual Evaluation of Singapore***
(i) Oral presentation by FATF/APG Evaluation Team of the draft Mutual Evaluation Report on Singapore
(ii) Response by Singapore
(iii) Plenary discussion and adoption of report **[Singapore ME1]**
- 1130 – 1230** **10. *Joint FATF/APG Mutual Evaluation of Hong Kong, China***
(i) Oral presentation by FATF/APG Evaluation Team of the draft Mutual Evaluation Report on Hong Kong, China
(ii) Response by Hong Kong, China
(iii) Plenary discussion and adoption of report **[Hong Kong ME1]**
[Hong Kong MER – agreed changes from FATF Plenary]
[Executive Summary of the Hong Kong MER]
- 1230 – 1400** **Lunch**
- 1400 – 1600** **11. *APG Mutual Evaluation of Indonesia***
(i) Oral presentation by APG Evaluation Team of the draft Mutual Evaluation Report on Indonesia
(ii) Response by Indonesia
(iii) Plenary discussion, including intervener questions
(iv) Consideration and adoption of report **[Indonesia ME2]**
- 1600 – 1630** **Afternoon Tea**
- 1630 – 1700** **12. *Mutual evaluation procedures, future evaluations and training***
(i) Adoption of revised APG Mutual Evaluation Procedures
(a) Results of Quality Control Pilot
(b) Delays in completion of draft mutual evaluation reports
[APG Mutual Evaluation Procedures 2008]
[APG Mutual Evaluation Procedures 2008 – ADD1]
(c) FATF/APG Joint Mutual Evaluation Reports: Procedure for Adoption of Reports **[APG Mutual Evaluation Procedures 2008 – ADD2]**
(ii) Second round of APG mutual evaluations: Confirmation of APG Mutual Evaluation program for 2008 – 09 and beyond
Oral presentation by Secretariat and plenary discussion
[Second Round Evaluation Program 2008]
(iii) Training for mutual assessors and for jurisdictions undergoing an evaluation
Short oral report by Secretariat and plenary discussion

END OF DAY 2

DAY 3: Thursday 10 July 2008

SESSION III: APG mutual evaluations and other assessments (cont.)

- 0900 – 1100** **13. APG Mutual Evaluation of Myanmar**
- (i) Oral presentation by APG Assessment Team of the draft Mutual Evaluation Report on Myanmar
 - (ii) Response by Myanmar
 - (iii) Plenary discussion, including intervener questions
 - (iv) Consideration and adoption of the report **[Myanmar ME1]**

1100 – 1130 **Morning Tea**

- 1130 – 1330** **14. IMF Assessment of Palau**
- (i) Oral presentation by IMF Assessment Team of the Draft Assessment Report on Palau
 - (ii) Response by Palau
 - (iii) Plenary discussion, including intervener questions
 - (iv) Consideration and adoption of report **[Palau ME2]**

1330 – 1430 **Lunch**

SESSION IV: Implementing the Global AML/CFT Standards

[Open Session – All APG Members and Observers]

- 1430 – 1500** **15. APG Implementation Issues Working (IIWG) Group**
- (i) Implementation Issues Working Group Report: current and future work
Presentation on the APG Strategic Implementation Planning (SIP) Framework
Oral report by IIWG Co-Chairs and plenary discussion **[SIP Framework]**

- 1500 – 1600** **16. International cooperation issues**
- (i) FATF International Cooperation Review Group (ICRG)
 - (a) Oral presentation by FATF Secretariat
 - (b) APG issues arising*Plenary discussion* **[ICRG Issues 2008]**

1600 – 1630 **Afternoon Tea**

- 1630 – 1730** (ii) APG international cooperation and information sharing
Oral presentation by APG Secretariat and Plenary discussion
[Member jurisdiction reports – various]

OFFICIAL FAREWELL DINNER FOR MEMBERS AND OBSERVERS

[All APG Members and Observers are invited to attend]

1900 – 2100 **OFFICIAL FAREWELL DINNER**
Venue: Budaya Theatre, Nusa Dua Hotel
Dress: Dress standard is smart casual attire.

END OF DAY 3

DAY 4: Friday 11 July 2008

SESSION IV: Implementing the Global AML/CFT Standards

- 0900 – 0915** **17. Anti-corruption and anti-money laundering issues**
Update and presentation on the APG/FATF joint project
Update by the Secretariat and Plenary discussion
[Corruption/AML Project 2008]
- 0915 – 0945** **18. Implementing FATF Special Recommendation VIII**
APG NPO Sector Domestic Reviews Program: outcomes and further work
Report by the UK Charities Commission, APG Secretariat and Plenary discussion
[NPO Sector Reviews 2008]

SESSION V: Typologies

- 0945 – 1015** **19. Examining money laundering and terrorist financing methods and trends: APG Typologies Framework**
- (i) FATF/APG Typologies Workshop 2007: report and outcomes
Short oral report by APG Secretariat
 - (ii) APG Typologies Working Group: current and future work
 - a) APG Yearly Typologies Report for 2008
 - b) 2008 APG Typologies Workshop themes and venue
*Report by APG Secretariat and plenary discussion***[Typologies Working Group Progress Report 2008]**
[APG Yearly Typologies Report 2007–08]
 - (iii) APG Typologies Working Group - chairing arrangements
Short oral report by APG Secretariat

1015 – 1045 **Morning Tea**

SESSION VI: Technical assistance and training (TA&T) issues

- 1045 – 1130** **20. Technical assistance and training**
- (i) Overview of TA& T and Outcomes of TA& T Forum
Short oral report by APG Secretariat
 - (ii) Discussion of specific TA issues and opportunities
 - a) APG and Pacific Island jurisdiction activities
Oral report by APG Secretariat and representative from DAP Group
 - b) APG and ASEAN activities
Oral report by the APG and ASEAN Secretariats
 - (iii) Report by members of the APG DAP Group and Plenary discussion

SESSION VII: APG Co-Chairs, APG Steering Group and Future APG Meetings

- 1130 – 1150** **21. APG Steering Group and hosting future APG Meetings**
- (i) Confirmation of Steering Group membership 2008–09
Oral report by the Co-Chairs
 - (ii) Incoming APG Co-Chair 2008–10
Oral report by APG Co-chairs and plenary discussion
 - (iii) Hosting of the 2009 and 2010 APG Annual Meetings
Oral report by Co-Chairs and APG Secretariat
[Co-Chair & Annual Meetings 2008-10]
- 1150 – 1200** **22. Closing remarks**
Remarks by APG Co-Chairs

1200 – 1330 **Lunch**

END OF ANNUAL MEETING

APG Annual Meeting 2008
Schedule of planned meetings, Sunday 6 July – Friday 11 July 2008

MEETING	TIME	LOCATION
Sunday 6 July		
APG DAP Group Meeting – <u>Donors and Providers only</u> *	1400 – 1700	Jakarta Room A
Monday 7 July		
APG Typologies Working Group meeting	0900 – 1030	Nusantara Room 3
APG Implementation Issues Working Group meeting	1100 – 1230	Nusantara Room 3
Donors and Providers Open Seminar (no registration)	0900 – 1230	Jakarta Room A
Technical Seminar 1	1330 – 1700	Jakarta Room A
Technical Seminar 2	1330 – 1700	Jakarta Room B
Technical Seminar 3	1330 – 1700	Nusantara Room 3
APG Steering Group meeting (Steering Group members only)	1400 – 1430	Bandung Room
Meeting between APG Co-Chairs and APG Secretariat/briefing of incoming Co-Chair	1430 – 1530	Bandung Room
Mutual evaluation planning meeting – members being evaluated in late 2009/early 2010	1600 – 1645	Bandung Room
South Asia Coordination Meeting	1730 – 1830	Jakarta Room A
Official Reception	1900 – 2100	Poolside, Westin Hotel
Tuesday 8 July		
APG Annual Meeting – Session I	0900 – 0950	Plenary Room
APG Annual Meeting – Sessions II (closed session)	1030 – 1045	Plenary Room
APG Annual Meeting – Sessions II and III	1045 – 1720	Plenary Room
APG DAP Group Sessions with individual jurisdictions*	1400 – 1630	Jakarta Room A
ASEAN Coordination Meeting	1645 – 1800	Jakarta Room A
Official Dinner	1900 – 2100	Poolside, Westin Hotel
Wednesday 9 July		
APG Annual Meeting – Session III (continued)	0900 – 1700	Plenary Room
APG DAP Group Sessions with individual jurisdictions*	0900 – 1645	Jakarta Room A
COAMLI Pacific Meeting	1700 – 1830	Jakarta Room A
Thursday 10 July		
APG Annual Meeting – Session III (continued)	0900 – 1330	Plenary Room
APG Annual Meeting – Session IV	1430 – 1730	Plenary Room
APG DAP Group Sessions with individual jurisdictions*	0900 – 1730	Jakarta Room A
Official Farewell Dinner	1900 – 2100	Budaya Theatre, Nusa Dua Hotel
Friday 11 July		
APG Annual Meeting – Sessions V, VI and VII	0900 – 1200	Plenary Room
APG DAP Group Sessions with individual jurisdictions*	0900 – 0945	Jakarta Room A

Participation

The Opening Ceremony at Session I on Day 1 is an open session, open to **all** APG members and observers, the media and VIPs. Session II, Item 4 on Day 1 is a closed confidential session and is for APG members and the FATF only. All other sessions of the Annual Meeting are open to all participating APG members and observers.

* **Important Note:** DAP Group meetings & individual jurisdiction / DAP Group sessions involve sharing information amongst donors. Any member that does not want a donor to share information about the TA&T planned or delivered for their jurisdiction should notify the donor and the APG Secretariat, in advance of the Annual Meeting.

附 件 三

我國參與 2008 年亞太洗錢防制組織年會提報之
「國家報告」(jurisdiction report) 中文版本

2008 年「亞太防制洗錢組織」年會書面國家報告

各國書面國家報告應簡要介紹 2007 年年會後主要反洗錢與打擊資助恐怖分子之發展

主要標題

1. 從 2007 年 7 月以後執行「反洗錢與打擊資助恐怖分子」國際標準所採取之作爲

a) 政策/協調方面之發展（例如建立/加強全國性協調機制、警示提升之工作研討會等）

(1) 法務部於 2007 年 10 月及 2008 年 2 月召集相關機構開會，隨後採取之重要措施列述如下：

✚ 金融監理機關已要求所有金融機構，包括銀行業及其他金融行業，在新修正洗錢防制注意事項中納入異常、無經濟理由、高風險客戶等金融交易之監控。

✚ 內政部於 96 年 10 月 25 日函請不動產仲介經紀商業同業公會全國聯合會、地政士公會全國聯合會儘速於「不動產仲介經紀業倫理規範」、「地政士倫理規範」中增訂有關發現疑似洗錢交易之申報義務。

✚ 爲加強各基金會之聯繫並建立合作機制，內政部每年均辦理聯繫會報，除設定專題進行研討，亦針對共通性問題討論解決方法、同時分享業務推動經驗，並藉此提醒預防被恐怖分子利用。

✚ 從 2008 年 5 月開始，海關會在每月的 1、11 及 21 日將跨境旅客申報攜帶大額外幣之資料，以電磁媒體傳送方式通報洗錢防制中心，取代過去每月通報一次所造成之時間落差。

(2) 洗錢防制中心於 2007 年 12 月 11 日舉辦銀行洗錢防制業務負責人座談會，邀請本國銀行及外國銀行在台分支機構之代表參加，以加強聯繫並溝通洗錢防制相關問題。

(3) 調查局與美國緝毒局合作於 2008 年 4 月 7-11 日在台北舉辦「國際犯罪資產沒收研討會」，計有 50 位來自執法機關及檢察署之代表與會。

(4) 洗錢防制中心於 2008 年 2 月 14 日及 20 日舉辦二場「沒收犯罪所得實體及程序問題研討會」，會議結論提供法務部作爲修法參考。

b) 立法方面之發展，例如新訂/修正之法律（包括審議中）。

(1) 洗錢防制法於 2007 年 7 月 11 日修正通過，新要點如次：

- ✚ 為呼應國際司法互助之潮流，並顧及洗錢防制之國際特殊性，彰顯我國政府願意參與國際間共同打擊洗錢犯罪之決心。爰增訂得基於互惠原則，進行凍結、沒收及沒收分享之國際合作。(修正條文第 9 條第 4 項、第 14 條第 3 項、第 15 條第 2 項)。
- ✚ 為符合 FATF 之建議，爰增訂出入國境攜帶外幣現鈔或有價證券達一定金額以上者，應向海關申報；並增訂海關之通報義務。又明訂外幣未申報或申報不實者，其未申報及超過申報之部分，應沒入之；有價證券未依規定申報或申報不實者，除沒入外，併處罰鍰。(修正條文第 10 條)。
- ✚ 新修正洗錢防制法已經將資助恐怖分子予以罪刑化，該法第 11 條第 3 項規定：「資助國際洗錢防制組織認定或追查之恐怖組織或該組織活動者，處一年以上七年以下有期徒刑，得併科新台幣一千萬元以下罰金」。同法第 3 條第 1 項第 18 款規定：「本法第十一條第三項之罪」，將資助恐怖分子列入洗錢前置重大犯罪之範圍。另外在最新之洗錢防制法第 8 條授權規定事項將疑似資助恐怖分子之交易列為金融機構申報範圍。
- ✚ 為符合電腦處理個人資料保護法之規定，並兼顧國際刑事司法互助之宗旨，爰增訂對於外國政府、機構或國際組織請求我國協助調查者，得基於互惠原則，提供所受理申報、通報資料或調查結果。(修正條文第 16 條)。
- ✚ 配合 APG 評鑑之改善建議，於「洗錢防制法」修正草案中增訂第 8 條第 1 項後段規定（業經行政院於 97 年 4 月函送立法院審議中），對性質可疑但未遂之交易，明確規範金融機構亦負有申報之義務。

(2) 為使配合執行聯合國決議所採取之金融制裁措施，明確取得法源依據，擬具「管理外匯條例」第 19 條之 3 及「國際金融業務條例」第 5 條之 2 修正草案（業經行政院於 97 年 3 月再次函送立法院審議中），明定為配合聯合國決議或國際合作必要時，行政院金融監督管理委員會會同中央銀行報請行政院核定後，得對與特定國家或地區相關之個人、法人、團體、機關或機構於金融機構之帳戶、匯款、通貨或其他支付工具，為禁止提款、轉帳、付款、交付、轉讓或其他必要處置。前述有關外匯管制之相關草案如立法通過，預期將得阻絕聯合國或其他國際組織指定之特定個人或團體利用我國金融機構提供其資金或相關資助，俾善盡我國之國際責任。

c) 管理上之發展 - 金融行業/特定非金融事業及專業人士/替代性匯款業者/非營利組織，例如制定管理規則或指引及私部門發起之行動作為、替代性匯款行業之管理等。

- (1) 爲因應 APG 2007 年對我國第二輪相互評鑑所提出之改善建議事項，通案檢討金融機構大額通貨交易申報及疑似洗錢交易申報之現行規定，整合「洗錢防制法第七條授權規定事項」與「洗錢防制法第八條授權規定事項」，研訂本辦法（預計於 97 年中發布），其規範重點如下：
 - ✚ 依據 APG 評鑑之改善建議與 FATF 建議之國際標準（美金或歐元 1 萬 5 千元），參酌其他國家之現金交易客戶審查義務及申報門檻，將我國一定金額以上通貨交易之客戶審查義務與申報門檻，由現行新臺幣 100 萬元（含等值外幣）以上，調降爲新臺幣 50 萬元（含等值外幣）以上（相當於美金 1 萬 6 千元）。
 - ✚ 參照 APG 評鑑建議，對於免申報之大額通貨交易，明定亦應進行客戶審查與保存交易紀錄。
 - ✚ 參照 APG 評鑑建議，將未遂疑似洗錢交易、交易來自未遵循或未充分遵循 FATF 建議者（不僅限於目前規定之 FATF 不合作國家名單）、及與交易金額多寡無關之其他各種可疑交易，均納入疑似洗錢申報範圍。
- (2) 2007 年 7 月 10 日訂定期貨信託事業管理規則、2007 年 12 月 31 日修正期貨經理事業管理規則，要求期貨信託事業及期貨經理事業對於一定金額以上或疑似洗錢之交易案件應依洗錢防制法之規定辦理。
- (3) 2008 年 1 月 30 日修正證券投資信託事業募集證券投資信託基金公開說明書應行記載事項準則，明訂基金簡介應記載事項應包括證券投資信託事業爲防制洗錢而可能要求申購人提出之文件及拒絕申購之情況，使申購人瞭解防制洗錢相關措施。
- (4) 2007 年 12 月 26 日修正會計師法，以加強會計師及會計師事務所之管理。
- (5) 協調證券公會於 2007 年 8 月、投信投顧公會於 2007 年 10 月修正各該公會之洗錢防制範本，參酌 FATA 第 7 項及第 22 項建議，將國外分支機構之洗錢防制事項納入範本中加以規範。
- (6) 金管會保險局於 2007.01.24 函請產、壽險公會應將洗錢防制法列入業務員資格測驗範圍，壽險公會、產險公會分別函復自 2007.05.01 及 2007.07.01 起之測驗增列。
- (7) 金管會保險局於 2008.01.29 函請產、壽險公會彙整各公司 2007 年洗錢防制教育訓練之辦理情形；並根據產、壽險公會之彙整情形，於 2008.05.08 函申應重視並切實執行洗錢防制教育工作。

(8) 金管會保險局於 2007.12.14 函請保險經紀人商業同業公會、保險代理人商業同業公會研議訂定洗錢防制自律規範。

d) 執法情形，例如重要的調查洗錢案件/起訴、建立/強化金融情報中心、疑似洗錢交易報告統計、起訴、財產扣押及執行特別第 IX 項等。

(1) 相關調查洗錢案件/起訴、疑似洗錢交易報告統計之數據如後段。

(2) 依據美國在臺協會所傳送 68 次恐怖份子或團體名單，FSC 已函請各金融機構及相關公會依「洗錢防制法第 8 條授權規定事項」辦理，請其如發現相關恐怖份子或團體之交易，或其等為最終受益人之交易，應依規定列為疑似洗錢交易，立即向法務部調查局申報，並副知金管會。

(3) 有關「防制洗錢金融行動工作組織」(FATF) 之國際合作觀察小組 (ICRG) 所提報反洗錢與打擊資助恐怖主義有嚴重缺失之國家及地區名單，FSC 已轉知各金融機構及相關公會在案，要求各金融機構對涉及旨揭國家及地區之金融交易嚴予審核。

(4) 配合聯合國安全理事會於 97 年 3 月通過對伊朗續實施制裁之第 1803 號決議文，FSC 業將前揭決議轉知各金融機構及相關公會，請其特別注意與伊朗貿易往來相關之出口信貸、保證或保險等金融交易，以及與伊朗境內銀行及其海外分行與附屬機構之交易活動，其如發現管制名單所列組織或人員之交易，或其等為最終受益人之交易，應依洗錢防制法第八條授權規定事項列為疑似洗錢交易，立即向法務部調查局申報，並副知金管會。

(5) FSC 檢查局為落實洗錢防制法第 7、8 條「確認客戶身分及留存交易紀錄憑證」之規定，除於各相關檢查手冊訂有洗錢防制作業查核專章，俾供檢查金融機構之參考外，並要求實施檢查之人員將銀行辦理開戶時是否落實認識客戶政策(Know Your Customer)及洗錢防制工作是否確實執行列入一般檢查之重點，另對於警示帳戶較多之銀行辦理專案檢查。

(6) 海關已將跨境旅客曾經攜帶超過申報門檻之外幣現金（等值美金 1 萬元）而未申報或申報不實者，列為潛在跨國際現金攜帶之對象而予以加強檢查。一旦有任何可疑犯罪活動被發現，均會馬上通報執法機關進一步調查。

e) 國際合作方面之發展，例如簽署國際公約/法律文書、司法互助協定、引渡條約等。

FATF 四十項建議中之第 40 項建議謂：「各國應確保權責機關能夠提供國際間對等機關最大可能之協助，不問基於主動或被動，應有明確與有效的管道，使相互間能夠迅速且直接的交換有關洗錢及其前置犯罪情報」。因此，做為台灣金融

情報中心的洗錢防制中心多年來不斷投入反制洗錢的努力上。

本局洗錢防制中心除加入亞太防制洗錢組織及艾格蒙聯盟（Egmont Group）等國際防制洗錢組織成爲正式會員，並定期參加該等組織所舉辦之年會、工作組會議；具體推動 FATF 四十項建議中，有關促進洗錢防制國際合作之具體作法：尋求與國外金融情報中心訂定洗錢防制及打擊資助恐怖主義情報交換合作協定、備忘錄之簽署。

96 年間，本局洗錢防制中心先後與百慕達、庫克群島、索羅門群島、聖克里斯多福簽訂「洗錢防制及打擊資助恐怖活動情報交換合作協定／備忘錄」，奠定日後雙方情報交換之基礎。今後，本局洗錢防制中心仍將繼續推動與外國金融情報中心進行簽訂「洗錢防制及打擊資助恐怖活動情報交換合作備忘錄／協定」之工作。

此外，警政署(刑事警察局)除引用中美司法互助協定，並透過國際刑警組織與各國中央局保持聯繫，另與美國(FBI、DEA、秘勤局)及加拿大(皇家騎警)等單位駐香港聯絡處密切合作；警政署(刑事警察局)目前於越南、泰國、菲律賓、日本、馬來西亞、印尼、美國及南非等國均派駐有警察聯絡官與各國交換犯罪情資。

2. 訓練、技術協助及職能提昇行動

a) 簡要敘述在過去 12 個月提供及接受協助之情形。

(1) 爲充分了解替代性匯款系統及非營利組織可能涉及資助恐怖主義，中華台北派四人參加由 APEC 舉辦之兩場座談會，並提供「非營利組織在台現況」簡介。

(2) 洗錢防制中心於 2008 年 2 月 19-21 日，安排蒙古金融情報中心人員 2 名來台接受洗錢防制訓練。2008 年 4 月 21-23 日，安排聖克里斯多福金融情報中心人員 5 名來台接受洗錢防制訓練，課程包括受理及分析金融機構申報疑似洗錢交易、大額通貨交易及海關通報跨國境現金攜帶、協助金融機構建立防制洗錢機制、建立相關電腦資料庫、洗錢態樣及防制策略研究。另外在 2008 年 5 月 21、22 日提供甘比亞執法人員有關反洗錢與打擊資助恐怖分子訓練。

b) 簡要敘述在未來 12 個月需要技術協助之情形（請檢附需求表或協調文件）。

無：

c) 其他職能提昇行動（例如反洗錢與打擊資助恐怖分子訓練）。

(1) 金管會與所屬週邊單位舉辦洗錢防制相關訓練之統計

舉辦單位	年度	訓練內容	場次	人次
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證期局	2007	洗錢防制法令及案例之介紹	1	47
台灣金融研訓院	2007(5月-12月)	洗錢防制研討會	11	350
	、2008(1月-5月)	稽核班	14	593
中華民國證券商業同業公會	2007(7月-11月)	洗錢防制訓練課程	3	278
	2008(2月-5月)	洗錢防制訓練課程	13	1,166
中華民國證券投資信託暨顧問商業同業公會	2007(7月-12月)	洗錢防制法規及案例研習	17	1,111
	2008(1月-5月)	洗錢防制法及案例研習	6	400
中華民國證券暨期貨市場發展基金會	2007(7月-12月)	法規與案例研習	5	278
	2008(1月-4月)	法規與案例研習	3	95
保險局	2007(2月、6月、7月)	為臺灣台北、桃園、台中、高雄地區之保險公司從業人員舉辦洗錢防制課程	4	379
	2008(4月、5月)	為臺灣宜蘭、花蓮、台東、屏東地區之保險公司從業人員舉辦洗錢防制課程	4	220
保險事業發展中心	2007	稽核班	15	754
總計			96	5,671

(2) 為協助金融機構從業人員瞭解疑似洗錢交易之表徵，並遵守洗錢防制法規規定，本局洗錢防制中心應金融機構之要求，派員前往宣導講習，其場次與參加人數如下表

金融機構名稱		小計	
		場次	人次
銀行	本國銀行	47	3,054
	外國銀行	14	785
農漁會信用部		4	377
證券投資信託		8	341
證券商		19	1,223
證券暨期貨發展基金會		1	65
臺灣郵政公司		2	64

保險事業發展中心	32	2,043
票券金融公司	1	55
合計	128	8,007

- (3) 法務部於 96 年 4 月間，在司法官訓練所舉行兩梯次之查緝犯罪所得研習班，以提升本部所屬檢察機關、調查機關就犯罪所得查緝、洗錢資金調查之專業能力。
- (4) 內政部警政署刑事警察局業於 2007 年 12 月辦理「打擊兩岸洗錢、毒品犯罪講習訓練」，以提昇員警調查毒品及洗錢犯罪技能。
- (5) 洗錢防制中心出版之年報自 2008 年開始，對於寄送金融機構部分，已請收件之單位，應將年報傳閱業務相關之人員。金管會檢查局於 2008 年 5 月 7 日函請各相關公會轉知所屬會員，於收到洗錢防制中心年報後，應列入防制洗錢教育宣導，並列入金融檢查項目。
- (6) 洗錢防制中心取得 FATF 之授權許可，將「打擊洗錢與資助恐怖分子風險基礎法之準則—高階原則與程序」譯成中文並登載於 2007 年防制洗錢年報，分送有關機關、金融機構及特定非金融事業體與專業人士參考。
- (7) 洗錢防制中心每年會針對國內洗錢之趨勢與態樣進行分析，刊載於年報中，並將全球性新興洗錢手法之報告適時加以翻譯，張貼於調查局網站中之洗錢防制專屬網頁，供各界人士參考運用，以提高金融機構、特定非金融事業體與專業人士及其他團體對洗錢與資助恐怖分子威脅之警覺。

3. 「亞太防制洗錢組織」之洗錢態樣研究—洗錢方式及趨勢

a) 重要洗錢方式之案例研究。

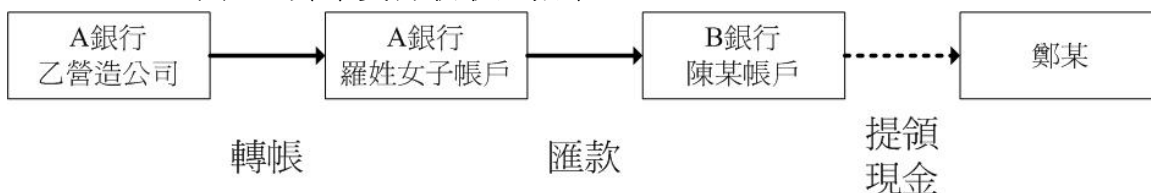
(1) 鄭某貪污收取回扣案

本中心於 94 年間接獲 B 銀行疑似洗錢交易報告，內容略以：「本行客戶陳某平日往來積數不高，昨日由 A 銀行匯入 832 萬後，本人來行表示提領現金 800 萬，行員勸其轉為匯款，仍要求領現，因庫存現金不足，請其明早再來領款。」

經本局洗錢防制中心調查後，發現甲縣縣議會議長鄭某為取得不法利益，遂借用乙公司等廠商牌照圍標甲縣縣議會發包之工程，並由鄭某事先洩漏底價，致使標價格與底價完全相同。工程完竣後，得標廠商扣除成本後，所餘利潤由乙營造公司 A 銀行帳戶轉帳同行羅姓女子帳戶，後匯入鄭某同母異父弟陳某 B 銀行帳戶中，再由陳某提領現金交付鄭某。

本案業於 96 年由南投地方法院檢察署提起公訴。

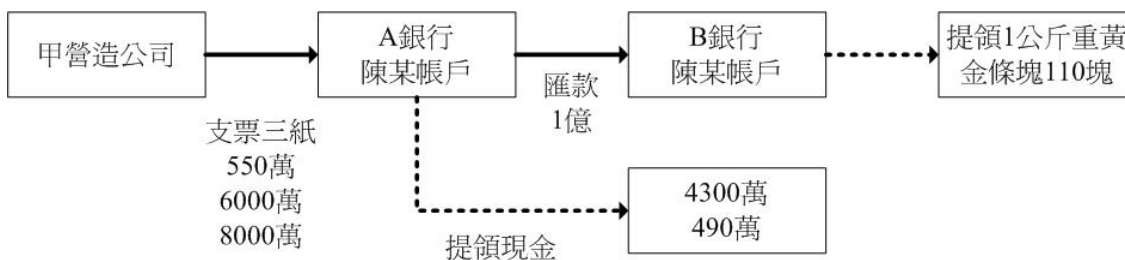
圖 1：鄭某貪污收取回扣案



(2) 貳、陳某詐欺案

本中心於 96 年 12 月 28 日發現資料庫資料顯示，並接獲 A 銀行疑似洗錢交易報告，內容略以：「陳某於其 A 銀行帳戶先後在二日內提領金 4300 萬元及 490 萬元。」經調查後發現陳某於 96 年 12 月 25 日持偽造土地所有權狀向甲建設公司以買賣土地為由詐得本行支票三紙，金額分別為 550 萬元、6000 萬元及 8000 萬元，陳某遂即存入其於同日開設之 A 銀行帳戶。除提領現金外，另於同日匯款 1 億元至陳某 B 銀行帳戶後購買 1 公斤重黃金條塊 110 塊，後於次日搭機赴澳門。

圖 2：陳某詐欺案



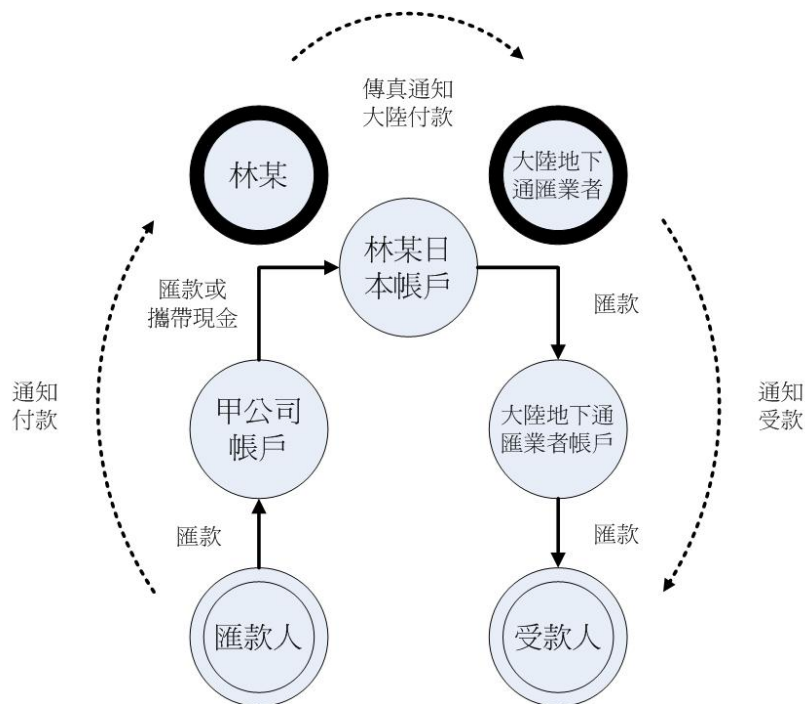
(3) 參、林某違反銀行法案

本局洗錢防制中心於 94 年接獲海關通報：我國籍男子林某於該年 7 月間攜帶日幣 7900 萬元赴日本。

經查林某係甲公司負責人，渠利用甲公司、渠配偶與子女帳戶，接受不特定客戶之委託，從事臺灣與大陸地區間之地下通匯業務，累積匯兌金額高達新臺幣 6 億 4335 萬 3103 元。其方式為：客戶至大陸地區訂購成衣等貨物，僅需交付些許訂金，嗣回臺後，再將尾款以新臺幣匯至林某使用之人頭帳戶。大陸地區商家於收受匯款單之影本傳真後，即將貨物託運至臺灣，而林某在臺將款項兌換成日幣後，以匯款或攜帶現金方式將款存入林某開立於日本之帳戶，其後再將餘額自日本以不詳方式交款予大陸地區之地下通匯業者。其後再交付給出貨之大陸廠商。

本案金融機構未申報疑似洗錢交易報告，業於 96 年由板橋地方法院檢察署提起公訴。

圖 3：林某違反銀行法案



(4) 肆、違反銀行法（地下通匯）

2007年10月29日，臺北市政府警察局偵破邱姓嫌犯等7人涉嫌以家族企業方式經營地下匯兌公司1案，並起獲非法匯兌使用之存摺42本、現金新臺幣320萬元、營運計畫書、客戶銀行帳號登記簿、記帳單、電腦、傳真機等證物。本案目前因臺灣與中國大陸兩岸金融匯款，每次至少需一週時間，致使臺商為求便捷、快速，紛紛透過此種管道進行匯款，該地下匯兌於大陸地區設立據點收受人民幣，並在臺換成新臺幣匯到客戶指定帳戶，標榜「零時差同步快速匯兌、大額款項親送到家服務」，每1元人民幣收取0.02~0.04元匯差，該地下匯兌公司已開設年餘，每日匯款金額上千萬元，自2007年1月初開業以來，透過該不法途徑，進行兩岸資金匯兌資金，多達數億新台幣，不法獲利頗豐，案經臺北市政府警察局佈線查緝到案。該犯罪集團非法經營銀行匯兌業務，已涉嫌違反我國銀行法、洗錢防制法，匯款客戶經由此地下匯兌方式委託匯款亦涉嫌違反臺灣地區與大陸地區人民關係條例、管理外匯條例等規定。

b) 有關洗錢及資助恐怖分子方式與趨勢之研究。

- (1) 洗錢防制中心從無到有正邁入第二個10年，儘管在資源有限的情況下，仍然取得耀眼的成效並獲國內外之好評；但作為洗錢防制工作的一環，無可諱言地，我國的洗錢防制工作仍有許多尚待努力的空間，因此，洗錢防制中心與檢察新論雜誌合作，邀請國內精研洗錢防制之學者專家與實務界人士於96年11月13日舉辦「洗錢防制法十週年回顧與展望研討會」，分別以「沒收洗錢犯罪所得的實體與程序」、「防制洗錢之新思維—論洗錢防制、金融監理與偵查權限」、「辯護人是實行洗錢罪的高危險群？」、「洗錢罪的保護法益與體

系地位」為題進行報告，共同檢討我國洗錢防制工作以往的得失，以為未來策進的參考。

- (2) 96年各地方法院檢察署依洗錢防制法起訴（含緩起訴及聲請簡易判決）之案件計31案，其中透過洗錢防制法第5條第1項之金融機構進行洗錢者，計28案，依金融機構之類型予以區分如下表。

金融機構類型	件數
銀行	24
辦理儲金匯兌之郵政機構	2
信用合作社	1
農、漁會信用部	1
總計	28

犯罪行為人之洗錢方法

洗錢方法	件數
人頭帳戶	17
國外匯款	6
親屬帳戶	2
償還債務	3
總計	28

4. 統計資料

- a) 受理疑似洗錢交易申報及分送數量。

- (1) 疑似洗錢交易申報情形

96年金融機構申報之疑似洗錢交易報告計1,741件（95年為1,281件，94年為1,034件），各類型金融機構申報情形如表2.01，統計數字如下表：

申報機構	申報件數
本國銀行	983
外國銀行	79
信用合作社	15
農、漁會信用部	14
保險公司	63
辦理儲金匯兌之郵政機構	358
證券投資事業	0
證券集中保管事業	227

信用卡公司	2
證券商	0
期貨商	0
合計	1,741

(2) 一定金額以上通貨交易申報情形

96 受理國內金融機構申報大額通貨交易資料，計有 1,190,753 件（95 年為 1,065,879 件，94 年為 1,028,834 件）。各類型金融機構申報情形如下表

申報機構	件數
本國銀行	945,590
外國銀行	6,855
信託投資公司	2,900
信用合作社	49,959
農、漁會信用部	74,796
辦理儲金匯兌之郵政機構	109,764
其他金融機構	889
合計	1,190,753

(3) 受理旅客攜帶外幣現金入出境之通報

FATF 防制資助恐怖活動第 IX 項特別建議規定：「各國應該採取作為，以偵測隨身攜帶現金和無記名可轉讓金融工具之跨國運送，包括啟動宣告系統或其他揭露系統。」，亦即各國應採取措施，監測現金和無記名可轉讓金融工具之跨國運送。

96 年修正之洗錢防制法第 10 條第 1 項規定：「旅客或隨交通工具服務之人員出入國境攜帶下列之物，應向海關申報；海關受理申報後，應向行政院指定之機構通報：一、總值達一定金額以上外幣現鈔。二、總面額達一定金額以上之有價證券。」所謂一定金額指 1 萬元美金或等值外幣。

96 年海關計通報本局洗錢防制中心 5,157 件。

出、入境	件數
入境	2,654
出境	2,503
合計	5,157

(4) 前述三項資料分送處理情形

疑似洗錢交易

處理情形	件數
移送本局辦案單位	273
移送警政及其他行政機關	110
結案存參	1,238
分析中	361

一定金額以上通貨交易

辦理情形	件數
移送本局辦案單位	35
移送警政機關及其他機關	38
結案存參	83
分析中	50
提供情資	3

旅客攜帶外幣現金入出境

處理情形	件數
移送本局辦案單位	5
結案存參	64
分析中	23

b) 反洗錢與打擊資助恐怖分子案件調查、起訴、判決及裁罰之數量。

96 年各地方法院檢察署依洗錢防制法起訴（含緩起訴及聲請簡易判決）之案件如下表

犯罪類型	罪名	調查局	檢察官	警察	總計
一般刑案	強盜	0	0	1	1
	詐欺	0	0	4	4
	擄人勒贖	0	0	2	2
一般刑案 合計		0	0	7	7
毒品犯罪	販賣第三級毒品	1	0	0	1
毒品犯罪 合計		1	0	0	1
貪污犯罪	收取回扣	2	0	0	2
	違背職務收賄	1	0	0	1
	職務行為收賄罪	1	0	0	1
貪污犯罪 合計		4	0	0	4
經濟犯罪	股價操縱	1	2	0	3

	非常規交易	1	0	0	1
	常業重利	1	0	0	1
	常業詐欺	0	0	3	3
	票券金融管理 法	1	0	0	1
	詐欺	0	0	2	2
	業務侵占	4	0	0	4
	銀行法 125 條	3	0	0	3
	銀行法背信罪	1	0	0	1
經濟犯罪	合計	12	2	5	19
總計		17	2	12	31

c) 洗錢與資助恐怖分子案件財產扣押及沒收數量。

(1) 96 年各地方法院檢察署依洗錢防制法起訴（含緩起訴及聲請簡易判決）之案件，洗錢金額總計為 69,103,390,744 元如下表

金額	件數
1 萬元-10 萬元（不含 1 萬元）	3
10 萬元-100 萬元（不含 20 萬元）	3
100 萬元-500 萬元（不含 100 萬元）	2
500 萬元-1000 萬元（不含 500 萬元）	3
1000 萬元-3000 萬元（不含 1000 萬元）	1
3000 萬元以上（不含 3000 萬元）	19
合計	31

(2) 刑事警察局於 2007 年 7 月至 2008 年 4 月破獲違反「洗錢防制法」案件計 26 件，合計獲案贓款新臺幣 326 萬 1700 元整偵。

(3) 調查局及刑事警察局為中華台北兩個主要緝毒機關，在 2007 年均投入更多資源追查毒品犯罪所得。調查局布置 120 名專責毒品調查工作，在全年緝毒案件中，偵破 104 案，扣押不法資金達新臺幣 1830 萬元(約美金 61 萬元)，較前一年扣押新台幣約 110 萬元(約美金 3 萬 5000 元)現金、兩艘漁船及兩輛驕車，已成長很多；刑事警察局在同年亦在毒品犯罪案件中扣押不法資金達新臺幣 2484 萬元(約美金 75 萬元)。

(4) 刑事警察局提供數據

合作國家	案由	緝獲人數	查扣金額	破案日期
菲律賓	擄人(船)勒贖、地下匯兌	5人	新臺幣2000萬	2007.07.27

馬來西亞	偽造信用卡集團	6人	新臺幣9000萬	2008.01.01
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d) 反洗錢與打擊資助恐怖分子之監理檢查與裁罰統計。

- (1) 自 96 年 1 月迄 97 年 4 月，總計有 3 家銀行業者及 1 家台灣郵政公司因違反洗錢防制法第 7 條規定經金管會核處罰鍰案件。
- (2) 96 年 1 月 25 日修正「外幣收兌處設置及管理辦法」，明訂每筆收兌限額、客戶身分確認、交易憑證留存及疑似洗錢交易向調查局洗錢防制中心申報等規定，中央銀行自去年 8 月以來，已大規模檢查收兌處 5 次，以強化該行業遵循反洗錢與打擊資助恐怖分子規範之效能。

e) 國際合作之相關統計數據 – 司法互助協定、引渡條約及金融情報中心資訊交換等。

- (1) 在 2007 年，洗錢防制中心與國外對等機構進行情資交換 86 件，並完成與庫克群島簽署合作備忘錄，與索羅門群島及聖克里斯多福簽署合作協定。在 2008 年上半年，分別與美國及阿魯巴簽署合作備忘錄。
- (2) 金管會於 96 年度與英國、菲律賓、澳洲、印度、約旦、埃及與美國等金融監理機關完成簽署跨業或單業監理合作備忘錄（MOU）或換文（EOL）。
- (3) 海關已加入 CAPERS 組織，並與美國、菲律賓、澳大利亞簽署關務互助協定或情資分享協定，運用多邊及雙邊交流方式，進行情資分享與合作。
- (4) 內政部警政署刑事警察局透過「國際刑警電臺」及派駐他國之警察聯絡官等聯繫機制，可以達到迅速且有建設性的資訊交換。目前於泰國、菲律賓、越南、印尼、馬來西亞及日本等六國派駐警察聯絡官，2008 年 5 月增加派駐美國及南非警察聯絡官以加強國際合作及情資交流。

5. 未來優先採取/計畫行動

- a) 金管會遵循 FATF 建議之門檻（美金或歐元 1 萬 5 千元）及參照其他國家大額通貨交易申報情形，研訂「金融機構通貨交易及疑似洗錢交易申報辦法」，預計於 97 年中發布，規範重點包括將一定金額以上通貨交易申報門檻由現行新臺幣 100 萬元（含等值外幣）以上調降為新臺幣 50 萬元（相當於美金 1 萬 6 千元）、對於免申報之大額通貨交易亦應進行客戶審查與保存交易紀錄、將未遂疑似洗錢交易及來自未遵循或未充分遵循 FATF 建議國家的交易均納入疑似洗錢申報範圍、銀行不得與空殼銀行或允許其帳戶被空殼銀行使用之外國金融機構，建立跨國通匯業務關係。

- b) 法務部已將查緝犯罪所得列為年度工作目標，並鼓勵檢察官積極調查犯罪所得，於必要時扣押被告財產。法務部已採取一些行動，包括要求檢察官在調查洗錢及相關刑事犯罪案件時，採取必要作為以扣押犯罪資產，舉辦毒品犯罪、組織犯罪、貪瀆及經濟犯罪調查之研討會，並提供檢察官更多在職訓練。
- c) 洗錢防制法修正案於 2007 年 1 月 14 日通過並將資助恐怖組織活動罪刑化後，行政院於 2007 年 8 月 16 日成立國土安全部，俾整合並協調國家安全局、國防部、法務部、內政部及金管會等單位之反恐資源，隨後並持續召集多次會議，研討如何監控包括資助恐怖組織及洗錢犯罪等非法活動。
- d) 金融監理單位及洗錢防制中心將持續採取適當措施，包括金融管理重點的改善，洗錢防制最新指引的分送及員工教育訓練，俾加強從業人員對客戶審查、申報大額通貨及疑似洗錢交易的法規認知及執行能力。
- e) 由於網路及通訊技術的改良，新的洗錢手法日新月異，另犯罪集團或恐怖組織結合會計師、律師、電腦專家從事洗錢活動，致使調查洗錢犯罪活動難以進行，因此，執法單位將持續加強金融、資訊領域的專業訓練，提高偵辦洗錢犯罪的能力。

附 件 四

我國參與 2008 年亞太洗錢防制組織年會提報之
「國家報告」(jurisdiction report) 英文版本

Chinese Taipei Jurisdiction Report APG ANNUAL MEETING 2008

Jurisdiction Reports should briefly indicate the major anti-money laundering / combating the financing of terrorism (AML/CFT) developments since the 2007 Annual Meeting.

Subject headings for the report

1. Steps taken since July 2007 to implement the international AML/CFT standards

a) Policy/coordination developments (eg enhancement of national coordinating mechanism, awareness raising workshops etc)

(1) The Ministry of Justice (MOJ) is the competent authority of the Money Laundering Control Act (hereinafter referred to as the MLCA), whereas its Money Laundering Prevention Center (MLPC), Investigation Bureau acts as the Financial Intelligence Unit, which is in charge of coordinating and evaluating the operations of our law-enforcement agencies, financial supervisory agencies, and Customs. To meet the standards proposed by the FATF and APG, The MOJ organized and hosted two cross department coordinating forums on AML/CFT which respectively held in October 2007 and February 2008 for integrating the resources and enhancing cooperation between authorities on AML/CFT, several policies or measures are taking after those forums as follows:

- Financial supervisory authorities have required all financial institutions including banking sector and other financial sectors to contain the monitoring of unusual financial transactions, no economic reason transactions, financial transactions with high risk customers etc. into the new revised Money Laundering Prevention Guidelines and Procedures.
- The MOI (Ministry of Interior) requested the National Association of Real Estate Broking Agencies and the National Association of Land Administration Agents to include the suspicious transaction activity reporting obligation into the Real Estate Broking Agency Ethical Norm of Profession and Land Administration Agents Ethical Norm of Profession on October 25, 2007.
- For enhancing outreach and establishing cooperation mechanism with NPOs, the MOI annually organizes outreach forum for discussing the preset subjects, seeking resolution methods and sharing experiences on work. In the occasions, the authority will raise awareness to all NPOs on the risks and threats of terrorist abuse.
- Beginning from May of 2008, the Customs shall forward all the declaration reports to the MLPC on the first, eleventh and twenty-first day of every month by electronic media instead of once a month in the past for shortening the time gap.

(2) The MLPC organized and hosted a bank's AML/CFT compliance officer forum on December 11, 2007 which invited the representatives from domestic banks and foreign bank's branches and subsidiaries in Taiwan to attend the

meeting for enhancing communication and discussion on the AML/CFT related problems.

- (3) The Investigation Bureau cooperated with Drug Enforcement Agency of US to hold an international asset forfeiture seminar in April 2008. 50 delegates from law enforcement agencies and prosecutors' offices attended the seminar.
- (4) The MLPC ever organized and hosted two seminars related to the object and procedure problems of confiscating proceeds of crime in February 2008. The viewpoints being raised by scholars and prosecutors in the two seminars have been recorded and forwarded to the MOJ for reference on amending the related laws.

b) Legislative developments eg new/amended legislation (incl. pending)

- (1) The amendment of Money Laundering Control Act was passed by the Legislative Yuan and promulgated on July 11, 2007 under presidential decree. New gist of the amendment is as follows:
 - To stay in line with the international trends of mutual aid in judicial matters, in consideration of the international nature of money laundering prevention efforts, and to demonstrate our government's resolve and willingness to participate in the international efforts of combating money laundering crime, provisions are added to MLCA (paragraph 4 of Article 9, paragraph 3 of Article 14, and paragraph 2 of Article 15) to allow the authorities to engage in international cooperation of freezing, confiscating and sharing the proceeds of crime based on the principle of reciprocity.
 - In conformity with the FATF recommendations, provisions are added (Article 10) stipulating that any person carrying cash of foreign currencies or negotiable securities exceeding a certain amount in or out of the country shall make declaration to the Customs. It is also added that in case of failure to declare or untruthful declaration, the amount not declared or the amount not truthfully declared shall be confiscated; in case of negotiable securities, a fine shall be imposed in addition to confiscation.
 - The revised MLCA has already criminalized terrorist financing in the Paragraph 3 of Article 11 which stipulates "Whoever engages in financing terrorist activity or organization that is acknowledged or kept track of by an international anti-money laundering organization shall be imprisoned for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed", and regarded it as a predicate crime of money laundering in the Section 18 Paragraph 1 of Article 3 which stipulates "The crimes prescribed in Paragraph 3 of Article 11 of this Act". In addition, the newest regulations regarding Article 8 of MLCA impose TF reporting obligations on financial institutions.
 - In compliance with the Computer Processed Data Protection Act while giving consideration to international judicial cooperation in criminal matters, provisions are added (Article 16) stipulating that with regard to the request for assistance by foreign governments, institutions or international

organizations, information of declarations or reporting and investigation results may be provided based on the principle of reciprocity.

- In response to a recommendation from the APG mutual evaluation in 2007, a draft amendment to Paragraph 1 of Article 8 of the MLCA was proposed to explicitly require financial institutions to report attempted transactions that are suspicious in nature (submitted by the Executive Yuan to the Legislative Yuan in April 2008).
- (2) To provide the legal basis for financial sanctions in response to the implementations of the UN Resolutions, the Financial Supervisory Commission (FSC) and Central Bank of the Republic of China (CBC) have jointly proposed draft amendments to Article 19-3 of the Foreign Exchange Control Act and Article 5-2 of the Offshore Banking Act (resubmitted by the Executive Yuan to the Legislative Yuan in March 2008). According to the said draft amendments, where it is necessary for actions undertaken under the UN Resolutions or international cooperation, the FSC and the CBC, upon approval of the Executive Yuan, may jointly prohibit withdrawals, remittances, or payments of specific persons, groups, or agencies, or take other necessary dispositions toward them. The said draft amendments related to foreign exchange control are expected to prevent the provision of financial resources or supports to any person or institution designated by the UN or other international organizations.
- c) Regulatory developments - financial sector/DNFBPs/ARS/NPOs (eg issuing of regulations or guidelines, initiatives in the private sector, ARS regulation etc)**
- (1) In response to recommendations from the APG mutual evaluation in 2007, the FSC is proposing the draft “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” (expected to be issued and take effect in mid 2008) after a comprehensive review of the existing regulatory regime governing cash transaction reports (CTRs) and suspicious transaction reports (STRs) by financial institutions. Incorporating the “Regulations Regarding Article 7 of the MLCA ” and “Regulations Regarding Article 8 of the MLCA”, the major regulatory developments in the said draft Regulations are as follows:
- Pursuant to a recommendation from the APG mutual evaluation and the threshold specified in the FATF Recommendations (i.e. USD/€15,000) and with reference to the examples of other countries, the threshold for occasional cash transactions that triggers CDD obligation and cash transaction reporting is lowered from NT\$1 million to NT\$ 500 thousand (approximately US\$16,000).
 - In accordance with a recommendation from the APG mutual evaluation, financial institutions are required to perform CDD and keep transaction records of large-value transactions even when they are exempt from cash transaction reporting.
 - According to the recommendations from the APG mutual evaluation, the regulatory purview of suspicious transaction reporting is further revised.

Financial institutions are required to file STRs of attempted transactions, to pay special attention to transactions from jurisdictions that do not or insufficiently apply the FATF recommendation instead of the NCCT listed jurisdictions stipulated in the existing Regulations, and to report a transaction that is suspicious, irrespective of the amount.

- (2) The FSC issued the “Regulations Governing Futures Trust Enterprises” on 10 July 2007 and amended selected provisions of the “Regulations Governing Managed Futures Enterprises” on 28 November 2006. Futures trust enterprises and managed futures enterprises are required to comply with the relevant regulations of anti-money laundering.
- (3) The FSC amended the Regulations Governing Information to be Published in Prospectuses by Securities Investment Trust Enterprises Offering Securities Investment Trust Funds on 30 January 2008. In order to inform subscribers about anti-money laundering processes, the amended Regulations set out specific particulars that must be noted on the brief description of the fund, and provide that if a subscriber fails to produce any document requested by a securities investment trust enterprise (SITE), the SITE may reject the subscription.
- (4) The Certified Public Accountant Act was amended on 26 December 2007 to strengthen oversight of CPAs and CPA firms.
- (5) The FSC coordinated with the Taiwan Securities Association and the Securities Investment Trust and Consulting Association of the ROC to revise the Checklist of Money Laundering Prevention Guidelines in August and October 2007 in line with FATF Recommendations 7 and 22 in order to make the Guidelines applicable to the financial institutions of branches and majority owned subsidiaries located abroad.
- (6) At the request of the Insurance Bureau of the FSC, the Non-Life Insurance Association of the Republic of China and The Life Insurance Association of the Republic of China have included the Anti-Money Laundering Act into the syllabus of qualification examinations from May 1, 2007 and July 1, 2007 respectively.
- (7) On January 29, 2008 the Insurance Bureau requested both The Non-Life Insurance Association of the Republic of China and The Life Insurance Association of the Republic of China to provide reports on the progress of Anti-Money Laundering training by insurance companies, and on May 8, 2008, the Insurance Bureau reminded the two Associations of the importance of Anti-Money Laundering training.
- (8) On December 14, 2007 the Insurance Bureau requested the Insurance Agents Association of the R.O.C. and the Insurance Brokers Association of the R.O.C. to have a discussion on the setting of Anti-Money Laundering self-regulatory guidelines.

d) Law enforcement developments (eg significant investigations / prosecutions, establishment/enhancement of FIUs, statistics of STRs received, prosecutions, assets seized, implementation of SRIX on cash couriers etc)

- (1) Statistics of STRs received, prosecutions, assets seized are as tabled below.
- (2) Pursuant to the lists of terrorists and groups provided by the American Institute in Taipei (AIT), the FSC has disseminated 68 requests to all financial institutions and related associations to act in accordance with the “Regulations Regarding Article 8 of The Money Laundering Control Act”, i.e. upon the finding of transactions related to the listed terrorists or groups or transactions of which they are the ultimate beneficiaries, a financial institution shall file a prompt report of the suspected transactions with the Money Laundering Prevention Centre, Investigation Bureau of the Ministry of Justice and send a copy thereof to the FSC.
- (3) With respect to the countries or areas with deficiencies in their AML/CFT regime as determined by the International Co-operation Review Group (ICRG) of the FATF, the FSC has disseminated relevant information to all financial institutions and related associations. Financial institutions are urged to take into account the risks arising from the deficiencies in the said jurisdictions, and to exercise enhanced due diligence.
- (4) Pursuant to the mandates of UNSCR 1803 against Iran in March 2008, the FSC has disseminated the list related to the supporters of the Iranian WMD program to all financial institutions and related associations. Financial institutions are required to pay special attention to transactions related to trade with Iran, including granting of export credits, guarantees or insurance. Financial institutions are also required to exercise vigilance in entering into business relationships with all banks domiciled in Iran and their branches and subsidiaries abroad. Moreover, financial institutions are required under the “Regulations Regarding Article 8 of the MLCA” to file STRs with the Money Laundering Prevention Centre upon the finding of any transaction related to the listed persons or groups, or transactions of which they are the ultimate beneficiaries.
- (5) To implement the requirements of customer due diligence and record keeping under Articles 7 and 8 of the MLCA, the Financial Examination Bureau of the FSC has provided for a special chapter in examination handbooks concerning the examinations of AML operations. In addition, financial examiners are required to incorporate the implementation of Know Your Customer policy and AML operation into regular financial examinations and to conduct targeted financial examinations on banks with a relatively large number of Watch-listed Accounts.
- (6) The Customs has regarded the cross border passengers who ever carried foreign currency exceeding the threshold (USD\$10000 or equivalence) but failed to declare or falsely declared to customs as potential cross border currency couriers and shall enhance inspection to the subjects, and any suspected criminal activity being found shall be forwarded immediately to law enforcement agencies for further investigation.

e) International co-operation developments (eg ratification of treaties/instruments, mutual legal assistance developments, MOUs)

According to Recommendation 40 of the FATF, countries should ensure that their competent authorities provide the widest possible range of international co-operation to their foreign counterparts. There should be clear and effective gateways to facilitate the prompt and constructive exchange directly between counterparts, either spontaneously or upon request, of information relating to both money laundering and the underlying predicate offences. The MLPC, serving as the FIU in Taiwan, spares no efforts to play its part in international cooperation to fight money laundering.

In addition to admissions to the Asia/Pacific Group on Money Laundering (APG), the EGMONT Group and other international organizations as regular members, the MLPC also regularly attends annual meetings and regular workshops held by such international organizations. According to 40 Recommendations of the FATF, international cooperation includes the cooperative agreements with foreign FIUs in anti-money laundering and combating financing terrorism, and the signing of Memorandum of Understanding.

In 2007, the MLPC signed Cooperative Agreements and Memorandum of Understanding (MOUs) concerning the exchange of intelligence to combat money laundering and terrorist financing with Bermuda, the Cook Islands, Solomon Islands and Saint Kitts and Nevis. Looking forward, the MLPC will continue similar initiatives to promote the signing of bilateral agreements and MOUs on the exchange of related financial intelligence with other FIUs.

In addition to the protocol on juridical reciprocity between the U.S.A. and Taiwan, the Criminal Investigation Bureau (CIB) also keeps in touch with the competent central authorities of the various countries through the International Criminal Police Organization (Interpol), and closely works with the liaison offices of the U.S.A. (FBI, DEA and USSS) and Canada (RCMP) in Hong Kong. Presently, the Criminal Investigation Bureau has liaison officers in Vietnam, Thailand, the Philippines, Japan, Malaysia, Indonesia, the U.S.A. and South Africa to engage in information exchange.

2. Training, technical assistance and capacity building initiatives

a) Technical assistance provided or received during the past 12 months

- (1) To better understand alternative remittance systems and NPOs involving in financing terrorism, Chinese Taipei sent four experts to attend two workshops held by APEC in 2007 and presented a briefing of “NPOs in Taiwan”.
- (2) The MLPC organized AML/CFT training seminars in Chinese Taipei for delegates from Mongolia FIU and Saint Kitts & Nevis FIU respectively in February 2008 and in April 2008. Training courses include receiving and analyzing financial institutions’ reporting of suspected money laundering transactions and large-sum currency transactions, custom’s reporting of cross-border cash carriage, assisting financial institutions in establishing money laundering prevention mechanism, creating related databases, case study of money laundering topologies and prevention strategies. In addition, the Center

also provides AML/CFT training courses for the law enforcement officers from Gambia in May 2008.

b) Technical assistance required during the next 12 months (please attach any TA&T matrix or coordination documents)

(None)

c) Other capacity building initiatives (eg AML/CFT training)

Please note, this information may have been updated as part of the exercise to update the AML/CFT Needs Matrix.

(1) Statistics on AML training programs provided by the FSC and peripheral institutions

Holding Institution	Year	Content of Training	Number of Sessions	Number of attendees
Securities and Futures Bureau, Financial Supervisory Commission	2007	MLCA and case study	1	47
Taiwan Academy of Banking and Finance	2007 (May-December)	Seminars on AML	11	350
	2008 (January-May)	Auditor courses	14	593
Taiwan Securities Association	2007 (July-November)	AML training courses	3	278
	2008 (February-May)	AML training courses	13	1,166
The Securities Investment Trust and Consulting Association of the R.O.C.	2007 (July-December)	MLCA and case study	17	1,111
	2008 (January-May)	MLCA and case study	6	400
Securities & Futures Institute	2007 (July-December)	MLCA and case study	5	278
	2008 (January-April)	MLCA and case study	3	95
Insurance Bureau, Financial Supervisory Commission	2007 (February, June and July)	AML training programs for associates of insurance companies in Taoyuan, Taipei, Taichung and Kaohsiung.	4	379

	2008 (April and May)	AML training programs for associates of insurance companies in Ilan, Hualien, Taitung and Pingtung.	4	220
Taiwan Insurance Institute	2007	Auditor courses	15	754
Total			96	5,671

(2) Training held by MLPC

To assist personnel of the financial institutions in establishing awareness for the indicators of possible money laundering and in observing the stipulations of the MLCA, the MLPC sent staff to financial institutions as requested for anti-money laundering lectures. The table below shows the number of lectures and participants.

Types of financial institutions		Subtotal	
		No. of lectures	No. of participants
Banks	Domestic banks	47	3,054
	Foreign banks	14	785
Farmers' & fishermen's credit associations		4	377
Securities investment & trusts		8	341
Securities brokers		19	1,223
Securities & Futures Institute		1	65
Taiwan Post Co. Ltd.		2	64
Taiwan Insurance Institute		32	2,043
Bills finance corporations		1	55
Total		128	8,007

- (3) The MOJ held two assets forfeiture seminars in the Judiciary Academy in April 2007 for promoting the professional capability of prosecutors and investigators on ML/FT investigations and prosecutions.
- (4) The CIB held a seminar "Combating Money Laundering and Drug Trafficking between Taiwan and China" in December 2007 for promoting police officer's professional ability on tracing the proceeds of crime from money laundering and drug trafficking.
- (5) Beginning from 2008, the MLPC Annual Report will be distributed to all the AML/CFT compliance officers of financial institutions. The Financial Examination Bureau of the FSC issued an order on May 7, 2008 to require financial institutions to incorporate relevant information into their education guidance on AML/CFT after receiving the annual report. Furthermore, the said annual report will be included into the FSC's financial examination.

- (6) The MLPC obtained permission from FATF to translate the “Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing” into Chinese and included it in the 2007 MLPC annual report that will be distributed to authorities, FIs and DNFBPs for reference.
- (7) The MLPC analyzes the domestic trends, typologies and emerging threats of ML/FT annually and publishes it in the MLPC annual report. In addition, the global emerging ML/FT methods would be posted timely on the AML/CFT dedicated web pages under the Investigation Bureau web site for providing progressive awareness campaign to financial institutions, DNFBPs and other entities.

3. APG Typologies – methods and trends

a) Case studies of significant methods identified

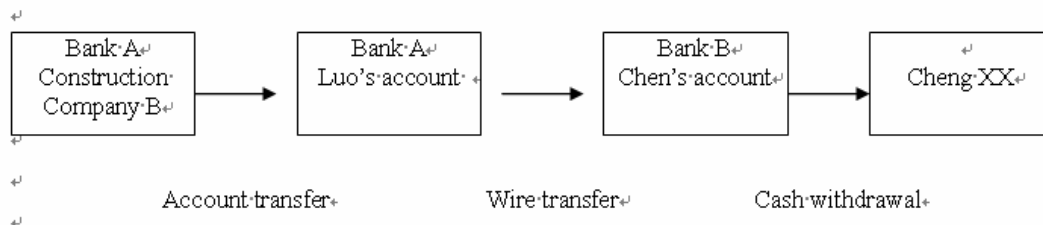
Case study 1: Cheng’s Corruption/Kick-back Case

MLPC received indirectly the Bank B’ s report on activity suspected of money laundering. The report is summed up as follows: “Bank’ s customer Chen XX’s account balance was usually low. Yesterday after NT 8,320,000 was wired into Chen’ s account from Bank A, Chen came to the bank, saying that he would like to withdraw \$8,000,000 in cash. Our bank teller advised him to wire transfer the money, but he insisted on withdrawing the money in cash. Because we did not have that much cash at the bank, we asked Chen to come back the next day.”

An investigation by the MPLC found out that the speaker of XX County Council Cheng XX borrowed the licenses of Construction Company B and several other construction firms to bid for a work of XX County Council. Cheng XX would leak the price ceiling in advance that the award price ended up being exactly identical to the set ceiling. After the work was completed, the contractor deducted its cost and transferred the profit from an account at Bank A into the account of Luo at the same bank, from which, the money was wired into the account of Cheng XX’s half brother Chen at Bank B. Chen then withdrew the money in cash and gave it to Cheng XX.

The Prosecutor’ s Office of Nantou District Court has brought prosecution in 2007.

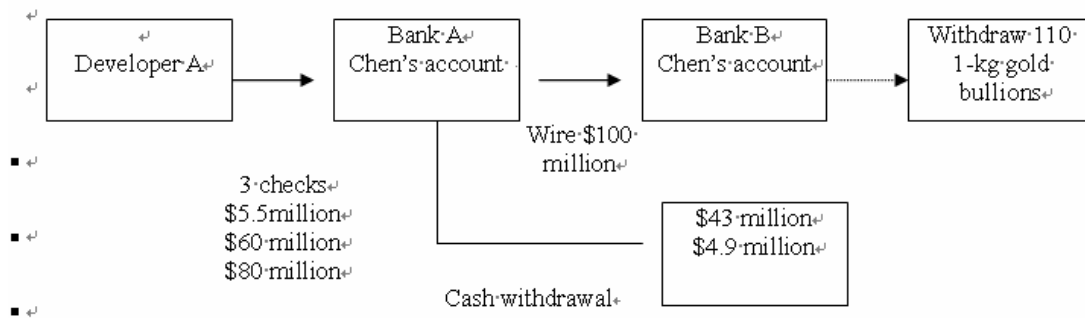
Figure 1: Cheng’s Corruption/Kick-back Case



Case study 2: Chen’s Fraud Case

MLPC discovered in its database and received the Bank A' s report on an activity suspected of money laundering on December 28, 2007. The report is summed up as follows: "Chen withdrew cash from his account at Bank A in the sum of NT 43 million and NT 4.9 million in two days." An investigation found that Chen used a forged land ownership certificate to sell a piece of land to Developer A and received three checks of Bank A in the sum of NT 5.5 million, NT 60 million and NT 80 million respectively. Chen deposited those checks in an account at Bank A opened on the same day. Besides making cash withdrawals, Chen wired NT 100 million into his account at Bank B and used the money to buy 110 1-kg gold bullions. Chen then took a flight to Macao on the following day.

Figure 2: Chen's Fraud Case



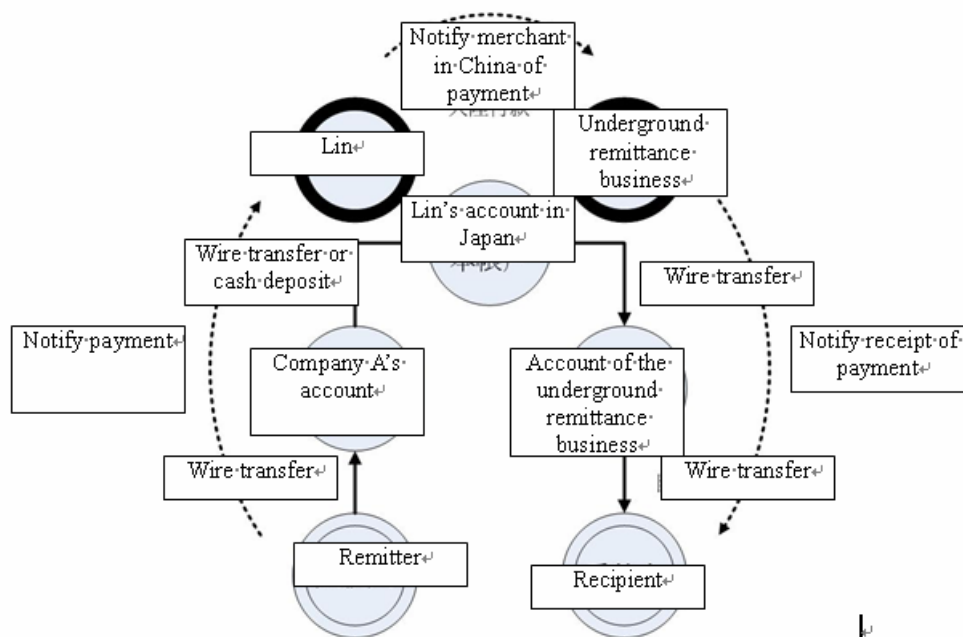
Case study 3: Lin's Violation of Banking Act Case

MLPC received a report from the customs in 2005 that Lin, a ROC citizen, carried ¥79 million with him to Japan in July the same year.

An investigation found that Lin was the responsible person of Company A, and had been using the accounts of Company A, his spouse and children to engage in underground remittance between Taiwan and Mainland China for clients. Money exchanged through Lin over the years amounted to NT 643,353,103. The way Lin did his business was: a client went to China to order goods, such as apparel and paid a small amount of deposit. The client then remitted the balance payment in NTD into a dummy account used by Lin after returning to Taiwan. The merchant in China would ship the goods to Taiwan after receiving a photocopy of the remittance. Lin would exchange the money he received in Taiwan into Japanese Yen and deposited the money into his account in Japan through wire transfer or in cash. He then gave the balance payment to an underground remittance business by unknown means, which then paid the merchant in China.

The financial institutions involved failed to make any suspected money laundering report and have been prosecuted by the Prosecutor's Office of Banchiao District Court in 2007.

Figure 3: Lin's Violation of Banking Law Case



Case study 4: Violation of Banking Law Case (underground remittance)

On October 29, 2007, Taipei City Police Department uncovered 7 suspects, including Chiu, committing to operate alternative remittance service in the form of family business and seized 42 passbooks for the illegal remittance, cash in the amount of NT\$3,200,000, business plan, customers' bank account registry, account books, computers and fax machines, etc.. For the time being, given that the financial remittance between Taiwan and Mainland China will take one week at least per remittance, Taiwanese businessmen successively tend to do money remittance through such channel for the sake of convenience and timeliness. Said alternative remittance service establishes bases in the Mainland China to accept RMB, and exchanged it into NTD in Taiwan and then remitted it to the account designated by the customer. The service boasted "simultaneous exchange and personal service of large payment", and charged the difference in exchange in the amount of 0.02~0.04 RMB per RMB. The alternative remittance service has been incorporated for many years, and the money remitted by it per day amounted to more than ten million dollars. Since the service started business at the beginning of January 2007, the cross-strait funds exchanged through the channel have amounted to more than a hundred million dollars, and the service sought great profits. Eventually, the case was uncovered by Taipei City Police Department upon investigation. The criminal syndicate is held suspected of violating the Banking Law and Money Laundering Control Act because it was engaged in illegal banking exchange business. The customers who commissioned the exchange through the alternative remittance channel are also held suspected of violating Acts Governing Relations Between Peoples of the Taiwan Area and the Mainland Area and Foreign Exchange Control Act therefor.

b) Research / studies undertaken on ML/FT typologies

- (1) The MLPC started from scratch and is now entering its second decade. Despite of limited resources, MLPC has turned out brilliant performance as a part of the money laundering prevention efforts in the past ten years and won positive review at home and abroad. Undeniably, our anti-money laundering work has much room for improvement. That was why MLPC worked with Taiwan Prosecutor Review to hold a Forum on 10-Year Anniversary of Money Laundering Control Act - Retrospect and Outlook on November 13, 2007, several scholars, experts and industry people were invited to present reports on “ Substance and Procedure for Confiscating Proceeds of Money Laundering Crime” , “ New Thinking on Money Laundering Prevention - Money Laundering Prevention, Financial Supervision, and Investigative Power”, “Are Defense Attorneys a High-Risk Group for Committing the Offense of Money Laundering”, and “Protection of Legal Interest in Money Laundering Crime and the Stature of Legal System” respectively. Those reports examine the merits and deficiencies of our past anti-money laundering work and provide reference for future policy making.
- (2) In 2007, there were a total of 31 money laundering cases prosecuted by the district prosecutors’ offices in accordance with the MLCA (including the cases of deterred prosecutions and petitions for summary judgments). Among these cases, 28 of them channeled the proceeds through various financial institutions as referred by Paragraph 1, Article 5 of the MLCA. Please refer to below table

Money laundering through various financial institutions.

Type of financial institutions	No. of Cases
Banks	24
Postal service engaged in money transfers	2
Credit unions	1
Farmers’ & fishermen’s credit associations	1
Total	28

Means of money laundering by criminals

Money laundering methods	No. of Cases
Dummy accounts	17
Remittance abroad	6
Accounts of relatives	2
Repayments of debts	3
Total	28

4. Statistics –

a) Number of suspicious transaction reports received and disseminated;

- (1) Filings of SARs

In 2007, there were a total of 1,741 SARs filed by various types of financial institutions. The number was 1,281 for 2006, and was 1,034 for 2005. Please refer to below table

Reporting entity	No. of filings
Domestic banks	983
Foreign banks	79
Credit unions	15
Farmers' & fishermen's credit associations	14
Insurers	63
Postal service engaged in money transfers	358
Securities investment enterprises	0
Securities depository enterprises	227
Credit Companies	2
Securities brokers	0
Futures brokers	0
Total	1,741

(2) Filings of CTRs

A total of 1,190,753 CTRs were filed by financial institutions in Taiwan in 2007 as follows:

Reporting entity	No. of cases
Domestic bank	945,590
Foreign banks	6,855
Trust & investment companies	2,900
Credit unions	49,959
Farmers'/ Fishermen's credit associations	74,796
Postal service engaged in money transfers	109,764
Other financial institutions	889
Total	1,190,753

(3) Receipt of International Currency Transportation Reports (ICTRs)

According to Recommendation IX of the FATF, "countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation." The purpose of this recommendation is to urge all the countries to put together a system to monitor the transportation of cash and bearer negotiable instruments.

In 2007, the Paragraph 1, Article 10 of the MLCA has been revised as: "All passengers or service crews of transportation carriers should declare to the Customs the following articles which they bring along with them upon entry or

exit the country: (a) Cash of foreign currency over a total value of a certain amount. (b) Portfolio/negotiable securities over a total face value of a certain amount. The certain amount described herewith donates Ten Thousand U. S. Dollars or equivalent foreign exchange. The Customs should report to the authority concerned specified by the Executive Yuan after receiving the Customs declaration.

In 2007, a total of 5,157 cases were reported to the MLPC by Customs as follows:

Inbound & outbound	No. of ICTRs
Inbound	2,654
Outbound	2,503
Total	5,157

(4) Statistics of STRs, CTRs and ICTRs disseminated in 2007

SARs:

Status	No. of Cases
Disseminated to the investigation offices of the MJIB	273
Disseminated to the police agency and other competent agencies	110
Closed and filed to FIU Database for reference	1,238
Under analysis	361

CRTs:

Status	No. of cases disseminated
Disseminated to the MJIB's investigation offices	35
Disseminated to police agency and other competent agencies	38
Closed and filed to FIU Database	83
Under analysis	50
For intelligence	3

ICTRs:

Status	No. of cases
Disseminated to the MJIB's investigation offices	5
Closed and filed to FIU Database	64
Under analysis	23

b) Number of AML/CFT investigations, prosecutions, convictions and sanctions;

Statistics of the prosecuted money laundering offenses in 2007 as follows:

Forwarded to prosecutors/investigators		Investigation	Prosecutors'	Police	Total
Type of offences		Bureau	Office	Agency	
General criminal cases	Robbery	0	0	1	1
	Fraud	0	0	4	4
	Extortion	0	0	2	2
General criminal cases Subtotal		0	0	7	7
Narcotic crimes	Trafficking 3rd grade drugs	1	0	0	1
Narcotic crimes Subtotal		1	0	0	1
Corruption	Kickbacks	2	0	0	2
	Malfeasance and bribery	1	0	0	1
	Bribery through jobbery	1	0	0	1
Corruption Subtotal		4	0	0	4
Economic crimes	market manipulation	1	2	0	3
	Business misappropriation	1	0	0	1
	Habitual usury	1	0	0	1
	Habitual fraud	0	0	3	3
	Violation of Act Governing Bills Finance Business	1	0	0	1
	Fraud	0	0	2	2
	Embezzlement in the Pursuit of Social Activities	4	0	0	4
	Violation of Article 125 of the Banking Law	3	0	0	3
	Anti-trust under the Banking Law	1	0	0	1
Economic crimes Subtotal		17	2	12	31

c) Amount of seizures & confiscation related to ML and TF

- (1) In 2007, the total amount of money laundering proceeds amounted to NTD 69,103,390,744 from the cases prosecuted by district prosecutors' offices (including the cases of deterred prosecutions and petitions for summary judgments) under the MLCA. Statistics of the distributions of laundered money from the proceeds of crime are as follows:

Sum	No. of Cases
NTD 10 thousand (exclusive) – NTD 100 thousand	3
NTD 100 thousand (exclusive) – NTD 1 million	3

NTD 1 million (exclusive) – NTD 5 million	2
NTD 5 million (exclusive) – NTD 10 million	3
NTD 10 million (exclusive) – NTD 20 million	1
NTD 30 million (exclusive) – NTD 30 million	19
Total	31

- (2) The CIB cracked down 26 cases for violation of the MLCA from July 2007 to April 2008, and the illicit seized money reached NT\$3,261,700.
- (3) The MJIB and the CIB, the two major drug enforcement agencies in Chinese Taipei, placed more resources on tracking the illegal funds of drug trafficking in 2007. The Investigation Bureau posted 120 dedicated investigators on drug enforcement and cracked down 104 drug trafficking cases. The seizure of illegal funds from drug trafficking cases reached NTD \$18,300,000 (about USD \$610,000) in total. It has increased quite a few to compare with the previous year of NTD \$1,100,000 (about USD \$35,000) in cash, two fishing boats and two luxury sedans in seizure. The CIB seized illegal funds NTD\$24,844,557 (about USD\$745,000) in 2007 from drug related enforcement.

(4) Statistics from CIB

State	Case	Number of arrested offenders	Amount of seizure	Date of solution
Philippines	Kidnapping (persons and ships) and blackmail, alternative remittance	5 persons	NT\$20,000,000	2007.07.27
Malaysia	Syndicate dedicated to forgery of credit cards	6 persons	NT\$90,000,000	2008.01.01

d) Number of AML/CFT supervisory inspections and statistics of sanctions

- (1) From January 2007 to April 2008, the FSC has imposed fines on 3 banks and 1 postal saving system for violating Article 7 of the MLCA.
- (2) The regulations Governing the Establishment and Administration of Foreign Currency Exchange Bureaus had been amended on January 25, 2007 that explicitly stipulate the limit of each transaction, ascertaining identity of customer, keeping transaction record as evidence and reporting any STR to MLPC. The CBC has already conducted intensive examination 5 times to the industry since August 2007 for enhancing the effectiveness on AML/CFT of the industry.

e) Statistics related to international cooperation – MLA, extradition, FIU info etc.

- (1) In 2007, the MLPC has exchanged 86 pieces of ML/FT information with foreign counterparts, and has respectively signed AML/CFT MOUs with

Bermuda and Cook Islands, AML/CFT agreements with Solomon Islands and Saint Kitts & Nevis. In the first half year of 2008, the MLPC has respectively signed AML/CFT MOU with United States and Aruba.

- (2) In 2007, the FSC signed MOUs or Exchange of Letters for cooperation in single-sector or cross-sector supervision with U.K., Philippines, Australia, India, Jordan, Egypt and U.S.
- (3) The Customs has officially become a member of CAPERS (Customs Asia Pacific Enforcement Reporting System). In addition, the customs has respectively signed agreements or MOUs with the U.S., Philippines and Australia counterparts for sharing customs information.
- (4) The CIB can rapidly exchange criminal information with foreign counterparts through “Interpol Radio Station” and law enforcement liaison officers posted in other countries, such as Thailand, Philippines, Vietnam, Indonesia and Japan. The CIB has increased two law enforcement liaison officers to post in the U.S. and South Africa in May 2008.

5. Future priorities and planned AML/CFT initiatives / activities

- a) The FSC has proposed the draft “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” which will come into effect in the latter of this year. The added/revised regulations are such as the threshold for occasional cash transactions is lowered from NT\$1 million to NT\$ 500 thousand (approximately US\$16,000), performing CDD and keeping transaction records of large-value transactions even when they are exempted from cash transaction reporting, filing STRs of attempted transactions and paying special attention to transactions from jurisdictions that do not or insufficiently apply the FATF recommendation, prohibiting banks from establishing correspondent banking relationships with shell banks and acting as a correspondent bank for any foreign bank that permits its accounts to be used by shell banks.
- b) The Justice Minister made a public announcement in February 2008 to put priority on the criminal prosecutions of proceeds of crime, money laundering and asset forfeiture. Several initiatives have been taken by the MOJ that include requiring prosecutors to take necessary steps to seize assets of crimes while investigating ML and related criminal cases, organizing training seminars for prosecutors specialized in investigating drug, organized crimes, corruption and financial crimes and establishing more practical on-job training programs for the prosecutors.
- c) The third amendment of the MLCA was passed by the Legislative Yuan on June 14, 2007 and criminalized the financing of terrorism. Furthermore, the “Office of Homeland Security” has been established under the Executive Yuan on August 16, 2007 to coordinate the National Security Bureau, Ministry of Defense, Ministry of Justice, Financial Supervisory Commission, Ministry of the Interior and to integrate resources from the abovementioned departments. Therefore, several meetings have been regularly summoned to discuss measurements taken for monitoring and preventing all illegal activities (including any international terrorism organization and money laundering).

- d) The financial supervisory authorities and the MLPC shall continuously undertake proper measures including the improvement of financial supervision, publication of related guidance and education to the employees of financial institutions for strengthening the recognition and implementation of the related laws and regulations about CDD, STR and CTR.

- e) With the improvement of Internet technology and communication facilities, new money-laundering methods have been developed and are updated continually. Illegal or terrorist organizations also gather professional accountants, lawyers and computer experts to engage in sophisticated money laundering. This makes the investigation of money laundering crimes become more difficult. Consequently, all law enforcement agencies will increase professional training in finance and information technology to enhance their money laundering investigation capacity.

附 件 五

我國參與 2008 年亞太洗錢防制組織年會提報之
「進展報告」(progress report) 中文版本

2008年中華台北對於第二輪相互評鑑之改善進展報告

反洗錢與打擊資助恐怖分子之系統	評鑑團提出之改善建議事項	已採取改善作為或準備採取之改善作為
法律系統及相關制度上之作爲		
洗錢罪刑化--建議第1、2項：	<ul style="list-style-type: none"> ● 修正洗錢定義以充分回應維也納公約第3(1)(b)(c)及巴勒莫公約第6(1)有關認定之洗錢犯罪標準。(請參考第一章有關洗錢定義) ● 增加對「財物」及「財產上利益」識別之法律條文。 ● 修正洗錢防制法讓犯罪資產之舉證不需要有前置犯罪定罪爲前提。 ● 重大犯罪之門檻應該調降至6個月。 ● 優先通過對恐怖主義加以罪刑化，包括資助恐怖分子，之法案。 ● 修正相關法條以釐清刑法幫助犯適用於洗錢犯罪。 ● 修正洗錢防制法以允許洗錢犯罪意圖可根據客觀實際情況推定。 ● 刪除洗錢防制法第9條有關「……法人之代表人或自然人對於犯罪之發生，已盡力監督或爲防止行爲者，不在此限。」之條文。 ● 刪除洗錢防制法第10條而將原條文內容列入「洗錢起訴指引」。 ● 改善下列相關統計資料： <ul style="list-style-type: none"> ○ 重大犯罪判決中有引用洗錢法條判決之案件數。 ○ 對於涉及法人因涉及洗錢被處罰金或刑事判決之案件數。 ○ 受到洗錢刑罰之自然人或法人另受到 	<ul style="list-style-type: none"> ● 洗錢防制法在1997年公布施行之後，已經經歷2003年、2006年及2007年之修正，在2007年之主要修正包括： <ul style="list-style-type: none"> ➢ 將詐欺及重利犯罪所得在新臺幣五百萬元以上者，亦列入洗錢前置重大犯罪(第3條) ➢ 將防制洗錢義務擴及某些形態之金融機構，諸如全國農業金庫、信託業等(第5條) ➢ 授權檢察官有權繼續延長凍結期限一次爲限，期間不得逾六個月，並應檢附具體理由聲請該管法院裁定。(第9條第4項) ➢ 鬆綁過去司法互助要以簽署司法互助條約或協定爲前提，改爲目前只要基於平等、互惠原則亦可進行之規定(第9、14、15條) ➢ 將跨國境現金移動申報資訊通報洗錢防制中心之規定予以法制化，並將申報範圍擴及無記名金融產品(第10條) ➢ 資助恐怖分子罪刑化(第11條) ● 法務部正協商所屬統計處及臺灣高等法院檢察署於法務統計中增列相關統計數字。 ● 法務部已於96年4月間，在司法官訓練所舉行兩梯次之查緝犯罪所得研習班，以提升本部所屬檢察機關、調查機關就犯罪所得查緝、洗錢資金調查之專業能力。 ● 內政部警政署刑事警察局業於2007年12月辦理「打擊兩岸洗錢、毒品犯罪講習訓練」，以提昇員警調查毒品及洗錢犯罪技能。 ● 調查局與美國緝毒局合作於2008年4月7-11日在台北舉辦「國際犯罪資產沒收研討會」，計有50位來自執法機關及檢察署之代表與會。

	<p>民事或行政制裁之統計數。</p> <ul style="list-style-type: none"> ○ 由一個機關負責彙整所有有關執法與司法機關之洗錢統計資料，以確保一致性。 ● 為司法人員舉辦實際案例研討會，增進對於證明構成洗錢法律要件之瞭解，另警察機關要加強洗錢犯罪案件偵查技巧。 	
資助恐怖分子罪刑化--特別建議第II項：	<ul style="list-style-type: none"> ● 建議有關機關於反恐怖行動法草案送請立法院審議前，重新檢討並重擬，以確保符合聯合國制止資助恐怖分子公約及打擊清洗黑錢財務行動特別組織特別建議第II項之要求。 ● 希望反恐怖行動法儘速完成草案並送請立法院完成立法。 	<ul style="list-style-type: none"> ● 在2007年7月新修正洗錢防制法中，已經將資助恐怖分子予以罪刑化，該法第11條第3項規定：「資助國際洗錢防制組織認定或追查之恐怖組織或該組織活動者，處一年以上七年以下有期徒刑，得併科新台幣一千萬元以下罰金」。同法第3條第1項第18款規定：「本法第十一條第三項之罪」，將資助恐怖分子列入洗錢前置重大犯罪之範圍。另外在最新之洗錢防制法第8條授權規定事項將疑似資助恐怖分子之交易列為金融機構申報範圍。
凍結、扣押及沒收犯罪資產--建議第3項：	<ul style="list-style-type: none"> ● 有關機關可以在洗錢防制法中釐清第2條、第4條及第12條所提及之「因重大犯罪所得財物或財產上利益」之明確用語。 ● 建議修正洗錢防制法中對於「財物」及「財產上利益」明確定義以確保洗錢犯罪及於直接或間接屬於犯罪資產之所有類型財產。 ● 建議有關機關考慮修正有關法律以清楚回應涉案當事人在知悉或應知悉有關機關於採取暫時性作為懷有偏見時之補救作為。 	<ul style="list-style-type: none"> ● 洗錢防制中心於2008年2月14日及20日舉辦二場「沒收犯罪所得實體及程序問題研討會」，會議結論提供法務部作為修法參考。
凍結被用以資助恐怖分子之資金--特別建議」第III項：	<ul style="list-style-type: none"> ● 應建立清楚之法律條款及程序以凍結恐怖分子資金或其他聯合國安理會第1267決議案所提列特定人士之資產。 ● 要有足夠的法律與程序可以凍結恐怖分子資金或其他聯合國安理會第1373決議案所提列特定人士之資產。 ● 所謂依照聯合國安理會第1267決議案及 	<ul style="list-style-type: none"> ● 洗錢防制法第11條第3項規定：「資助國際洗錢防制組織認定或追查之恐怖組織或該組織活動者，處一年以上七年以下有期徒刑，得併科新台幣一千萬元以下罰金」。同法第3條第1項第18款規定：「本法第十一條第三項之罪」，將資助恐怖分子列入洗錢前置重大犯罪之範圍。該法有關凍結之規定及於聯合國安理會相關決議案所提列之恐怖分子資金及其資產。

	<p>第 1373 決議案之凍結應該可以片面而且立即執行。</p> <ul style="list-style-type: none"> ● 要有足夠法律與程序可以審查並予以承認由其他司法管轄體凍結機制所發起之相關行動。 ● 凍結行動應及於特定人士、恐怖分子、資助主義或組織者所全部擁有或共有或直接、間接控制之資金或其他資產，以及源自或衍生於特定人士、恐怖分子、資助主義或組織者所擁有或直接、間接控制之資金或其他資產。 ● 應具備有效系統可以將凍結機制下所採取的行動傳遞給金融業者。 ● 應提供清楚指引予金融機構及其他可能持有凍結標的資金或其他資產之人或事業體有關在凍結機制採取行動時應負擔之義務。 ● 應具備有效且為大眾所熟悉程序俾便相關之人或團體可以提出解禁或解凍要求。 ● 要有法律條款可以讓受到凍結行動影響之人或團體可以取得解除之管道。 ● 要有適當程序可以請求法院重新審查凍結行動。 	
<p>金融情報中心及其功能--建議第26、30及32項：</p>	<ul style="list-style-type: none"> ● 洗錢防制中心年報應檢討確認可以分送到適當人士手中。 	<ul style="list-style-type: none"> ● 洗錢防制中心出版之年報自 2008 年開始，對於寄送金融機構部分，已請收件之單位，應將年報傳閱業務相關之人員。金管會檢查局於 2008 年 5 月 7 日函請各相關公會轉知所屬會員，於收到洗錢防制中心年報後，應列入防制洗錢教育宣導，並列入金融檢查項目。
<p>執法、檢察及其他權責機關-負責調查、起訴相關犯罪及沒收與凍結--建議」第27、28、30及32項：</p>	<ul style="list-style-type: none"> ● 需要運用更多資源於毒品犯罪有關資產之洗錢犯罪調查。 ● 緝毒中心與刑事警察局毒品調查人員要有能力調查毒品犯罪所得及洗錢，統計資料顯示此一部分相當缺乏。 	<ul style="list-style-type: none"> ● 調查局及刑事警察局為中華台北兩個主要緝毒機關，在 2007 年均投入更多資源追查毒品犯罪所得。調查局布置 120 名專責毒品調查工作，在全年緝毒案件中，偵破 104 案，扣押不法資金達新台幣 1830 萬元(約美金 61 萬元)，較前一年扣押新台幣約 110 萬元(約美金 3 萬 5000 元)現金、兩艘漁船及兩輛驕車，

	<ul style="list-style-type: none"> ● 建議主要執法機關要建立洗錢及犯罪資產追查專責單位，增加額外資源及配賦會計鑑識專家，針對犯罪資產進行調查並採取行動。 ● 應檢討執法機關在證明資金源自某一特定犯罪所遭遇之困難及問題，可以考量建立民事沒收體制。 	<p>已成長很多；刑事警察局在同年亦在毒品犯罪案件中扣押不法資金達新台幣 2484 萬元(約美金 75 萬元)。</p> <ul style="list-style-type: none"> ● 法務部已將查緝犯罪所得列為年度工作目標，並鼓勵檢察官積極調查犯罪所得，並於必要時扣押被告財產。法務部已採取一些行動，包括要求檢察官在調查洗錢及相關刑事犯罪案件時，採取必要作為以扣押犯罪資產，舉辦毒品犯罪、組織犯罪、貪瀆及經濟犯罪調查之研討會，並提供檢察官更多在職訓練。為研究美國民事沒收制度，將選派檢察官一名於今年 6 月間前往美國研究並實地見習，以儘速研究我國可行之方案。 ● 調查局與美國緝毒局合作於 2008 年 4 月 7-11 日在台北舉辦「國際犯罪資產沒收研討會」，計有 50 位來自執法機關及檢察署之代表與會。
<p>跨國境現金攜帶申報或揭露 --特別建議」第IX項：</p>	<ul style="list-style-type: none"> ● 海關應儘速檢討人力與資源問題。 ● 應檢討旅客攜帶大額現金申報系統在海關資源欠缺以致減損執法效果之情形。 ● 應建立研判潛在專門從事現金攜帶者系統並確實執行以及增加隨機抽驗旅客之數量。 ● 應檢討海關對於發現跨國境現金攜帶可以立即進行調查及採取制止行動之權力及訓練，預防資金跨國境移動之能力要加強以配合其他已採取之有效作為。 ● 應檢討未申報及走私現金之制裁作為以進行強力遏止，併科沒收超過金額以外之其他制裁，以鼓勵對於申報系統之遵循。 	<ul style="list-style-type: none"> ● 海關每年均招考新進人員，2007 年增加 363 人以彌補人力之不足，並採用風險管理系統及運用先進掃描機具，以提升執行成效。 ● 海關實施紅、綠線通關制度，並已責成關員加強對跨境旅客使用綠線檯（免申報檯）通關之抽核。 ● 海關已將跨境旅客曾經攜帶超過申報門檻之外幣現金（等值美金 1 萬元）而未申報或申報不實者，列為潛在跨國際現金攜帶之對象而予以加強檢查。 ● 雖然海關關員對於任何非法攜帶超過門檻之外幣現金或發現有疑似犯罪活動者並無犯罪調查或偵訊權力，但是一旦有任何可疑犯罪活動被發現，均會馬上通報執法機關進一步調查。 ● 從 2008 年 5 月開始，海關會在每月的 1、11 及 21 日將跨境旅客申報攜帶大額外幣之資料，以電磁媒體傳送方式通報洗錢防制中心，取代過去每月通報一次所造成之時間落差。 ● 新修正之洗錢防制法於 2007 年 7 月 11 日正式施行，其中第 10 條規定： 「旅客或隨交通工具服務之人員出入國境攜帶下列之物，應向海關申報；海關受理申報後，應向行政院指定之機構通報： 1. 總值達一定金額以上外幣現鈔。 2. 總面額達一定金額以上之有價證券。 前項之一定金額、有價證券、受理申報與通報之範圍、程序及

		<p>其他應遵行事項之辦法，由財政部會同法務部、中央銀行、行政院金融監督管理委員會定之。</p> <p>外幣未依第一項之規定申報者，所攜帶之外幣，沒入之；外幣申報不實者，其超過申報部分之外幣沒入之；有價證券未依第一項規定申報或申報不實者，科以相當於未申報或申報不實之有價證券價額之罰鍰。」</p>
<p>預防性作為- 金融機構</p>		
<p>洗錢與資助恐怖分子之風險</p>		
<p>金融機構--客戶審查與紀錄保存--客戶審查，包括強化或刪減之措施--建議第5-8項：</p>	<ul style="list-style-type: none"> ● 降低啟動對偶發性交易之客戶審查義務門檻並考量使用更安全及具透通性交易方式。 ● 清楚要求金融機構將辨識利益擁有人作為客戶審查之例行性程序。 ● 要求金融機構採取合理措施核對客戶是否代理他人進行交易並辨識最終之利益控制或擁有人。 ● 要求金融機構辨識法人或法律合意之最終利益控制或擁有人。 ● 要求金融機構對免申報大額通貨交易之大額交易要進行客戶審查及留存交易紀錄。 ● 要求金融機構對免申報大額通貨交易之高值交易要進行客戶審查及留存交易紀錄。 	<ul style="list-style-type: none"> ● 研訂「金融機構通貨交易及疑似洗錢交易申報辦法」，預計於97年中發布，以整合「洗錢防制法第七條授權規定事項」與「洗錢防制法第八條授權規定事項」，其規範重點如下： <ul style="list-style-type: none"> ➢ 遵循 FATF 建議之門檻（美金或歐元 1 萬 5 千元）及參照其他國家大額通貨交易申報情形，將一定金額以上通貨交易之客戶審查義務與申報門檻，由現行新臺幣 100 萬元（含等值外幣）以上，調降為新臺幣 50 萬元（含等值外幣）以上（相當於美金 1 萬 6 千元）。 ➢ 對於免申報之大額通貨交易，明定亦應進行客戶審查與保存交易紀錄。 ➢ 將未遂疑似洗錢交易、交易來自未遵循或未充分遵循 FATF 建議者（不僅限於目前規定之 FATF 不合作國家名單）、及與交易金額多寡無關之其他各種可疑交易，均納入疑似洗錢申報範圍。 ● 有關金融機構之客戶審查措施，應包括確認客戶是否代理他人或實際受益人之合理措施一節，擬修正「銀行對疑似不法或顯屬異常交易之存款帳戶管理辦法」，以明確賦予是類措施之法源依據，同時擬協調銀行公會修正「銀行防制洗錢注意事項範本」。
<p>金融機構--客戶審查與紀錄保存--紀錄保存和電匯規則--建議第10項及特別建議第VII項：</p>	<ul style="list-style-type: none"> ● 金融機構應依洗錢防制法之要求留存交易及客戶紀錄，包括： <ul style="list-style-type: none"> ○ 所有交易紀錄（包括國際交易紀錄），而非僅止於超過新台幣一百萬門檻之現金交易。 ○ 留存之交易紀錄要足以重建證據所需 	<ul style="list-style-type: none"> ● 目前有金融機構交易紀錄之保存已有明確規範，惟散見於「商業會計法」、「銀行防制洗錢注意事項範本」等相關規定，金融機構實務執行面成效並已獲評鑑團口頭肯定。本項改善建議會在未來修正洗錢防制法納入考量。 ● 中央銀行已於 2008 年 6 月 9 日以台央外柒字第 09710031813 號函，要求金融機構對於國外匯入款提供匯款人資訊不足者，

	<p>之憑證。</p> <ul style="list-style-type: none"> ● 金融機構應被要求保存期限： <ul style="list-style-type: none"> ○ 交易完成後 5 年。 ○ 終止帳戶或生意往來之客戶資料 5 年。 ● 金融機構應被要求保存帳戶檔案及生意代理關係。 ● 洗錢防制法對於紀錄保存條款應擴及所有交易及客戶紀錄，以符合 FATF 建議。 ● 要有明確要求使金融機構有清楚程序可以處理匯入款項未跟隨原始匯款人資訊之交易。 	<p>在 2008 年 7 月 6 日前應訂定風險管理程序，包括：</p> <ul style="list-style-type: none"> ➢ 要求匯出款項之金融機構傳送所缺少之匯款人資訊。 ➢ 如果所缺少的資訊不會隨後收到，應考量缺乏完整匯款人資訊是否造成或促成對該筆電匯或交易產生懷疑，如該電匯被視為很可疑，則應行法務部調查局申報。此外該金融機構亦可以決定不受理此筆電匯。 ➢ 在適當情形下，接受款項之金融機構對無法提供匯款人姓名、帳號、住址之金融機構，應考量限制或終止業務往來關係。
<p>金融機構--異常、可疑和其他交易--金融交易與生意往來之監控（建議第11及21項）：</p>	<ul style="list-style-type: none"> ● 有關機關應確保洗錢防制法對於持續監控金融交易之要求涵蓋銀行業及其他所有金融機構並充分遵循。 ● 洗錢防制法修正時，相關管理、監理機關及自治團體可以考量將這些要求納入相關指引中。 ● 課以金融機構對來自遵循 FATF 建議有所不足之國家的交易及生意往來關係要特別注意之義務。 ● 建立有效措施以提醒金融機構有關其他國家在執行反洗錢與打擊資助恐怖分子系統所顯現之弱點。 ● 提供指引予所有金融行業，監控與來自未遵循FATF標準或遵循上顯有不足之國家的客戶。 	<ul style="list-style-type: none"> ● 金融監理機關已要求所有金融機構，包括銀行業及其他金融行業，在新修正洗錢防制注意事項中納入異常、無經濟理由、高風險客戶等金融交易之監控。 ● 目前已無 FATF 不合作國家名單 (NCCT)，金管會業以 FATF 國際合作觀察小組 (ICRG) 之高風險國家名單代之，並已函請各公會轉知金融機構配合辦理在案。 ● 對來自遵循 FATF 建議有所不足之國家的交易及生意往來關係要特別注意之義務，「洗錢防制法第八條授權規定事項」及「銀行防制洗錢注意事項範本」已有相應規範，僅規定文字與 FATF 要求未盡相符。擬配合 FATF 已無不合作國家名單，修正「洗錢防制法第八條授權規定事項」及協調銀行公會配合修正「銀行防制洗錢注意事項範本」相關規定之文字。
<p>金融機構--異常、可疑和其他交易--可疑交易報告和其他報告--建議第13-14、19、25項及特別建議第IV項：</p>	<ul style="list-style-type: none"> ● 應確保： <ul style="list-style-type: none"> ○ 法規上清楚課以金融機構申報與金額多寡無關之可疑交易之義務。 ○ 對於本質上有可疑之未遂交易亦要申報。 ● 對於特別建議第 IV 項金融機構應負擔之義務要清楚規範在洗錢防制法中。 	<ul style="list-style-type: none"> ● 金管會已建議在洗錢防制部分條文修正草案第 8 條第 1 項增列後段規定，對於未完成之疑似洗錢或資助恐怖行動之交易，明訂金融機構亦負有申報義務。 ● 在 2007 年 7 月新修正洗錢防制法中，已經將資助恐怖分子予以罪刑化，該法第 11 條第 3 項規定：「資助國際洗錢防制組織認定或追查之恐怖組織或該組織活動者，處一年以上七年以下有期徒刑，得併科新台幣一千萬元以下罰金」。同法第 3 條第 1

	<ul style="list-style-type: none"> ● 洗錢防制中心應確保完成調查之疑似洗錢交易報告回饋金融機構並確認收到疑似洗錢交易報告。 	<p>項第 18 款規定：「本法第十一條第三項之罪」，將資助恐怖分子列入洗錢前置重大犯罪之範圍。另外在最新之洗錢防制法第 8 條授權規定事項將疑似資助恐怖分子之交易列為金融機構申報範圍。</p> <ul style="list-style-type: none"> ● 洗錢防制中心自 2007 年下半年開始，每半年將各金融機構申報數量及採用情形之統計資料，分送各金融機構參考，另個案部分，如因申報疑似洗錢交易報告發掘犯罪線索，於案件移送之後，會個案函告申報之金融機構並副知金融監理機關適時獎勵。
金融機構--內控及其他措施--內控、遵循、稽核與國外分支機構--建議第15及22項：	<ul style="list-style-type: none"> ● 證券行業應被明確要求建立獨立稽核功能以達到反洗錢與打擊資助恐怖分子之目的。 ● 保險及證券行業應： <ul style="list-style-type: none"> ○ 明確要求所屬金融機構對於分支機構或分公司位在未遵循或未充分遵循 FATF 建議國家與地區內者應予以特別留意。 ○ 課以金融機構對於分行及分公司在所處國家法律允許情形下，遵行母國及所在國兩者中防制洗錢要求較高者之義務。 	<ul style="list-style-type: none"> ● 金管會證期局正與證券公會協調修正「證券業防制洗錢注意事項」範本，納入建立獨立稽核功能之要求，以符合 FATF 建議第 15 項之要求。 ● 2007 年 4 月 2 日，壽險公會及產險公會分別修正防制洗錢注意事項範本，要求： <ul style="list-style-type: none"> ➢ 保險公司應特別留意分支機構或分公司位在未遵循或未充分遵循 FATF 建議國家之情形。 ➢ 在分行及分公司所處國家法律允許情形下，應遵行母國或所在國兩者中防制洗錢要求較高者之義務。 ● 證券業在 2007 年 8 月修正之防制洗錢注意事項範本已經將國外分行及子公司在當地法律允許情形下，應遵循與國內母公司相同洗錢防制標準之要求及 FATF 之建議。
金融機構--內控及其他措施--空殼銀行--建議第18項：	<ul style="list-style-type: none"> ● 確保境內銀行禁止：(1)建立或維持與任何空殼銀行之代理業務關係；及(2)充當國外任何可以被空殼銀行利用之機構的代理銀行角色。 	<ul style="list-style-type: none"> ● 金管會擬請銀行公會配合修正「銀行防制洗錢注意事項範本」，明確要求銀行不得與空殼銀行或允許其帳戶被空殼銀行使用之外國金融機構，建立跨國通匯業務關係。
管理與監督系統 – 權責機關及自律組織		
金融機構--規範、監理、導引、監控和制裁--建議第23、30、29、17、32及25：	<ul style="list-style-type: none"> ● 有關機關應： <ul style="list-style-type: none"> ○ 修正洗錢防制法相關法條以釐清監理機關使用制裁手段之權力。 ○ 釐清外匯交易、電匯及金錢與有價物品移轉服務之監理責任。 ○ 對於違反洗錢與打擊資助恐怖分子有更廣泛之制裁方式。 ● 洗錢防制法及相關指引對於反洗錢與打擊 	<ul style="list-style-type: none"> ● 自 96 年 1 月迄 97 年 4 月，總計有 3 件銀行業者因違反洗錢防制法第 7 條規定經本會核處罰鍰案件，本會將持續督導金融業者落實洗錢防制義務。 ● 在 2007 年 12 月 14 日，金管會保險局已責成保險經紀人商業同業公會、保險代理人商業同業公會訂定洗錢防制自律規範。 ● 金管會檢查局人員逐年增加，2007 年 2 月迄 2008 年 3 月經國家考試分發任用 6 人，自外機關調入 23 人；另每年 6 月、12 月各舉辦為期一週的在職訓練，以精進同仁專業職能。

	<p>資助恐怖分子之要求範圍應擴及保險代理人及經紀人。</p> <ul style="list-style-type: none"> ● 有關機關應依據洗錢防制法考慮更簡化之方式建立指引。 ● 金融檢查局之人力，特別是負責例行及特別檢查者，應重新檢討有足夠人力資源可以應付大量之金融機構。 ● 有關機關應檢討提供外幣兌換處所暴露之洗錢與資助恐怖分子風險。 ● 有關機關對於最近如納入反洗錢與打擊資助恐怖分子規範之外幣兌換處要特別注意其成效。 ● 有關機關應重新檢討中央銀行與台灣銀行在同意、取消及稽核外幣兌換處之法律責任分配。 	<ul style="list-style-type: none"> ● 洗錢防制中心於 2007 年底重新修正「疑似洗錢交易 Q&A」後再版，列印 1000 冊，前後合計出版超過 2 萬冊，提供金融從業人員發掘及申報疑似洗錢交易之參考。 ● 洗錢防制中心於 2007 年 12 月將亞太防制洗錢組織評鑑之最終報告譯成中文，以中、英文併排方式出版 500 冊，分送各有關機關、金融機構及學術單位參考。 ● 考量收兌處可能被利用為進行洗錢或資助恐怖分子之風險，「外幣收兌處設置及管理辦法」於 96 年 1 月 25 日修正，明訂每筆收兌限額、客戶身分確認、交易憑證留存及疑似洗錢交易向調查局洗錢防制中心申報等。 ● 中央銀行對其業務之稽核至為重視，自去年 8 月以來，已大規模檢查收兌處 5 次，以強化該行業遵循反洗錢與打擊資助恐怖分子規範之效能。 ● 有關外幣收兌處設置之核准、廢止核准及必要時業務之查核，本行均委由臺灣銀行管理。其業務之查核，本行亦得自行或會同臺銀辦理，本行「外幣收兌處設置及管理辦法」已有明文規定，本行與臺銀在法律責任之分配相當清楚。
<p>金融機構--金錢或有價物品轉帳服務 (MVT服務業者) --特別建議第VI項：</p>	<ul style="list-style-type: none"> ● 有關金錢或價值轉帳服務 (MVT 服務業者) 之證照、規範及監理應在洗錢防制法及其他相關法律中予以明定。 ● 存在大規模未受規範之匯款管道，要有策略將之導引至正常匯款管道。 ● 有關機關應進一步研究地下匯款之本質，並應考量採取額外作為，以鼓勵使用受到規範之正常匯款管道。 	<ul style="list-style-type: none"> ● 銀行法第 29 條規定：除法律另有規定者外，非銀行不得經營收受存款、受託經理信託資金、公眾財產或辦理國內外匯兌業務。違反前項規定者，由主管機關或目的事業主管機關會同司法警察機關取締，並移送法辦；如屬法人組織，其負責人對有關債務，應負連帶清償責任。執行前項任務時，得依法搜索扣押被取締者之會計帳簿及文件，並得拆除其標誌等設施或為其他必要之處置。 ● 銀行法主管機關金管會，就任何涉嫌違反銀行法第 29 條之非法地下通匯案件均立即移送法務部調查局進行刑事犯罪調查。 ● 法務部調查局於 2007 年偵破違反上揭銀行法案件 20 案，涉案標的達新台幣 3 百餘億元。 ● 中華台北境內確實存在大規模未受規範之匯款管道，但是大部分為台灣與大陸之間過去缺乏直接匯款管道而衍生之地下通匯業務，相信這種情形會在不久的將來建立受規範之正常匯款管道之後而逐漸改善。

預防性措施--非金融事業體與專業人士

客戶審查和紀錄保存--建議第12項：

- 有關機關應：
 - 降低特定非金融事業體與專業人士對於現金交易之客戶審查門檻。
 - 將反洗錢與打擊資助恐怖分子標準與義務擴及尚未被涵蓋之特定非金融事業體與專業人士。
 - 在洗錢防制法中訂定律師、不動產業者、會計師、信託及公司服務業者特別之反洗錢與打擊資助恐怖分子要求。
 - 依據特定非金融事業體與專業人士之業務本質及營業規範，訂定特別規範，詳列相關義務。
 - 針對新納入之特定非金融事業體與專業人士訂定特別的指引。
 - 透過諮詢相關自律組織及業者方式，指定監理機關以監理特定非金融事業體與專業人士之反洗錢與打擊資助恐怖分子作為。
 - 有關機關應優先檢討相關權力與資源，以確保可以要求特定非金融事業體與專業人士充分遵循FATF之相關要求。

- 有關降低啓動客戶審查門檻之義務，金管會正在協商法務部、中央銀行、洗錢防制中心及業者之意見，將從原本的新台幣 100 萬元之門檻，降低至新台幣 50 萬元（約美金 1 萬 6000 元），以符合 FATF 建議之門檻（美金／歐元 1 萬 5000 元）。此一政策一旦決定，將適用所有洗錢防制法所涵蓋之金融機構、特定非金融事業體與專業人士。
- 洗錢防制中心持續密切注意洗錢及資助恐怖分子對本國不同行業所造成之威脅，以及國際社會對於反洗錢與打擊資助恐怖分子之新標準與要求。該中心取得 FATF 之授權許可，將「打擊洗錢與資助恐怖分子風險基礎法之準則—高階原則與程序」譯成中文並登載於 2007 年防制洗錢年報，分送有關機關、金融機構及特定非金融事業體與專業人士參考。
- 洗錢防制中心於 2007 年底重新修正「疑似洗錢交易 Q&A」後再版，列印 1000 冊，前後合計出版超過 2 萬冊，提供金融機構及特定非金融事業體與專門專業人員發掘及申報疑似洗錢交易之參考。
- 經濟部於 2003 年為銀樓業者訂定「防制洗錢注意事項」，並在 2004 年頒布「銀樓業者違反洗錢防制法第 7 條第 1 項及第 8 條第 1 項之裁罰標準」。
- 有關機關包括法務部、金管會及內政部正在諮詢相關自律團體及業者將反洗錢與打擊資助恐怖分子之義務納入律師、會計師及不動產業者相關專業倫理規範。

金融交易與生意往來之監控--建議第16項並涵蓋第13-15，17及21項之適用：

- 有關機關應課以所有特定非金融事業體與專業人士申報疑似洗錢交易之義務。
- 有關機關配合對銀樓業者教育訓練外，應加強有關反洗錢與打擊資助恐怖分子之檢查。
- 有關機關應提供特定非金融事業體與專業人士對於發掘異常及可疑交易之教育訓練。
- 有關機關應考慮為特定非金融事業體與專業人士提供有關最新洗錢與資助恐怖分子

- 內政部於 96 年 10 月 25 日函請不動產仲介經紀商業同業公會全國聯合會、地政士公會全國聯合會儘速於「不動產仲介經紀業倫理規範」、「地政士倫理規範」中增訂有關發現疑似洗錢交易之申報義務。惟地政士公會於理監事會議中討論，因看法分歧，並未形成共識。
- 經濟部按行政職權，已盡力與銀樓業者組成之職業團體保持密切性的互動，也曾就違規業者採取重罰政策，一家銀樓業者因為違反洗錢防制法第 7 條規定，未申報大額通貨交易二件，被分別處以新台幣 40 萬元及 100 萬元之罰鍰。另外，經濟部委於 2007 年託專業會計師對 20 家業者進行查核是否遵行洗錢防制

	<p>方式、趨勢及態樣之警示。</p> <ul style="list-style-type: none"> ● 建議有關機關與會計師研商修正會計師法之同時，應考量將反洗錢與打擊資助恐怖分子義務納入。 	<p>法相關規定。以後年度將加強辦理查核工作。</p> <ul style="list-style-type: none"> ● 洗錢防制中心每年會針對國內洗錢之趨勢與態樣進行分析，刊載於年報中，並將全球性新興洗錢手法之報告適時加以翻譯，張貼於調查局網站中之洗錢防制專屬網頁，供各界人士參考運用，以提高金融機構、特定非金融事業體與專業人士及其他團體對洗錢與資助恐怖分子威脅之警覺。
<p>規範、監理和監控--建議第24-25項：</p>	<ul style="list-style-type: none"> ● 建議經濟部對於非公司形態之法人以隨機抽樣方式進行檢查。 ● 考量以更強烈制裁手段確保非法賭場無法營業。 ● 建議有關機關（特別是法務部及洗錢防制中心）廣泛檢討特定非金融事業體與專業人士暴露洗錢之風險並決定負責規範與監理之機關。 ● 確保有關機關具備足夠資源、能力與適當權力可以執行對特定非金融事業體與專業人士之反洗錢與打擊資助恐怖分子要求，包括寶石業者。 	<ul style="list-style-type: none"> ● .非公司型態之法人，其管理機關為各地方地方政府。依據商業登記法規定，商業開業前，應將下列各款申請登記：(第9條) <ul style="list-style-type: none"> ➢ 名稱。 ➢ 組織。 ➢ 所營業務。 ➢ 資本額。 ➢ 所在地。 ➢ 負責人之姓名、住、居所、身分證明文件字號、出資種類及數額。 ➢ 合夥組織者，合夥人之姓名、住、居所、身分證明文件字號、出資種類、數額及合夥契約副本。 ➢ 其他經中央主管機關規定之事項。 <p>前項及其他依本法規定應登記事項，商業所在地主管機關得隨時派員抽查；商業負責人及其從業人員，不得規避、妨礙或拒絕。違反第九條第二項規定者，其商業負責人處新臺幣六千元以上三萬元以下罰鍰。(第34條)</p> <ul style="list-style-type: none"> ● 依據刑法第268條規定，意圖營利，供給賭博場所或聚眾賭博者，處三年以下有期徒刑，得併科三千元以下罰金。 ● 內政部警政署刑事警察局業於2008年3月規劃辦理「全國各警察機關查緝賭博專案行動」，以強力查緝職業賭場、網路賭博及六合彩簽賭等犯罪活動。計查獲職業賭場159件(858人)、網路賭博51件(98人)及六合彩簽賭412件(468人)。 ● 法務部律師法研修小組已建議律師公會全國聯合會儘速就律師倫理規範增加疑似洗錢之申報義務，以符合國際要求。 ● 洗錢防制中心曾於2005年舉辦律師及會計學是否納入洗錢防制法規範之學術研討會，因看法分歧，並未形成共識。
<p>其他特定非金融事業體與專</p>	<ul style="list-style-type: none"> ● 應檢討其他特定非金融事業體與專業人士 	<ul style="list-style-type: none"> ● 洗錢防制中心會注意各行業之洗錢威脅，如果有必要會建議主

業人士及確保交易安全之技術--建議第20項：	面對洗錢與資助恐怖分子之脆弱性，諸如藝品古董經銷商。	<p>管機關考慮將各該行業納入洗錢防制規範。相關研究及論文均制裁於洗錢防制年報中。</p> <ul style="list-style-type: none"> ● 法務部分別於2007年10月及2008年2月籌辦二場跨部會反洗錢與打擊資助恐怖分子協調會議，會中各機關與會代表達成共識，對於其他特定非金融事業體與專業人士是否納入反洗錢與打擊資助恐怖分子之體制內，將依面對洗錢威脅之風險進行考量。
法人、法律合意及非營利組織		
法人利益所有權與控制權等資訊之取得--建議第33項：	<ul style="list-style-type: none"> ● 應確保法人需要向中央登記機關正確且及時的揭露有關利益擁有人資訊，包括透過法人或法律合意具最終有效控制該利益之人。 	<ul style="list-style-type: none"> ● 依據公司法相關規定： <ol style="list-style-type: none"> 1 任何公司應向主管機關登記，以取得法人身分及使用該公司名義經營業務之特權。 2 公司左列登記事項，主管機關應予公開，任何人得向主管機關申請查閱或抄錄：(公司法第393條) <ol style="list-style-type: none"> (1) 公司名稱。 (2) 所營事業。 (3) 公司所在地。 (4) 執行業務或代表公司之股東。 (5) 董事、監察人姓名及持股。 (6) 經理人姓名。 (7) 資本總額或實收資本額。 (8) 公司章程。 3 公司應收之股款，股東並未實際繳納，而以申請文件表明收足，或股東雖已繳納而於登記後將股款發還股東，或任由股東收回者，公司負責人各處五年以下有期徒刑、拘役或科或併科新臺幣五十萬元以上二百五十萬元以下罰金。(公司法第9條) 4 公司設立登記後，有應登記之事項而不登記，或已登記之事項有變更而不為變更之登記者，不得以其事項對抗第三人。(公司法第12條)
法律合意利益所有權與控制權等資訊之取得--建議第34項：	<ul style="list-style-type: none"> ● 應引進有效程序以確保有關機關可以及時取得有關法律合意利益所有權與控制權等資訊。 	<ul style="list-style-type: none"> ● 依據信託法相關規定，信託除營業信託及公益信託外，由法院監督，法院得因利害關係人或檢察官之聲請為信託事務之檢查，並選任檢查人及命為其他必要之處分(第60條)。受託人不遵守法院之命令或妨礙其檢查者，處新台幣一萬元以上十萬元

		<p>以下罰鍰(第61條)。公益信託由目的事業主管機關監督。目的事業主管機關得隨時檢查信託事務及財產狀況；必要時並得命受託人提供相當之擔保或為其他處置。受託人應每年至少一次定期將信託事務處理情形及財務狀況，送公益信託監察人審核後，報請主管機關核備並公告之(第72條)。</p>
<p>非營利組織--特別建議第VIII項：</p>	<ul style="list-style-type: none"> ● 應加強對非營利組織被恐怖分子利用之威脅與弱點提出警示之作爲。 	<ul style="list-style-type: none"> ● 為加強各基金會之聯繫並建立合作機制，內政部每年均辦理聯繫會報，除設定專題進行研討，亦針對共通性問題討論解決方法、同時分享業務推動經驗，並藉此提醒預防被恐怖分子利用。 ● 內政部針對社會團體財務管理制度之監督規範，訂有「社會團體財務處理辦法」，該辦法第12條及第13條明訂社會團體之預算決算之編審機制、第20條明訂社會團體財務及會計處理方法、第29條明訂非營利組織之財務憑證保管原則，上開相關規定除確立各級社會團體之財務處理原則，協助組織健全發展外，非營利組織之財務紀錄保留與申報政策亦可加強非營利組織財務透明度與金融透明性，透過合法銀行帳戶處理非營利組織資金往來，並使用正式之金融管道處理非營利團體資金，亦可強化其財務之有效管控與規範。
<p>國內與國際合作</p>		
<p>國內合作與協調--建議第31、32項：</p>	<ul style="list-style-type: none"> ● 有關機關應加強合作以支持執法機關有關反洗錢與打擊資助恐怖分子作爲，諸如國境管制及緝毒等機關。 ● 有關機關應加強合作以支持打擊資助恐怖分子之執行作爲。 	<ul style="list-style-type: none"> ● 洗錢防制中心於2007年12月11日舉辦銀行洗錢防制業務負責人座談會，邀請本國銀行及外國銀行在台分支機構之代表參加，以加強聯繫並溝通洗錢防制相關問題。 ● 法務部分別於2007年10月及2008年2月籌辦二場跨部會反洗錢與打擊資助恐怖分子協調會議，以整合各相關部會對於反洗錢與打擊資助恐怖分子之資源運用及加強協調合作。
<p>國際公約與聯合國特別決議案--建議第35及特別建議第I項：</p>	<ul style="list-style-type: none"> ● 應充分執行並認可或簽署維也納公約、巴勒莫公約及制止資助恐怖分子公約。 ● 建議有關機關修正並導入相關法律以充分執行這些公約之相關條文。 	<ul style="list-style-type: none"> ● 我國雖無法加入左列國際公約成爲締約國，惟為遵守國際公約規範與內容，仍積極透過國際合作管道，推動與外國執法機關簽署雙邊防制洗錢情資交換合作協定或備忘錄，已採取之策進作爲如次：與聖克里斯多福、索羅門群島、百慕達及庫克群島等4國簽署協定或備忘錄，建立合作機制，有助我政府加強打擊此項跨國不法洗錢行爲，落實國際公約之規定。 ● 中華台北業已修正並導入相關法律以充分執行上述公約之相關條文。中華台北於1996年通過「洗錢防制法」，另參照國際公約及亞太防制洗錢組織、艾格蒙聯盟建議我將資助恐怖行動

		<p>罪刑化之要求，於 2008 年 3 月修訂該法部分條文，並送請立法院審議。</p> <ul style="list-style-type: none"> ● 迄 2008 年 6 月，中華台北可望簽署數個洗錢情報交換之雙邊合作備忘錄。
<p>司法互助--建議第32、36-38、特別建議第V項：</p>	<ul style="list-style-type: none"> ● 修正相關法律以釐清在接受請求國提出司法互助請求時不必以請求國已啓動司法訴訟爲要件。 ● 應考慮設計可行機制以決定在多國國家都可起訴案件情形下之最佳起訴地點。 ● 應優先通過臥底偵查法。 	<ul style="list-style-type: none"> ● 司法院與法務部已研擬完成「外國法院委託事件協助法」，全文改爲「法院與外國法院間委託事件協助法」，並增訂檢察機關準用之條文，從原本僅有9個條文，大幅增加爲21個條文。本案已送請立法院審議中，將來若順利修法完成，將成爲我國進行國際司法互助之準據法。 ● 中華台北政府充分認知運用臥底偵查技術於洗錢及資助恐怖分子犯罪案件之重要性，有關機關正在協調立法機關優先通過「臥底偵查法」之立法工作。
<p>引渡--建議第39、37、32及特別建議第V項：</p>	<ul style="list-style-type: none"> ● 建立一個可以和請求國合作之程序以處理引渡法第4條第2項有關國人起訴問題。 	<ul style="list-style-type: none"> ● 法務部正在研擬修正引渡法以配合國際要求。
<p>其他形式之國際合作--建議第40、特別建議第V項及建議第32項：</p>	<ul style="list-style-type: none"> ● 建議引進相關法律，讓洗錢防制中心以外之有關機關： <ul style="list-style-type: none"> ○ 有權可以在平等基礎上與國外對等單位進行資訊交換並可以代表對方進行相關之資料查詢。 ○ 確認可以被請求之資訊範圍並具備保護機制確保收到之資訊只用在被授權之範圍內。 	<ul style="list-style-type: none"> ● 金管會於96年度與英國、菲律賓、澳洲、印度、約旦、埃及與美國等金融監理機關完成簽署跨業或單業監理合作備忘錄（MOU）或換文（EOL）。 ● 在2007年，洗錢防制中心與國外對等機構進行情資交換86件，並完成與庫克群島簽署合作備忘錄，與索羅門群島及聖克里斯多福簽署合作協定。在2008年上半年，分別與美國及阿魯巴簽署合作備忘錄。 ● 爲促進我國與其他國家金融主管機關之國際合作，金管會研訂之金融業服務法草案第29條，已明定政府或其授權之機構得與外國政府、機構或國際組織，就資訊交換、技術合作、協助調查等事項，簽訂合作條約或協定。 ● 洗錢防制中心於2008年2月19-21日，安排蒙古金融情報中心人員2名來台接受洗錢防制訓練。2008年4月21-23日，安排聖克里斯多福金融情報中心人員5名來台接受洗錢防制訓練。另外在2008年5月21、22日提供甘比亞執法人員有關反洗錢與打擊資助恐怖分子訓練。 ● 洗錢防制中心爲「艾格盟聯盟」之會員並積極參與該組織聯絡工作組活動，目前被指定爲蒙古、越南、汶萊、柬埔寨及澳門等國／地區加入該組織之輔導國。

		<ul style="list-style-type: none">● 海關已加入CAPERS組織，並與美國、菲律賓、澳大利亞簽署關務互助協定或情資分享協定，運用多邊及雙邊交流方式，進行情資分享與合作。● 內政部警政署刑事警察局透過「國際刑警電臺」及派駐他國之警察聯絡官等聯繫機制，可以達到迅速且有建設性的資訊交換。目前於泰國、菲律賓、越南、印尼、馬來西亞及日本等六國派駐警察聯絡官，2008年5月增加派駐美國及南非警察聯絡官以加強國際合作及情資交流。
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附 件 六

我國參與 2008 年亞太洗錢防制組織年會提報之
「進展報告」(progress report) 英文版本

2008 CHINESE TAIPEI PROGRESS REPORT REGARDING SECOND ROUND ME RECOMMENDATIONS

AML/CFT System	Recommended Actions	Description of actions taken or being taken to remedy deficiencies
Legal System and Related Institutional Measures		
Criminalization of Money Laundering (R.1 & 2)	<ul style="list-style-type: none"> ● Amend ML definition to reflect Art 3(1)(b)(c) of Vienna Convention and Art 6(1) of Palermo ● Amend legislation to include provision identifying ‘property’ and ‘property interests’ ● Amend MLCA so that conviction of a predicate offence is not necessary when proving that property is POC ● Amend MLCA to reduce threshold to 6 months. ● Prioritize passing legislation to criminalize terrorism including terrorist financing ● Amend legislation to clarify that the ancillary offences of the Code apply to the offence of ML ● Amend MLCA to reflect that intention in ML can be inferred from objective factual circumstances ● Delete from Article 9 the provision regarding employees or representatives ‘engaging within the scope of his or her employment in ML activities’ ● Remove Article 10 and insert it in Prosecution Guidelines on ML ● Improve statistics by <ul style="list-style-type: none"> ○ clearly identifying which cases lead to ML convictions as opposed to the convictions for serious crimes; ○ including or identifying any fines or penalties that may have been imposed 	<ul style="list-style-type: none"> ● The MLCA promulgated in 1997 and experienced amendments in 2003, 2006 and 2007. The main amendments of MLCA in 2007 include: <ul style="list-style-type: none"> ➤ Containing fraud and usury into the predicate crimes of money laundering if the property or property interests obtained from the commission of the crime(s) exceeds NT 5 million dollars. (Article 3) ➤ Extending the imposed obligations of money laundering prevention to certain financial institutions, such as Agricultural Bank of Taiwan, trust enterprises. (Article 5) ➤ Authorizing prosecutor to extend ML assets freezing period one more time to maximum 6 months after applying approval from court during investigation. (Paragraph 4 of Article 9) ➤ Reducing restrictions of mutual legal assistance from MLAT or MLAA as preconditions in the past to can only base on reciprocity and mutual benefits. (Article 9, Article 14, Article 15) ➤ Legislating the declared information of cross border currency movement can be forwarded to the MLPC and expanding the declaration scope to include bearer financial instruments. (Article 10) ➤ Criminalizing terrorist financing. (Article 11) ● The MOJ is coordinating with the Statistics Department and the Prosecutor’s Office of Taiwan High Court to integrate the statistics of ML/FT prosecutions, convictions and convicted persons. ● The MOJ held two assets forfeiture seminars in the Judiciary Academy in April 2007 for promoting the professional capability of prosecutors and investigators on ML/FT investigations and prosecutions. ● The CIB held a seminar named “Combating Money Laundering

	<p>on legal persons involved in the ML;</p> <ul style="list-style-type: none"> ○ noting for inclusion in the statistics, whether the convicted persons (both natural or legal) were subjected to any civil or administrative sanctions; ○ having one body responsible for gathering all ML statistics from the various law enforcement and judicial authorities to ensure consistency and improve reliability for the purposes of assessment as to the effectiveness of the Chinese Taipei AML/CFT regime <ul style="list-style-type: none"> ● Provide practical case workshops for the judiciary aimed at improving their understanding of the legal elements required to prove ML, and the Police to improve their ML investigation skills. 	<p>and Drug Trafficking between Taiwan and China” in December 2007 for promoting police officer’s professional capability on tracing the proceeds of crime from money laundering and drug trafficking.</p> <ul style="list-style-type: none"> ● The Investigation Bureau cooperated with Drug Enforcement Agency of US to hold an international asset forfeiture seminar in April 2008. 50 delegates from law enforcement agencies and prosecutors’ offices attended the seminar.
<p>Criminalization of Terrorist Financing (SR.II)</p>	<ul style="list-style-type: none"> ● It is recommended that the authorities review and re-draft the draft Counter-Terrorism Act Bill to ensure that it satisfies the requirements of the UN Terrorist Financing Convention and SR II before submitting it to the Legislative Yuan. ● Chinese Taipei is encouraged to finalize the draft law and have the law passed by the Legislative Yuan as soon as possible. 	<ul style="list-style-type: none"> ● The new amendment of Money Laundering Control Act (MLCA) in July 2007 has already criminalized terrorist financing in the Paragraph 3 of Article 11 which stipulates “Whoever engages in financing terrorist activity or organization that is acknowledged or kept track of by an international anti-money laundering organization shall be imprisoned for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed” and include it as a predicate crime of money laundering in the Section 18, Paragraph 1, Article 3 of the same Act. In addition, the newest authorized regulation according to Article 8 of the MLCA has imposed TF reporting obligations on financial institutions.
<p>Confiscation, freezing and seizing of proceeds of crime (R.3)</p>	<ul style="list-style-type: none"> ● authorities may want to clarify the MLCA by ensuring the exact phrase “property or property interests obtained from a serious crime” used in Article 2 is used in Articles 4 and 12 ● it is recommended that the Chinese Taipei amend the MLCA to specifically “property” and “property interests” to ensure that the offence of ML extends to all 	<ul style="list-style-type: none"> ● The MLPC ever organized and hosted two seminars related to the object and procedure problems of confiscating proceeds of crime in February 2008. The viewpoints being raised by scholars and prosecutors in the two seminars have been recorded and forwarded to the MOJ to refer on amending the related laws.

	<p>types of property that directly or indirectly represents proceeds of crime</p> <ul style="list-style-type: none"> ● it is recommended that the authorities consider amending the law to clearly reflect the requirement to prevent or void actions, whether contractual or otherwise where persons involved knew or should have known that as a result the authorities would be prejudiced in their ability to recover the property, 	
<p>Freezing of funds used for terrorist financing (SR.III)</p>	<p>Chinese Taipei should:</p> <ul style="list-style-type: none"> ● establish clear legal provisions and procedures to freeze terrorist funds or other assets of persons designated in the list pursuant to UNSCR 1267 ● have effective laws and procedures to freeze terrorist funds or other assets of person designated pursuant to UNSCR 1373 ● The said freezing pursuant to UNSCR 1267 and 1373 should be ex parte and without delay. ● have effective laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions ● The freezing actions should extend to funds or other assets wholly or jointly owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organizations and funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organization. ● have effective systems for communicating actions taken under the freezing 	<ul style="list-style-type: none"> ● Paragraph 3, Article 11 of the MLCA stipulates: “Whoever engages in financing terrorist activity or organization that is acknowledged or kept track of by an international anti-money laundering organization shall be imprisoned for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed” and Section 18, Paragraph 1, Article 3 of the Act, stipulates: “The crimes prescribed in paragraph 3 of Article 11 of this Act”, which includes the terrorist financing into the predicate crimes of money laundering. The legal provisions to freeze the proceeds of money laundering described in the Act can be applied to terrorist funds or other assets of persons designated in the lists of related UNSCRs.

	<p>mechanisms to the financial sector</p> <ul style="list-style-type: none"> ● provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms ● have effectively and publicly-known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed person or entities ● There should be clear provisions for persons or entities affected by the freezing actions to obtain relief ● There should be procedures to challenge measures with a view to having them reviewed by a court. 	
<p>The Financial Intelligence Unit and its functions (R.26, 30 & 32)</p>	<ul style="list-style-type: none"> ● A review of the distribution list of the MLPC Annual Report may be warranted to ensure the report reaches the right people. 	<ul style="list-style-type: none"> ● Beginning from 2008, the MLPC Annual Report will be distributed to all the AML/CFT compliance officers of financial institutions. The Financial Supervisory Bureau issued an order on May 7, 2008 to require financial institutions to incorporate relevant information into their education guidance on AML/CFT after receiving the annual report. Furthermore, the said annual report will be included into the FSC's financial examination.
<p>Law enforcement, prosecution and other competent authorities (R.27, 28, 30 & 32)</p>	<ul style="list-style-type: none"> ● There is a need for more resources to be focused on ML investigations that relate to the proceeds of drug trafficking. ● DEC and Drug investigators within the CIB need to have the capacity to investigate the acquisition of assets and the laundering of drug income. Statistics reflect this is not currently occurring. ● It is recommended that key law enforcement agencies establish dedicated money laundering and proceeds of crime units with additional resources and specialist forensic accountancy capacity to investigate and take action over criminal proceeds. 	<ul style="list-style-type: none"> ● The Investigation Bureau and the Criminal Investigation Bureau, the two major drug enforcement agencies in Chinese Taipei, placed more resources on tracking the illegal funds of drug trafficking in 2007. The Investigation Bureau posted 120 dedicated investigators on drug enforcement and cracked down 104 drug trafficking cases. The seizure of illegal funds from drug trafficking cases reached NTD \$18,300,000 (about USD \$610,000) in total. It has increased quite a few to compare with the previous year of NTD \$1,100,000 (about USD \$35,000) in cash, two fishing boats and two luxury sedans in seizure. The CIB seized illegal funds NTD\$24,844,557 (about USD\$745,000) in 2007 from drug related enforcement. ● The Ministry of Justice made a public announcement in February 2008 Lunar New Year press conference to set priority on the criminal prosecutions of proceeds of crime, money laundering and asset forfeiture. Several initiatives have been taken by the MOJ that

	<ul style="list-style-type: none"> ● Chinese Taipei should review the problems faced by law enforcement where there is difficulty in proving funds were derived from a specific offence. If the findings warrant it, Chinese Taipei may consider a reverse onus provision as part of a civil forfeiture regime. 	<p>include requiring prosecutors to take necessary steps to seize assets of crimes while investigating ML and related criminal cases, organizing training seminars for prosecutors specialized in investigating drug, organized crimes, corruption and financial crimes and establishing more practical on-job training programs for the prosecutors. For studying the possibility to introduce civil forfeiture regime into the judicial system of Chinese Taipei, the MOJ assigned a prosecutor to the U.S. in June 2008 for studying the civil forfeiture system and the practical operation.</p> <ul style="list-style-type: none"> ● The Investigation Bureau cooperated with the U.S. Drug Enforcement Agency to hold an international asset forfeiture seminar in April 2008. 50 delegates from law enforcement agencies and prosecutors' offices attended the seminar.
<p>Cross-border declaration or disclosures (SR.IX)</p>	<ul style="list-style-type: none"> ● An urgent review of customs powers and resources should be undertaken. ● A review of the declaration systems needs to be undertaken to determine if the lack of resources available to the Customs Service to enforce the system is undermining its effectiveness. ● A system of profiling potential cash couriers needs to be established and implemented and the number of random inspections needs to be increased. ● A review of Customs Service powers and training in relation to immediate investigative response to the persons who are discovered at the border with cash needs to be undertaken. ● The capability to prevent the movement of funds over the border needs to be increased to compliment other effective measures in place within the jurisdiction. ● A review of the sanctions available for non-declaration and the smuggling of cash is required. There needs to be a strong deterrent for smuggling or failure to declare currency movements. Sanctions in addition 	<ul style="list-style-type: none"> ● The customs recruits new staff every year. In 2007, the customs increased 363 staff for catching up the insufficiency of human resources. In addition, the customs adopted risk management system and used advanced x-ray screening instruments to promote the efficiency and effectiveness of luggage inspection. ● The customs has implemented Red-Green-Lane customs clearance system and required customs officers to intensify random inspections to the cross border passengers using the Green-Lane (Nothing to Declare) counters. ● The customs has regarded the cross border passengers who ever carried foreign currency exceeding the threshold (USD\$10000 or equivalence) but failed to declare or falsely declared to customs as potential cross border currency couriers and shall enhance inspection to the subjects. ● Although the customs officers do not possess the power to conduct criminal investigation or interrogation to any passenger who illegally carries foreign currency exceeding the threshold, any suspected criminal activity being found shall be forwarded immediately to law enforcement agencies for further investigation. ● Beginning from May of 2008, the customs shall forward all the declaration reports to the MLPC on the first, eleventh and twenty-first day of every month by electronic media instead of once a month in the past for shortening the time gap. ● The new amended MLCA came into force on July 11, 2007. The

	<p>to confiscation of excess funds are required to encourage compliance with the declaration system.</p> <ul style="list-style-type: none"> ● The available sanctions for non-compliance of the declaration needs to be reviewed to ensure that effective and dissuasive sanctions are available for smuggling or failure to declare currency movements. ● A specific sanction for the smuggling of cash needs to be implemented. 	<p>new Article 10 stipulates: Cross border passengers and service crew on board carry the following items shall make declarations to the customs. The customs shall forward the information subsequently to the institution designated by the Executive Yuan.</p> <ol style="list-style-type: none"> 1 Cash of foreign currency with total amount exceeding a certain amount. 2 Negotiable securities with face value exceeding a certain amount. <p>The aforementioned fixed amount of currency and negotiable securities, and the scope, procedures and other matters in relation to declaration and reporting shall be stipulated by the Ministry of Finance in consultation with the Ministry of Justice, the Central Bank, and the Financial Supervisory Commission of the Executive Yuan.</p> <p>Foreign currencies carried but failed to declare in accordance with the provision in paragraph 1 shall be confiscated. In the event of untruthful declaration with regard to the amount of foreign currency carried, the amount exceeding the number declared shall be confiscated; Failure to make declaration with regard to the amount of negotiable securities carried according to paragraph 1 or in the event of untruthful declaration, a fine in the amount equivalent to the amount not declared or not truthfully declared shall be imposed.</p>
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Preventive Measures – Financial Institutions

Risk of money laundering or terrorist financing

<p>Customer due diligence, including enhanced or reduced measures (R.5 to 8)</p>	<p>Chinese Taipei should ensure that key CDD obligations are contained in laws or regulations in keeping with the requirements under the international standards. Chinese Taipei should:</p> <ul style="list-style-type: none"> ● lower the thresholds that trigger CDD obligations for occasional transactions and consider ways to encourage use of more secure and transparent means of transactions ● introduce explicit requirements for financial institutions to identify the 	<ul style="list-style-type: none"> ● The FSC has proposed the draft “Regulations Governing Cash Transactions Reports and Suspicious Transaction Reports by Financial Institutions” which will come into effect in the latter of this year for incorporating the “Regulations Regarding Article 7 of the MLCA ” and “Regulations Regarding Article 8 of the MLCA”. The major regulatory developments in the said draft Regulations are as follows: <ul style="list-style-type: none"> ➤ The threshold for occasional cash transactions that triggers CDD obligation and cash transaction reporting is lowered from NT\$1 million to NT\$ 500 thousand (approximately US\$16,000) for pursuing the threshold specified in the FATF
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	<p>beneficial ownership as part of the routine CDD procedures</p> <ul style="list-style-type: none"> ● require financial institutions to take reasonable measures on all customers to check if the customer is acting on behalf of another person and to identify the natural person who ultimately controls or owns the customer ● require financial institutions to identify the natural person with ultimate effective control over customers that may be legal person/arrangements ● require financial institutions to perform customer due diligence and record-keeping for cash transactions of large amount that are exempt from CTR ● require financial institutions to perform CDD and to keep transaction records on large-value cash transactions even when they are exempt from CTR filing 	<p>Recommendations (i.e. USD/€ 15,000) and with reference to the examples of other countries.</p> <ul style="list-style-type: none"> ➤ Financial institutions are required to perform CDD and keep transaction records of large-value transactions even when they are exempted from cash transaction reporting. ➤ Financial institutions are required to file STRs of attempted transactions, to pay special attention to transactions from jurisdictions that do not or insufficiently apply the FATF recommendation instead of the NCCT listed jurisdictions stipulated in the existing Regulations, and to report a transaction that is suspicious, irrespective of the amount. ● Regarding the recommendation to require financial institutions to take reasonable measures to check if a customer is acting on behalf of another person and to identify the beneficial owner as part of the CDD procedure, the FSC is planning to amend the “Regulations Governing Banks Handling Accounts with Suspicious or Unusual Transactions” to provide the legal basis for the said measures. Meanwhile, the FSC will coordinate with the Bankers Association to revise the Money Laundering Prevention Guidelines and Procedures for Banks to include the said recommendation.
<p>Record-keeping and wire transfer rules (R.10 & SR.VII)</p>	<ul style="list-style-type: none"> ● Financial institutions should be required under MLCA to keep transaction and customer records: <ul style="list-style-type: none"> ➤ for all transactions including international transactions and not just for cash transactions above NT\$1,000,000; ➤ that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes; ● Retention period should include the requirement to keep: <ul style="list-style-type: none"> ➤ transaction records for five years following the completion of a transaction; ➤ customer records for five years 	<ul style="list-style-type: none"> ● The record-keeping requirements for financial institutions have been explicitly regulated in the Business Accounting Act and the relevant Money Laundering Prevention Guidelines and Procedures. The APG ME team also commended the good implementation in the financial sector. The inadequacies suggested by the APG mutual evaluation team will be considered in the new amendment of MLPC. ● The Central Bank of Republic of China (Taiwan) issued an order on June 9, 2008 (Ref. No. 0970031813) to require financial institutions setting up risk management procedures before July 6, 2008 for handling inward remittance that do not come with complete originator information, including: <ul style="list-style-type: none"> ➤ To require the ordering financial institution making up the information deficiency of the originator. ➤ To deem the information deficiency as an indicator of suspicious financial transaction activity and give consideration to file suspicious transaction report to the

	<p>following the termination of an account or business relationship.</p> <ul style="list-style-type: none"> ● Financial institutions should be required to keep account files and keep business correspondences. ● the record-keeping provisions in the MLCA should be extended and applied to all transactions and customer records as required in the FATF Recommendations. ● Chinese Taipei is advised to introduce explicit requirement for financial institutions to put in place clear procedure to deal with inward remittances that do not come with full originator information. 	<p>MLPC if the information deficiency can't be complemented by the remittance institution immediately. In addition, the financial institution may reject to accept the remittance.</p> <ul style="list-style-type: none"> ➤ Should consider to restrict or to terminate business relationship with the financial institution which can't provide the name, account and address etc. information of the originator.
<p>Monitoring of transactions and relationships (R.11 & 21)</p>	<ul style="list-style-type: none"> ● Authorities should ensure requirements on monitoring of transactions under the MLCA that would cover the banking sector and all other covered financial institutions and are fully implemented. ● When the MLCA is amended, the relevant regulatory, supervisory and SROs may consider including these requirements in their respective guidelines. ● Oblige financial institutions to give special attention to business relationships and transaction from or in jurisdictions that do not or insufficiently apply the FATF Recommendations. ● Establish positive measures to advise financial institution of concerns about weaknesses in the AML/CFT systems of other jurisdictions. ● provide guidance to all sectors on how to monitor business relationships with persons from countries not or insufficiently applying the FATF standards, and the various guidance should more specifically deal with this point 	<ul style="list-style-type: none"> ● Financial supervisory authorities have required all financial institutions including banking sector and other financial sectors to contain the monitoring of unusual financial transactions, no economic reason transactions, financial transactions with high risk customers etc. into the new revised Money Laundering Prevention Guidelines and Procedures. ● Given that there is no NCCT list as things stand now, instead the FSC uses the list of jurisdictions with deficiencies in their AML/CFT regime as determined by the International Co-operation Review Group (ICRG) of the FATF. The FSC has relayed the list to all financial institutions and related associations to take into account the risks arising from the designated jurisdiction and to exercise enhanced due diligence. ● With regard to the obligation to pay special attention to transactions from jurisdictions that do not or insufficiently apply the FATF recommendation, the Regulations Regarding Article 8 of the MLCA and Money Laundering Prevention Guidelines and Procedures for Banks have provisions pertinent thereto, but the wordings fall short of the requirements of the FATF. Given that there is no NCCT list, the FSC will amend the said Regulations and coordinate with the Bankers Association to revise the said Money Laundering Prevention Guidelines and Procedures.

<p>Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)</p>	<ul style="list-style-type: none"> ● Chinese Taipei should ensure that: <ul style="list-style-type: none"> ○ There is a clear obligation in law or regulation that obliges a financial institution to report a transaction that is suspicious irrespective of the amount. ○ There is a requirement in law for a financial institution to report attempted transactions that are suspicious in nature. ● It is recommended that clear obligations incorporating all elements as defined under SR.IV should be expressly adopted in the MLCA. ● The MLPC should ensure that adequate feedback on STRs is provided (STR cases that have been completed) and that acknowledgement of the receipt of STRs is provided. 	<ul style="list-style-type: none"> ● In response to the recommendation from the APG evaluation in 2007, The FSC has proposed a draft amendment to Paragraph 1 of Article 8 of the MLCA to explicitly require financial institutions to report attempted transactions that are suspicious in nature. ● The newest revised Money Laundering Control Act (MLCA), which amended in June 2007, has already criminalized terrorist financing in the Paragraph 3 of Article 11 which stipulates “Whoever engages in financing terrorist activity or organization that is acknowledged or kept track of by an international anti-money laundering organization shall be imprisoned for not less than 1 year and not more than 7 years; in addition thereto, a fine of not more than NT 10 million dollars may be imposed”, and regarded it as a predicate crime of money laundering in the Section 18 Paragraph 1 of Article 3 which stipulates “The crimes prescribed in Paragraph 3 of Article 11 of this Act”. In addition, the newest regulations regarding Article 8 of MLCA impose TF reporting obligations on financial institutions. ● Beginning from the second half year of 2007, the MLPC has distributed the statistics of the reported STRs to all financial institutions twice a year and if any STR has conducted the criminal detection and investigation, the MLPC will inform the reporting financial institution and financial supervisory authority to properly reward the employee of the financial institution who report the suspicious transaction as respective feedback.
<p>Internal controls, compliance, audit and foreign branches (R.15 & 22)</p>	<ul style="list-style-type: none"> ● The securities sector should be clearly required to establish an independent audit function that addresses AML/CFT functions. ● Insurance and securities sectors should: <ul style="list-style-type: none"> ○ explicitly require financial institutions to pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF recommendations. ○ impose obligation on financial institutions that where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries are required 	<ul style="list-style-type: none"> ● The Securities and Futures Bureau of FSC is coordinating with Taiwan Securities Association to revise the Money Laundering Prevention Guidelines and Procedures for securities sector to include the establishment of an independent audit function in order to meet the requirement of the FATF Recommendation 15. ● The Non-Life Insurance Association and The Life Insurance Association have respectively amended the Money Laundering Prevention Guidelines and Procedures for non-life insurance sector and life insurance sector on 2007.04.02 to require that: <ul style="list-style-type: none"> ➢ Insurance companies should pay particular attention to their branches and subsidiaries in countries that do not or insufficiently apply the FATF recommendations. ➢ Where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries

	to apply the higher standard, to the extent that local laws and regulations permit.	are required to apply the higher standard, to the extent that local laws and regulations permit. <ul style="list-style-type: none"> ● The revised Money Laundering Prevention Guidelines and Procedures for securities sector in August 2007 has already covered the foreign branches and subsidiaries' AML/CFT measures consistent with home country requirements and the FATF recommendations under the permission of local (i.e., host country) laws and regulations.
Shell banks (R.18)	<ul style="list-style-type: none"> ● Chinese Taipei should ensure that banks established in Chinese Taipei are prohibited from: (1) establishing or maintaining a correspondent banking relationship with any shell bank; and (2) acting as a correspondent bank for any foreign bank that permits its accounts to be used by shell banks. 	<ul style="list-style-type: none"> ● The FSC is coordinating with the Bankers Association to revise the Money Laundering Prevention Guidelines and Procedures for Banks to prohibit banks from establishing correspondent banking relationships with shell banks and acting as a correspondent bank for any foreign bank that permits its accounts to be used by shell banks.

The supervisory and oversight system - competent authorities and SROs

Role, functions, duties and powers (including sanctions) (R.23, 30, 29, 17, 32 & 25)	<ul style="list-style-type: none"> ● It is recommended that the authorities should: <ul style="list-style-type: none"> ○ Amend the provisions of the MLCA to clarify the supervisory authorities' ability to use their sanctioning powers to enforce compliance with AML/CFT standards. ○ Clarify AML/CFT supervisory responsibilities over the foreign exchange and wire transfer and MVT service providers. ○ Impose a wider range of sanctions by authorities for AML/CFT violations ● The scope of AML/CFT requirements in the MLCA and the guidelines should be expanded to include insurance agents and brokers. ● Authorities should consider streamlining the approach to establishing guidelines under the MLCA. ● The human resource capacity of the FEB, in 	<ul style="list-style-type: none"> ● From January 2007 to April 2008, the FSC has imposed fines on 2 banks and 1 post company for violating Article 7 of the MLCA. ● On December 14, 2007 the Insurance Bureau has requested Insurance Agents Association of the R.O.C., Insurance Brokers Association of the R.O.C. to have a discussion on the setting of Anti-Money Laundering self discipline guideline. ● The workforce in the Financial Examination Bureau, FSC increases year by year. From February 2007 to March 2008, 6 persons were recruited through the national examination and 23 persons transferred in from other agencies. In order to promote the professional capacity, the FSC would hold a weeklong on-the-job training every June and December. ● The MLPC revised the "Reporting Suspicious Transactions Q&A" at the end of 2007 and reprinted 1000 volumes, which more than 20,000 volumes have been published in total, and distributed to authorities, financial institutions and academic institutions for references. ● The MLPC translated the MER of Chinese Taipei into Chinese in December 2007 and published 500 volumes which have been distributed to authorities, financial institutions and academic institutions for references.
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	<p>particular, staff involved in the routine and special examinations, needs to be reviewed to determine adequacy of staffing resources in line with a substantially large size of the financial institutions that are captured under its mandate.</p> <ul style="list-style-type: none"> ● Authorities should review ML & FT risk posed by outlets that provide foreign currency exchange services ● The authorities have only recently extended the AML/CFT requirements to the money changing services sector and special attention to this sector should be given to establish its effectiveness. ● Authorities should re-examine the sharing of statutory responsibilities between the CBC and the Bank of Taiwan concerning the approval of the establishment of foreign currency exchange bureaus, cancellation of such approval and performance of operational audits. 	<ul style="list-style-type: none"> ● Considering the risk of AML/CFT in Foreign Exchange Bureaus, the Regulations Governing the Establishment and Administration of Foreign Currency Exchange Bureaus had been amended on January 25, 2007 that explicitly stipulate the limit of each transaction, ascertaining identity of customer, keeping transaction record as evidence and reporting any STR to MLPC. ● The CBC takes operational audit for the Foreign Exchange Bureaus very seriously and has already conducted intensive examination 5 times to the industry since August 2007 for enhancing the effectiveness on AML/CFT of the industry. ● According to the provisions of Article 4 of the Regulations Governing the Establishment and Administration of Foreign Currency Exchange Bureaus, the CBC may entrust the Bank of Taiwan Bank of Taiwan to handle administrative affairs concerning the approval of the establishment of foreign currency exchange bureaus, cancellation of such approval and operational audits when necessary. The sharing of legal responsibilities is clear.
<p>Money value transfer services (SR.VI)</p>	<ul style="list-style-type: none"> ● The licensing, regulation and supervision of money for value transfer service providers should be clearly defined in the MLCA and in regulatory policies. ● Large scale unregulated remittance channels exist, with a continuing need for structures or strategies to support increased uptake of remittance through formal channels; ● The authorities should undertake further study of the nature of informal remittance business carried out from Chinese Taipei and consider additional measures to build incentives that encourage a shift of remittance from informal to regulated channels. ● Underground banking vulnerabilities remain and need to be continuously assessed. 	<ul style="list-style-type: none"> ● Article 29 of the Banking Act stipulates: Unless otherwise provided by law, any organization other than a Bank shall not Accept Deposits, manage Trust Funds or public property under mandate or handle domestic or foreign remittances. Upon a violation of paragraph 1 of this Article, remedial action shall be taken by the Competent Authority or the competent authority in charge of the particular enterprise, together with the juridical police authority, and the case shall be referred to the court for action. If the organization concerned is a juridical person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations. In performing the duties stipulated above, a suspected party's accounting books and documents may be searched and detained in accordance with the law, facilities including signs may be torn down and/or other necessary actions may be taken. ● Upon discovery of any cases suspected of violating Article 29 of the Banking Act, the FSC, the competent authority of the said Act,

		<p>will promptly forward the cases to the MJIB for criminal investigation.</p> <ul style="list-style-type: none"> ● The MJIB cracked down 20 criminal cases of violating the above mentioned provisions of the law in 2007 and the amount of illegal remittance funds reached NTD\$ 30billion (about USD\$ 1billion). ● It indeed exist large scale unregulated remittance channels in this jurisdiction, but most of them are underground banking businesses between Taiwan and China because of lacking formal remittance channels in the past. It is believed this situation would be gradually improved when the regulated direct remittance channels are expected to establish in the near future.
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Preventive Measures –Non- Financial Businesses and Professions

<p>Customer due diligence and record-keeping (R.12)</p>	<ul style="list-style-type: none"> ● Authorities should lower the threshold that triggers CDD obligation on cash transactions for DNFBP. ● The authorities should: <ul style="list-style-type: none"> ○ Raise awareness on AML/CFT standards and obligations for the wider non-covered institutions; ○ Provide specific AML/CFT requirements under the MLCA for lawyers, notaries, real estate agents, accountants, trust and company services providers and businesses; ○ Issue separate regulations that detail the obligations of DNFBPs to the nature and size of their operations; ○ Issue sector specific comprehensive guidelines to the newer DNFBPs; ○ Designate appropriate AML/CFT supervisory authorities for the DNFBP sector are thorough consultations with the SROs and the industry; ○ The authorities should, as a matter of priority, examine the capacity and resources of the relevant competent 	<ul style="list-style-type: none"> ● Regarding to lower the threshold of triggering CDD obligation, the FSC is consulting with the authorities including MOJ, CBC, MLPC and private sector. The threshold will be lowered from NT\$1 million to NT\$ 500 thousand (approximately US\$16,000) for pursuing the threshold specified in the FATF Recommendations (i.e.USD/€ 15,000) and with reference to the examples of other countries. Once this policy has been decided, it will apply to all financial institution and DNFBPs covered in the MLCA. ● The MLPC is continuing to pay close attention on the new ML/FT threats to different industries in this jurisdiction and the new standards and requirements on AML/CFT from international community. The Center got permission from FATF to translate the “Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing” into Chinese and included it in the 2007 MLPC annual report that will be distributed to authorities, FIs and DNFBPs for reference. ● The MLPC revised the “Reporting Suspicious Transactions Q&A” at the end of 2007 and reprinted 1000 volumes as a guideline on AML/CFT to financial institutions and DNFBPs. ● The MOEA established compliance guideline on AML/CFT for jewelry shops in 2003 and the “Standards for Penalty against Jewelry Shops violating Paragraph 1, Article 7 and Paragraph 1, Article 8 of the MLCA” in 2004. ● The authorities including MOJ, FSC and MOI are consulting with the SROs and the industries to include the AML/CFT obligations
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	<p>authorities to ensure and enforce full compliance with the FATF requirements for all categories of the DNFBP sector.</p>	<p>into the relevant ethical norms of profession of attorneys, accountants and real estate brokers.</p>
<p>Suspicious transaction reporting (R.16) (applying R.13-15, 17 & 21)</p>	<ul style="list-style-type: none"> ● The authorities should urgently impose obligations to report suspicious transactions to all other DNFBP sectors. ● Authorities should focus more AML/CFT inspections along with the education efforts for jewelry shops. ● Authorities should provide training to the DNFBP in detecting unusual and suspicious transactions. ● The authorities should consider launching a progressive awareness campaign on the methods, trends, and typologies on ML and TF for the DNFBP sectors. ● The authorities have advised that there are plans to amend the CPA Act. It is recommended that the authorities engage in consultation with the accountants sector to include AML/CFT obligations in the revised CPA Act as may be appropriate. 	<ul style="list-style-type: none"> ● The MOI requested the National Association of Real Estate Broking Agencies and the National Association of Land Administration Agents to include the suspicious transaction activity reporting obligation into the Real Estate Broking Agency Ethical Norm of Profession and Land Administration Agents Ethical Norm of Profession on October 25, 2007. The two associations even discussed this issue at the board of directors meeting but no common view being concluded. ● The MOEA has done its best to keep close relationship with the professional organizations consisted of jewelry businesses and took severe sanction policy to the businesses violating the AML/CFT laws. A jewelry shop had been individually imposed NTD\$400000 and NTD\$1000000 fine for violating Article 7 of the MLCA that failed to report cash transactions. In addition, The MOEA entrusted CPAs to conduct AML/CFT compliance inspection to 20 jewelry businesses by random method in 2007. This kind of business inspection will be strengthened from this year. ● The MLPC analyzes the domestic trends, typologies and emerging threats of ML/FT annually and publishes it in the MLPC annual report. In addition, the global emerging ML/FT methods would be posted timely on the AML/CFT dedicated web pages under the Investigation Bureau web site for providing progressive awareness campaign to financial institutions, DNFBPs and other entities.
<p>Regulation, supervision and monitoring (R.24-25)</p>	<ul style="list-style-type: none"> ● It is recommended that the Ministry of Economic Affairs undertake inspection of non-incorporated entities on a random sampling basis. ● Chinese Taipei should consider stronger sanctions to ensure illegal casinos do not operate. ● It is recommended that the authorities (especially MOJ and MLPC) carry out a comprehensive review to ascertain the extent to which the DNFBP entities may pose ML 	<ul style="list-style-type: none"> ● The supervisory authorities of non-incorporated entities are local governments. According to the regulations of the Commercial Registration Act, the following particulars of entity registration shall be made before starting business (Article 9): <ul style="list-style-type: none"> ➤ The name of the entity; ➤ The organization of the entity; ➤ The scope of business; ➤ Commerce capital; ➤ The location of the entity; ➤ The name, resident place, ID number, kind and amount of contribution of the responsible person;

	<p>and TF risks and to determine the competent authorities that would be responsible for the AML/CFT regulatory and supervisory regime for DNFBP.</p> <ul style="list-style-type: none"> ● Ensure that sufficient resources, capacity and suitable powers are available for competent authorities to ensure AML/CFT requirements for all DNFBPs, including dealers in precious metal and stones. 	<ul style="list-style-type: none"> ➤ The individual name, resident place, ID number, kind and amount of contribution of partners and copy of contract of a partnership entity; ➤ Other particulars required by central regulatory authorities; <p>The aforesaid particulars and others should be registered and subject to random inspection by local supervisory authorities. The responsible person and employees of the entity shall not evade, interfere or refuse. Violation of the regulation, the responsible person should be subject to a fine between NTD\$6000 to NTD\$30000 (Article 34).</p> <ul style="list-style-type: none"> ● According to the provision of Article 268 of the Criminal code, A person who furnishes a place to gamble or assembles persons to gamble for the purpose of gain shall be punished with imprisonment for not more than 3 years; in addition thereto, a fine of not more than NTD\$3000 may be imposed. ● The CIB of MOI took a large scale project law enforcement action in March 2008 to probe illegal gambling, including gambling houses, internet gambling and illegal jackpot lotteries. There were 159 gambling houses (858 suspects), 51 internet gambling (98suspects) and 412 illegal jackpot lotteries (468 suspects) being tracked down in the law enforcement action. ● The amendment and study team of Attorney Regulation Act under the MOJ has proposed suggestions to the National Bar Association to include suspicious money laundering activity reporting obligation into the Attorney Ethical Rules as soon as possible for complying with the international requirements. ● The MLPC ever organized an academic seminar in 2005 to discuss if attorneys and accountants should be included into the AML/CFT regime but no common view being reached due to the diversity of viewpoints.
<p>Other designated non-financial businesses and professions (R.20)</p>	<ul style="list-style-type: none"> ● Chinese Taipei should review the vulnerability of other non-financial businesses and professions that may be vulnerable to ML and TF, for example dealers in arts and antiques. 	<ul style="list-style-type: none"> ● The MLPC has been paying attention on the ML/FT threats on private sectors, including financial industries, DNFBPs and other DNFBPs, and would suggest supervisory authorities to consider including the businesses and entities into AML/CFT regime if it is necessary. The related studies and essays can be found in the MLPC annual report. ● The MOJ organized and hosted two cross department coordinating forums on AML/CFT which respectively held in October 2007 and

		February 2008. In the two forums, the representatives from authorities reached a common viewpoint that whether the other DNFBPs would be included into the AML/CFT regime or not depending on the individual risk of ML/FT threats consideration.
Legal Persons and Arrangements & Non-Profit Organisations		
Legal Persons – Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> ● Chinese Taipei should ensure that legal persons are required to disclose in the central registry accurate and up to date information on the beneficial owner that is those persons who exercise ultimate effective control over a legal person or arrangement. 	<ul style="list-style-type: none"> ● According to the regulations of the Company Law: <ol style="list-style-type: none"> 1 Any company should register to the central competent authority for obtaining the legal person’s qualification and the privilege of using its corporate name for doing business. 2 The following particulars of company registration shall be made open to the public by the competent authority, and any person may apply to the competent authority for an access thereto or for making copy thereof: (Article 393) <ol style="list-style-type: none"> (1) The name of the company; (2) The scope of business of the company; (3) The location of the company; (4) The shareholder(s) executing the business operations or representing the company; (5) The name of directors and supervisors and their respective shareholdings in the company; (6) The name of the manager; (7) The amount of authorized capital stock or of the paid-in capital; and (8) The articles of incorporation of the company. 3 Where the share prices (or the capital stock) receivable by a company have not been actually paid up by its shareholders or any forged or altered documents in filing an application for registration of its company incorporation or other company alterations will be subject to legal sanctions (Article 9). 4 A company, after its incorporation, fails to register any particular that should have been registered or fails to register any changes in particulars already registered, such particulars or changes in particulars cannot be set up as a defence against any third party. (Article 12)
Legal Arrangements – Access to beneficial ownership and control	<ul style="list-style-type: none"> ● Chinese Taipei, however, should introduce processes to enable competent authorities to access information about the beneficial 	<ul style="list-style-type: none"> ● According to the regulations of the Trust Law, All trusts other than business trusts and charitable trusts shall be executed under the supervision of the court. Upon application of interested parties

information (R.34)	<p>ownership and control structure of trusts in a more timely manner.</p>	<p>or prosecutors, the court may inspect the trust affairs administered as well as appoint and order an inspector to take any necessary official actions (Article 60). A trustee guilty of disobeying a court order or obstructing the court inspection shall be imposed a fine ranging from NT\$ 10,000 to NT\$ 100,000 (Article 61). A charitable trust shall operate under the supervision of the industry's regulatory authority. The industry's regulatory authority may at any time and from time to time inspect the business and financial conditions of the trust. If necessary, the authority may order the trustee to provide appropriate security or take other actions. A trustee shall at least once every year deliver the statement of both the business and financial conditions of the trust to the supervisor for review and approval and shall then file the same with the competent authority for approval and records before a public notice is placed (Article 72).</p>
Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> ● Additional outreach should be conducted to raise awareness in the NPO sector in relation to specific risk of terrorist abuse. 	<ul style="list-style-type: none"> ● For enhancing outreach and establishing cooperation mechanism with NPOs, the MOI annually organizes outreach forum for discussing the preset subjects, seeking resolution methods and sharing experiences on work. In the occasions, the authorities will raise awareness to all NPOs on the risks and threats of terrorist abuse. ● Aiming at establishing supervisory norm for NPO's financial management system, the MOI has set up "the NPOs' Financial Affairs Handling Regulations". Article 12 and Article 13 of the Regulations stipulate the auditing mechanism of NPO budget and final accounts, Article 20 stipulates the handling methods of NPO financial affairs and accounting, Article 29 stipulates the record keeping principles of NPO financial affairs vouchers. The above mentioned regulations are for ensuring the financial affairs administrative principles, assisting the sound development and enhancing the financial and banking transparency of NPOs. Enforcing NPO to handle financial transactions through legitimate banking channels will strengthen the effective control and regulation on financial affairs of NPOs.
National and International Co-operation		
National co-operation and coordination (R.31)	<ul style="list-style-type: none"> ● Authorities should focus on domestic cooperation to support the implementation of 	<ul style="list-style-type: none"> ● The MLPC organized a bank's AML/CFT compliance officer forum on December 11, 2007 which invited the representatives

	<p>AML/CFT measures by law enforcement agencies in areas such as border control and drug law enforcement.</p> <ul style="list-style-type: none"> ● Chinese Taipei should enhance cooperation to support CFT implementation. 	<p>from domestic banks and foreign bank's branches and subsidiaries in Taiwan to attend the meeting for enhancing communication and discussion the AML/CFT related problems.</p> <ul style="list-style-type: none"> ● The MOJ organized two cross department coordinating forums on AML/CFT which respectively held in October 2007 and February 2008 for integrating the resources and enhancing cooperation between authorities on AML/CFT.
<p>The Conventions and UN Special Resolutions (R.35 & SR.I)</p>	<ul style="list-style-type: none"> ● Chinese Taipei should fully implement and ratify or otherwise become party to the Vienna, Palermo and Terrorist Financing conventions. ● It is recommended that the Chinese Taipei authorities amend and introduce legislation to fully implement the relevant provisions of these Conventions. 	<ul style="list-style-type: none"> ● Owing to Chinese Taipei's unique political situation, the UN would not accept its attempts to sign or accede to UN conventions¹. As such, Chinese Taipei cannot become a party to the Vienna, Palermo and Terrorist Financing Conventions. Nevertheless, Chinese Taipei has taken the initiative to sign bilateral agreements or Memorandums of Understanding (MOUs) with jurisdictions in order to adhere to the principles laid out by such conventions. ● Chinese Taipei has amended and introduced legislation to fully implement the relevant provisions of these Conventions. Chinese Taipei enacted the Money Laundering Control Act in 1996 in accordance with international conventions and amended it in June 2007. The amendments incorporated counter-terrorism clauses and the criminalization of terrorist financing, which were reviewed and passed by Chinese Taipei's legislature. Drafts of additional amendments concluded in March 2008 now are under review by the legislature. ● By June 2008, Chinese Taipei is expected to have finalized the process of signing several bilateral Memorandums of Understanding (MOUs) concerning cooperation in the exchange of intelligence to combat money laundering.
<p>Mutual Legal Assistance (R.32, 36-38, SR.V)</p>	<p>It is recommended that Chinese Taipei:</p> <ul style="list-style-type: none"> ● amend the law to ensure or clarify that it is not necessary for judicial proceedings to have been commenced in the requesting jurisdiction for an MLA request to be accepted by Chinese Taipei. 	<ul style="list-style-type: none"> ● The judicial Yuan and the Ministry of Justice have jointly completed the amendment draft of the "Law Supporting Foreign Courts on Consigned Cases" which name will be changed to "the Consigned Cases Act between Local Courts and Foreign Courts". The clauses of the Act will be substantially increased from 9 Articles to 21 Articles and some of them may be applied by

¹ Chinese Taipei cannot sign or accede to the Vienna, Palermo and Terrorist Financing conventions because the UN does not recognize Chinese Taipei as a state and would not accept its attempts to sign or accede to UN conventions. Nevertheless, Chinese Taipei has taken the initiative to sign bilateral agreements or Memorandums of Understanding (MOUs) in order to adhere to the principles laid out by such conventions.

	<ul style="list-style-type: none"> ● It is recommended that Chinese Taipei consider devising and applying mechanisms for determining the best venue for prosecution of offenders in cases that are subject to prosecution in more than one country. ● It is recommended that Chinese Taipei give priority to passing the Undercover Investigation Act. 	<p>prosecution authorities. The amendment draft has been submitted to parliament for further review and legislation. Once the amendment being passed by the legislative body, it will provide the legal bases for judicial authorities to engage in international mutual legal assistance.</p> <ul style="list-style-type: none"> ● The government of Chinese Taipei fully recognizes the importance of using undercover investigation techniques on ML/FT cases. The authorities are coordinating with legislative body to give priority on passing the Undercover Investigation Act.
Extradition (R.32, 37 & 39, & SR.V)	<ul style="list-style-type: none"> ● It recommended that Chinese Taipei establish a process whereby it can cooperate with a requesting jurisdiction when it comes to prosecuting its own nationals under Article 4 paragraph 2 of the Extradition Law. 	<ul style="list-style-type: none"> ● The MOJ is studying to amend the Extradition Law for meeting the international standards and requirements.
Other Forms of Co-operation (R.32 & 40, & SR.V)	<ul style="list-style-type: none"> ● It is recommended that Chinese Taipei introduce legislation pertaining to the respective competent authorities other than the MLPC, that – <ul style="list-style-type: none"> ○ authorizes the competent authority to exchange information and conduct enquiries on behalf of foreign counterparts on a reciprocal basis; ○ identifies the information that can be requested and establishes controls and safeguards to ensure that information received by those competent authorities is used only in an authorized manner. 	<ul style="list-style-type: none"> ● In 2007, the FSC signed MOUs or Exchange of Letters for cooperation in single-sector or cross-setcor supervision with U.K., Philippines, Australia, India, Jordan, Egypt and U.S. ● In 2007, the MLPC exchanged 86 pieces of ML/FT information with foreign counterparts, and respectively signed AML/CFT MOUs with Bermuda and Cook Islands, AML/CFT agreements with Solomon Islands and Saint Kitts & Nevis. In the first half year of 2008, the MLPC respectively signed AML/CFT MOU with United States and Aruba. ● For promoting international cooperation with foreign financial supervisory authorities, the FSC has proposed provisions in Article 29 of the Draft Financial Services Act to provide the government authorities or authorized institutions with the legal basis to enter into cooperative treaties or executive agreements in terms of information sharing, technical assistance and investigation assistance. ● The MLPC organized AML/CFT training seminars in Chinese Taipei for delegates from Mongolia FIU and Saint Kitts & Nevis FIU respectively in February 2008 and in April 2008. In addition, the Center also provides AML/CFT training courses for the law enforcement officers from Gambia in May 2008. ● The MLPC is a formal member of the Egmont Group and actively participate in the related activities of the Outreach Working Group. The Center is assigned at present to sponsor Mongolia,

		<p>Vietnam, Brunei, Cambodia and Macao for applying membership of the Group.</p> <ul style="list-style-type: none">● The customs has officially become a member of CAPERS (Customs Asia Pacific Enforcement Reporting System). In addition, the customs has respectively signed agreements or MOUs with the U.S., Philippines and Australia counterparts for sharing customs information.● The CIB can rapidly exchange criminal information with foreign counterparts through “Interpol Radio Station” and law enforcement liaison officers posted in other countries, such as Thailand, Philippines, Vietnam, Indonesia and Japan. The CIB has increased two law enforcement liaison officers to post in the U.S. and South Africa in May 2008.
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附 件 七

法務部調查局洗錢防制中心藍調查專員於技術
協助與訓練論壇中提報之案例報告

Financial investigations/asset tracing – case studies



Presented by Mike C.J. Lan
Money Laundering Prevention Center (FIU of Taiwan)

Gambling and Money Laundering

- Preface

- Gambling is illegal in Chinese Taipei – no casino is permitted to operate legally
- Only one financial institution is licensed to operate Public Welfare Lottery
- Existing various illegal gambling and lottery businesses
- Using ML methods to conceal the Proceeds of Crime for gambling organizations is a familiar trend



Illegal Lottery Organization - King Betting Station



King Betting Station

Illegal gambling organization

- Gambling business : engaging underground Hong Kong Mark Six lottery gambling and spread betting of professional baseball competitions
- Beginning of business: 1995, ever being cracked down in 2001, prosecuted and sentenced one year imprisonment, but Mr. A fled and became a fugitive and continued the gambling business



King Betting Station

Illegal gambling organization

- Scale of gambling business: to be known as the biggest underground betting station in both side of Taiwan Strait
- Daily gambling stakes : hundreds of million NTD even more than 1 billion NTD (about 33 million USD) per day, any player could bet unlimited stakes with the criminal organization



How this criminal case being found?

- STR from Z bank on 08/26/05
- Suspicious description

An occasional customer Mr. B cashed 3 bank's checks and then deposited into Ms. C banking account, and then immediately remitted to Mr. D, Mr. E and Ms. F. Mr. B ever requested Z bank to convert 60m NTD into 6 bank's checks which respectively valued of 10m NTD in the previous year. The unusual financial transaction had been filed a STR to the MLPC at that time.

疑似洗錢(可疑)交易報告	
94年8月26日	
一、客戶基本資料： (一)姓名 王麗惠 (二)職業 (三)出生 57年07月15日 (四)住址：台中縣清水鎮南社里17鄰整峰路378號之4 (五)身分證明文件或核准登記之種類及號碼：A221243213	
二、代為交易之被委託人基本資料： (一)姓名：盧冠廷 (二)職業 (三)出生年月日 (四)住址：嘉義市東區新生路786號 (五)身分證明文件號碼：Q122524076	
三、交易明細資料： (一)交易種類：玉山銀行南屯分行本行支票轉入帳戶後匯出匯款 (二)帳戶資料 1. 帳號及序號(銀行填寫)：0680968007741 2. 交易帳戶及交割帳戶(證券填寫)： (三)交易日期：94.08.26 (四)交易金額：\$30,000,000 (五)證券種類、股數(證券填寫) (六)其他事項	
四、可疑理由之陳述： 此顧客於93.11.05已於[]行提出「疑似洗錢交易之通報」，其於93.11.05至[]南屯分行開立本行支票六千萬元；今(94.8.26)由盧冠廷先生持當時開立之本行支票，金額總計\$30,000,000共三張(票號分別為ES0207604, ES0207608, ES0207609)來行兌現轉入戶名：王麗惠，帳號0680968007741帳戶後即匯出至曾依琳、李朝達、林恩敏等人共約2,852萬元(傳票如附件)，本行特此續予通報。	
五、符合洗錢防制法第八條受理申報範圍第 項 疑似洗錢(可疑)交易表徵第 項	
六、檢附開戶、相關交易資料 頁	

How to analyze the STR?

- Checked Mr. B criminal record, occupation, income, property, taxation records, relatives and friends.....
- Filtered Mr. B background and living activities through the assistance of law enforcement agencies
- Discovered Mr. B was a close friend of a local politician who was campaigning a parliamentary position. It was suspected the funds might be used for vote buying
- The MPLC decided to disseminate the STR to the local prosecutor's office for further investigation

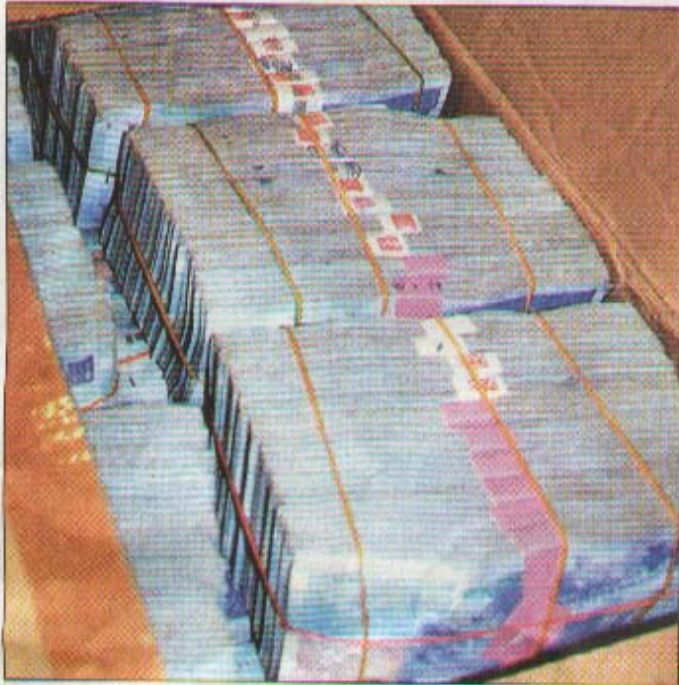


Cracked down King Betting Station

- The local prosecutor's office directed local police to investigate the case and found Mr. B was hired by his uncle Mr. A to lure ordinary people to play in the betting stations. The mentioned funds were the stakes of gambling but not for vote buying.
- The task force traced more than 50,000 financial transactions in 4 months.
- Police took actions to crack down the betting station on 03/09/06 and 03/23/06.



Police Cracked down King Betting Station



白花花
檢警昨於台中市五權西四街一處大樓豪宅內，查獲國內歷來最大的賭海洗錢集團金庫，起出廿七箱裝滿十元大鈔的贖款現金四億元。
(警方提供、記者朱俊彥翻攝)



錢多多
警方查扣行各行車支票面額計一百七十二億、銀行存款簿新台幣十七億元
(記者丁偉杰攝)



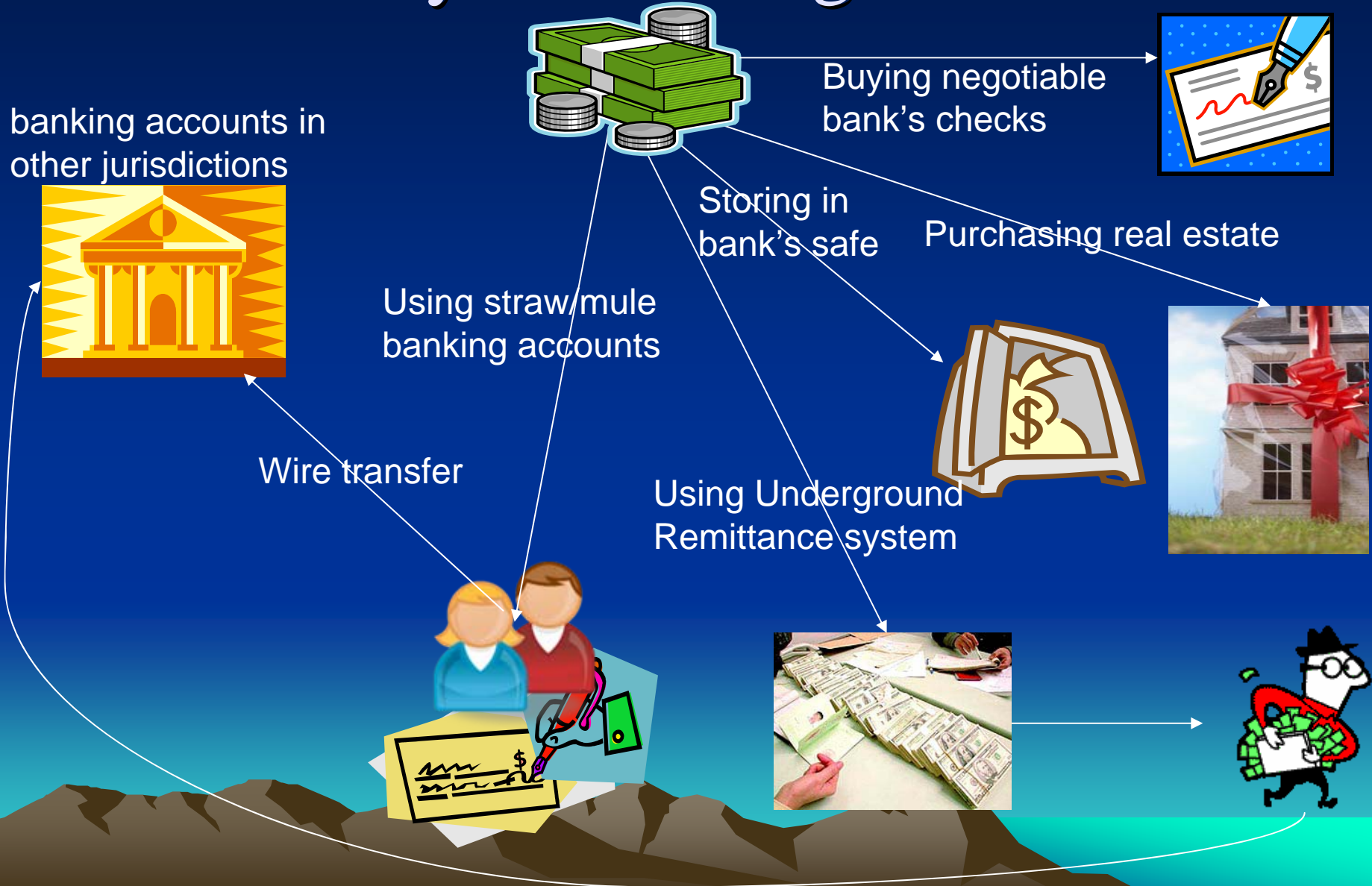


Freezing and seizing the proceeds of crime

- Freezing: Mr. A banking account in the Hong Kong branch of a domestic bank which amounted to USD\$ 189m and HKD\$ 25m and a banking account in other domestic bank which amounted to USD 3m
- Seizing: Cash on scene NTD\$491m, Cash in bank's safe NTD\$9m, bank's checks NTD\$1.8b
- Freezing and seizure in total: NTD \$ 8.7 b (about USD\$ 290m)



Money Laundering Methods



Successful factors

- Financial institution had high alert to the abnormal financial transactions and filed STRs in a timely manner
- The FIU fully demonstrated its functions in this case
 - Finding the criminal activity clue
 - Locating the illegal funds
 - Assisting to trace the illegal funds concealed in other jurisdiction
- Police's rapid response to crack down the criminal organization
- Prosecutor's office took actions to freeze and seize the illegal funds
- Close cooperation between FIs, FIU, Police, Financial Supervisory Commission and Prosecutor's office
- Key point to succeed: follow the money



Practical Challenges

- Gambling is not a predicate offence of ML
- Difficulties of cross border criminal investigation
- Difficulties of forfeiting the Proceeds of Crime in other jurisdictions
- Obstacles of financial investigations:
 - Lacks of professional skills
 - Time consuming
 - Lacks of manpower resources
 - Not the priority of law enforcement agencies
- Lacks of civil forfeiture and burden of proof reverse mechanism



Underground remittance system and money Laundering

- Preface

- Remittance business is an exclusive and licensed business for banking institutions
- Existence of underground remittance system
 - Facilitating ML for criminals
 - Disturbing the order of financial market
- Reasons for favoring URS
 - Anonymity, low remittance cost, convenience, avoid attention from government agencies, political reason etc.



Hua Guan Chiong Underground Remittance System



Hua Guan Chiong Underground Remittance System

- Mr.C is the responsible person of Hua Guan Chiong Underground Remittance System
- Ever being sentenced one year imprisonment by court in 2000 for violating the Banking Act
- Beginning from 2003, Mr. C has been using Hua Guan Chiong unlimited, Hua Guan Chiong Limited to open 57 accounts in 9 domestic banks to engage in underground remittance business
- Accepting ordinary people to exchange NTD and RMB
- His associates set up many branches in Mainland China



Hua Guan Chiong Underground Remittance System

- Accepting public to remit money from Taiwan to China and south Asia countries
- The amount of money being remitted more than USD 566m from January 2003 to March 2006
- Charging 0.16% from the remittances as service charge and obtained benefits from the differences of exchange rate (the illegal benefit was about NTD 31m during the period)



Hua Guan Chiong Underground Remittance System

- For attracting customers, Mr. C even printed fliers which carried:
 - Many years experiences to deal with remittance, the amount over NTD 100m per month;
 - Outward remittance from Taiwan to most places of the world in 30 minutes only to reach the destination;
 - Service area covered Philippines, Thailand, Singapore and Mainland China etc.
 - Customers can use Hua Guan Chiong banking accounts as remitters to avoid government agencies tracing the real remittance originators



How this criminal case being found?

- STR from X bank on 03/08/05
- Description of suspicion

Many financial transactions in the Hua Guan Chiong Unlimited banking account were inward remittances from different persons and different places in a very short period of time, and the funds immediately were remitted to a specific banking account located in other jurisdiction in batch.

銀行 台北 分行 疑似洗錢 (可疑) 交易報告

年 94 3 月 8 日

一、客戶基本資料：

(一)姓名 華源昌商號 (二)職業 (三)出生年月日 設立日期: 90.6.10
(四)住址 台北市忠孝西路一段41號4樓之15
(五)身分證明文件或核准登記之種類及號碼 營利事業登記證

二、代為交易之被委託人基本資料：

(一)姓名 (二)職業 (三)出生年月日
(四)住址
(五)身分證明文件號碼

三、交易明細資料：

(一)交易種類 國外匯出匯款
(二)帳戶資料
1 帳號及序號 (銀行填寫) 1012-01-36134-3-00
2 交易帳戶及交割帳戶 (證券填寫)
(三)交易日期 94.3.17
(四)交易金額 6884,060.-
(五)證券種類、股數 (證券填寫)
(六)其他事項

可疑理由之陳述：多筆資金匯入該戶，如附件，再整筆於本行請光分行往香港，金額 USD 200,000。(折合台幣 6,212,000)
受款人：SHUN YING SHENG COMPANY。

符合洗錢防制法第八條受理申報範圍第 項
疑似洗錢 (可疑) 交易表徵第 6 項
附開戶、相關交易資料 > 頁

● The suspicious transactions in the Hua Guan Chiong Business Banking account:

- There were 3 cash deposits and 12 inward remittances at the same day which amount of NTD6.8m.
- The amount of money of NTD 6.8m was exchanged into USD and immediately remitted outward to Hong Kong.

交易日期	摘要	交易註記	借貨	現金	匯票	其他	總計
0940315	5265203012432823	貸	57,354.00	現金	已補提		64,112.00
P2000	097 郭榕榕						
0940315	4219202013180373	貸	11,473.00	現金	已補提		75,585.00
P2000	097 林榮文						
0940317	9832140700000170	貸	284,000.00	現金	已補提		359,585.00
P2000	000						
0940317	6020202012023239	貸	150,000.00	現金	已補提		509,585.00
P2000	097 華源昌						
0940317	5185821017731902	貸	312,000.00	現帳	已補提		821,585.00
R3000	090 華源昌						
0940317	5185821017742879	貸	500,000.00	現帳	已補提		1,321,585.00
R3000	090 華源昌						
0940317	5185821017752234	貸	200,000.00	現帳	已補提		1,521,585.00
R3000	090 05012013613430						
0940317	5185821017761114	貸	300,630.00	現帳	已補提		1,912,215.00
R3000	090 華源昌商號						
0940317	5185821017765136	貸	970,000.00	現帳	已補提		2,982,215.00
R3000	090 華源昌商號						
0940317	9721140500000073	借	75,585.00	現帳	有差		2,806,630.00
P1000	000						
0940317	5185821017774987	貸	950,000.00	現帳	已補提		3,756,630.00
R3000	090 華源昌						
0940317	9849140400000191	貸	846,000.00	現金	已補提		4,602,630.00
P2000	000						
0940317	5185821017818379	貸	700,000.00	現帳	已補提		5,302,630.00
R3000	090 華源昌商號						
0940317	5012203015063089	貸	1,050,000.00	現帳	已補提		6,352,630.00
R2100	003 馬國平						
0940317	5185821017835726	貸	485,100.00	現帳	已補提		6,837,730.00
R3000	090 周煥成						
0940317	972114100000285	借	6,834,060.00	現帳	有差		3,670.00
P1000	000						

0810720000107100747905	華源昌有限公司	20050707	80201774	袁依玉	BB00011452	200507121232	NT\$1,260,000	0084202	02
0608220000822717274946	華源昌商號	20050503	011120	許志棟	A126096169	200507191421	NT\$1,522,024	1300022	99
0810720000107100747905	華源昌有限公司	20050707	802017	4	王廷娟	AB00027397F	00507251413	NT\$1,538,000	0081094
0608220000822717274946	華源昌商號	20050503	011120	1	詹金樺	M121593814	00507261244	NT\$1,000,000	0061128
0810720000107100747905	華源昌有限公司	20050707	802017	4	江修芳	SA00000899	00507261311	NT\$1,000,000	001566
0608220000822717274946	華源昌商號	20050503	011120	1	彭建華	J122047293	00507261319	NT\$1,000,000	001563
0810720000107100747905	華源昌有限公司	20050707	802017	4	王廷娟	AB00027397F	00508021329	NT\$1,080,000	001562
0810720000107100747905	華源昌有限公司	20050707	802017	4	陳標倉	M121198408	00508041218	NT\$1,400,000	001561
0810720000107100747905	華源昌有限公司	20050707	802017	4	張榮旭	H123467832	00508081341	NT\$1,190,000	001560
0810720000107100747929	華源昌有限公司	20050707	802017	4	謝豐彰	N103718921	00508091210	NT\$1,700,000	001559
0810720000107100747917	華源昌有限公司	20050707	802017	4	江修芳	SA00000899	00508091418	NT\$1,658,000	0081566
0810720000107100747929	華源昌有限公司	20050707	802017	4	何月娥	A225910064	00508111316	NT\$1,399,900	0083009
0608220000822717275322	華源昌商號	20050809	011120	1	彭春源	L120294259	00508181158	NT\$1,400,000	0060176
0810720000107100747929	華源昌有限公司	20050707	802017	4	吳啓明	T122950266	00508181255	NT\$1,100,000	0082460
0810720000107100747929	華源昌有限公司	20050707	802017	4	陳昱邦	V120456776	00508181350	NT\$3,010,000	0086000
0805980000598440000306	華源昌有限公司	20050802	802017	4	劉美婷	J220181114	00508231412	NT\$1,000,000	8080060
0608220000822717275357	華源昌商號	20050810	011120	1	陳水龍	B101224935	00509211156	NT\$1,400,000	0061900
0810720000107100747917	華源昌有限公司	20050707	802017	4	王廷娟	AB00027397	00509261551	NT\$1,234,000	0081577
0810720000107100747917	華源昌有限公司	20050707	802017	4	許志棟	A126096169	00509271500	NT\$1,327,000	0081245
0805980000598440000306	華源昌有限公司	20050802	802017	4	許志棟	A126096169	200510211545	NT\$1,000,000	8080027
0805980000598440000306	華源昌有限公司	20050802	802017	4	許志棟	A126096169	200510241442	NT\$3,300,000	8080027
0608220000822717275357	華源昌商號	20050810	011120	1	許志棟	A126096169	200510281442	NT\$3,300,000	8080027
0805980000598440000306	華源昌有限公司	20050802	802017	4	葉貞如	J221888210	200511011409	NT\$1,000,000	8080027
0805980000598440000306	華源昌有限公司	20050802	802017	4	鄭文琴	FB00143622	200511091514	NT\$1,000,000	8080060
0805980000598440000306	華源昌有限公司	20050802	802017	4	鄭文琴	FB00143622	200511101409	NT\$1,000,000	8080303
0805980000598440000306	華源昌有限公司	20050802	802017	4	許志棟	A126096169	200511111409	NT\$1,000,000	8080303

合庫圓山

合庫太平

華南圓山

華南嘉義

華南萬華

How this criminal case being found?

- STR from V bank on 08/25/05
- Description of suspicion

Ms Lin opened a banking account on January 31, 05. After then, there were so many inward remittances from different persons and different places everyday. Ms Lin went to this bank almost everyday to transfer the money into Hua Guan Chiong Unlimited banking account in other bank. The staff of this bank ever asked Ms Lin the purpose of these financial transactions but she refused to answer. In addition, she was a new immigrant from China. This banking account was suspected a mule/straw account.

銀 疑似洗錢 (可疑) 交易報告			
94年 8 月 25 日			
一、客戶基本資料：			
(一)姓名：林○朱(大陸籍人)	(二)職業	(三)出生年月日 62.07.13	
(四)住址：台北縣土城市永富里14鄰延吉街353巷4號3樓			
(五)身分證明文件或核准登記之種類及號碼 FP 5722(大陸人士)			
二、代為交易之被委託人基本資料：			
(一)姓名：林○朱	(二)職業：	(三)出生年月日：62.07.13	(四)通訊
住址：台北縣土城市永豐路255巷25弄34號			
(五)身分證明文件：大陸地區依親居留證			
(帳號 42203000249346 開戶：94.01.31)			
三、交易明細資料：			
(一)交易種類：小額多筆匯入後，整筆大額匯出			
(二)帳戶資料：帳號 42203000249346(銀行填寫) (開戶日期：民國 94.01.31)			
(三)交易日期：			
(四)交易金額			
(六)其他事項：			
匯出收款資料(1) 轉奉土城 收帳人：林○紅，帳號			
(2)玉山民權，華源昌有限公司，帳號			

Matching the indicators of Underground Remittance Business

- A banking account has intensive small amount of inward remittances and immediately withdraws a huge amount or in a scattered manner and leaves only a nominal balance, with the amount apparently incommensurate with the client's identity or income and irrelevant to the attributes of his/her profession.
- When an account, shortly after opening, is seen having deposit, inward remittance in a huge amount apparently incommensurate with the client's identity and income, or irrelevant to the client's business and the deposit has been quickly transferred out.



Matching the indicators of Underground Remittance Business

- Bank's account holder intentionally hide his/her real identity
- Bank's account holder usually does not recognize the depositors or remitters
- Accumulating the deposits or inwards to a certain amount and then remitted outward at one time
- Bank's account opener has no close geographic relationship to the bank (no reasonable ground to support the bank's holder to open the account at the location)



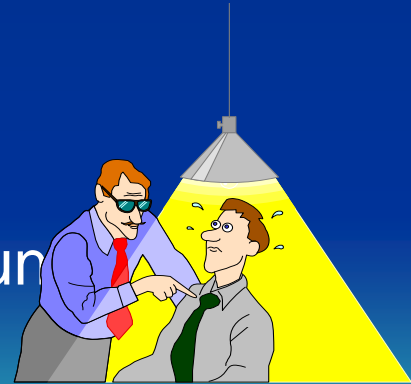
Conflict between the statistics of foreign currency exchange and taxation

- According to the statistics from the foreign exchange database in the central bank (all banks have to report any foreign currency exchange transaction including outward remittance to the Central Bank for administrative reason), Hua Guan Chiong companies had remitted the amount of equivalent USD 377m to other countries and received the amount of equivalent USD 11m for conducting triangular trade during 2003 to 2005, but only filed a business volume of NTD 126,666 for taxation.



Interviewing the remitters

- The MLPC requested investigators from Investigation Bureau to interview some of the persons concerned in this case who had remitted funds to Hua Guan Chiong group, and found they did not know Mr. C and had not any business relationship with the companies. They just used the channel to pay purchasing goods or loans in China.
- The MLPC decided to disseminate this case to Investigation Bureau for further investigation.
- The Investigation Bureau took actions to crack down Hua Guan Chiong underground remittance system in December 2005.

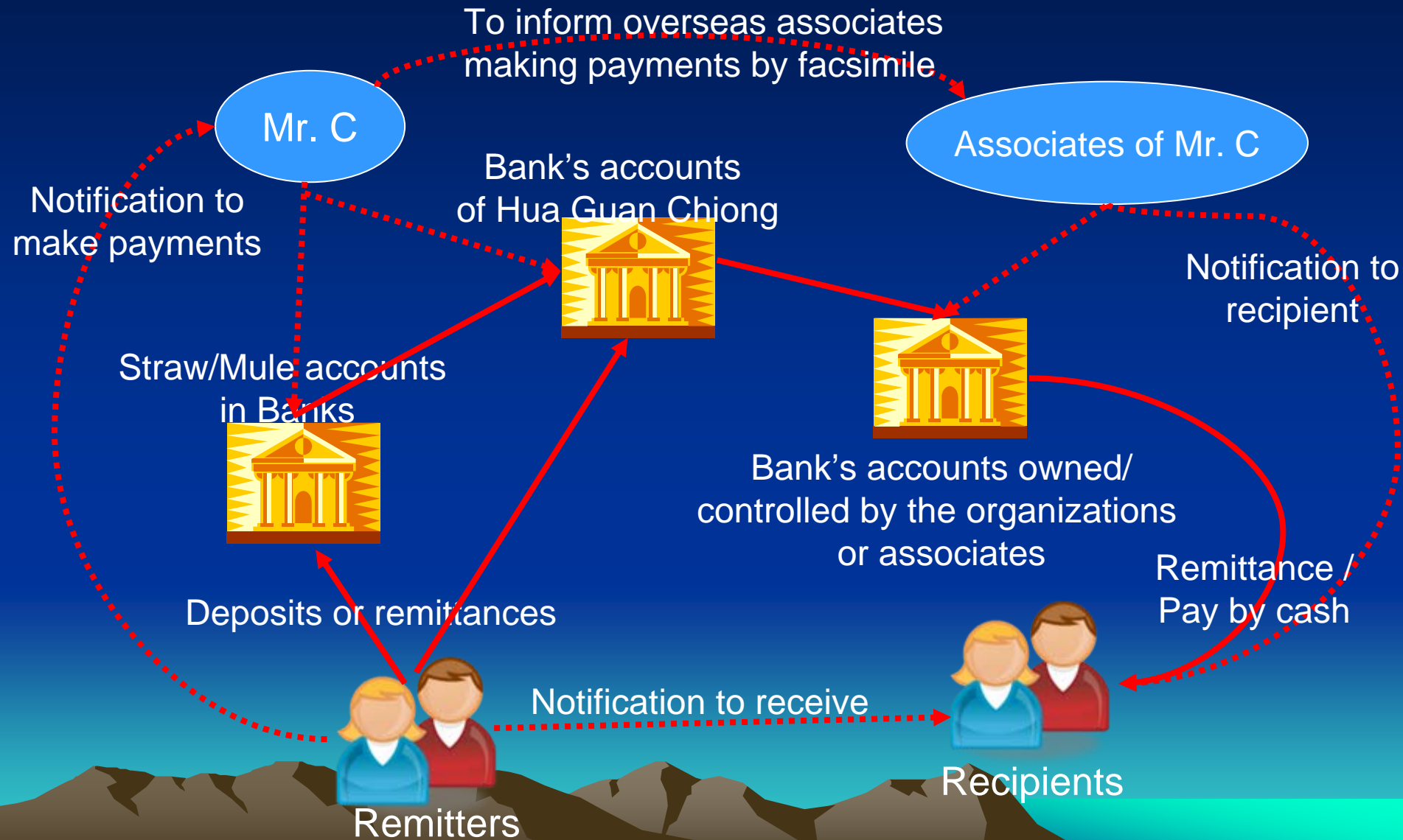


Hua Guan Chiong laundering money for criminal organizations

- Police found King Betting Station had been laundering illegal funds through Hua Guan Chiong underground remittance system.
- Police also found Hua Guan Chiong group ever laundered illegal funds for many criminal organizations, including telecommunication fraud groups, internet fraud groups, extortion groups, prostitutes groups, gambling and lottery fraud groups etc.
- Police took actions to crack down the group for laundering illegal gains derived from criminal organizations in March 2006.
- Mr. C was indicted 10 years imprisonment for engaging in underground remittance business and money laundering.



Operation pattern of Hua Guan Chiong underground remittance system



Methods of Hua Guan Chiong to Launder money for criminal organizations

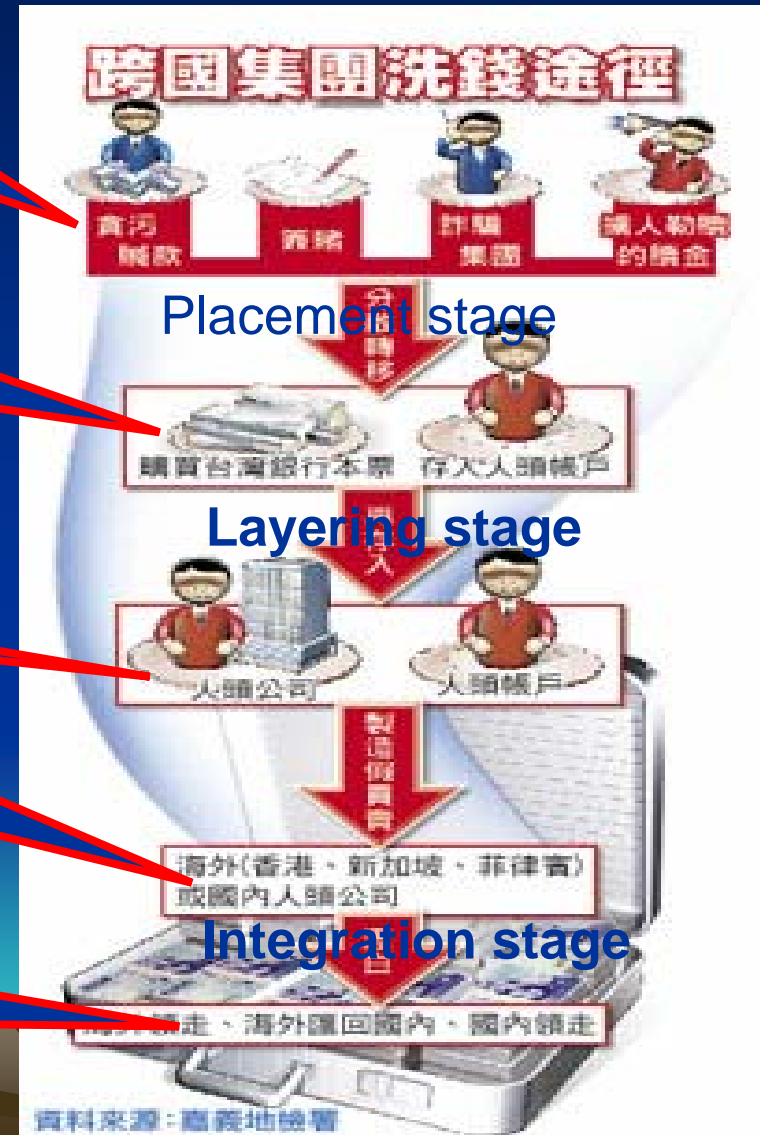
Illegal funds derived from corruption, gambling, fraud and ransom from kidnapping

Structuring by purchasing bank's bearer checks or depositing cash into the straw/mule banking accounts

Transferring between straw/mule banking accounts

Remitting to overseas banking accounts by using fake international trade activities

Withdrawing cash from overseas or remitting back Taiwan



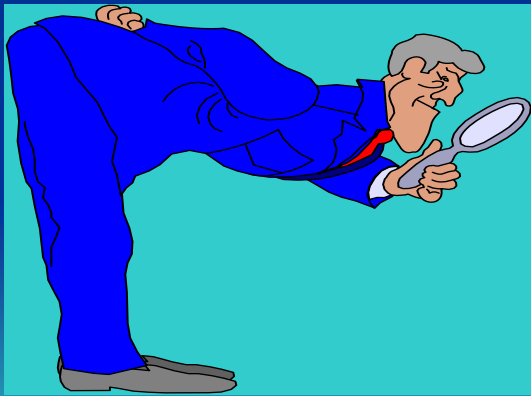
Successful factors

- Financial institution had high alert to abnormal financial transactions and filed the STRs in a timely manner
- The FIU fully played its functions in this case
 - Finding the criminal clue
 - Locating the illegal funds
 - Assisting to trace the illegal funds in other jurisdiction
- Integrating the resources of Investigation Bureau and Police to crack down the criminal organization
- Police obtained the criminal information derived from previous criminal case and actively traced possible criminal activities
- Close cooperation between FIs, FIU, Police and Prosecutor's office



Financial Investigation techniques

- Financial Transactions Document Checks



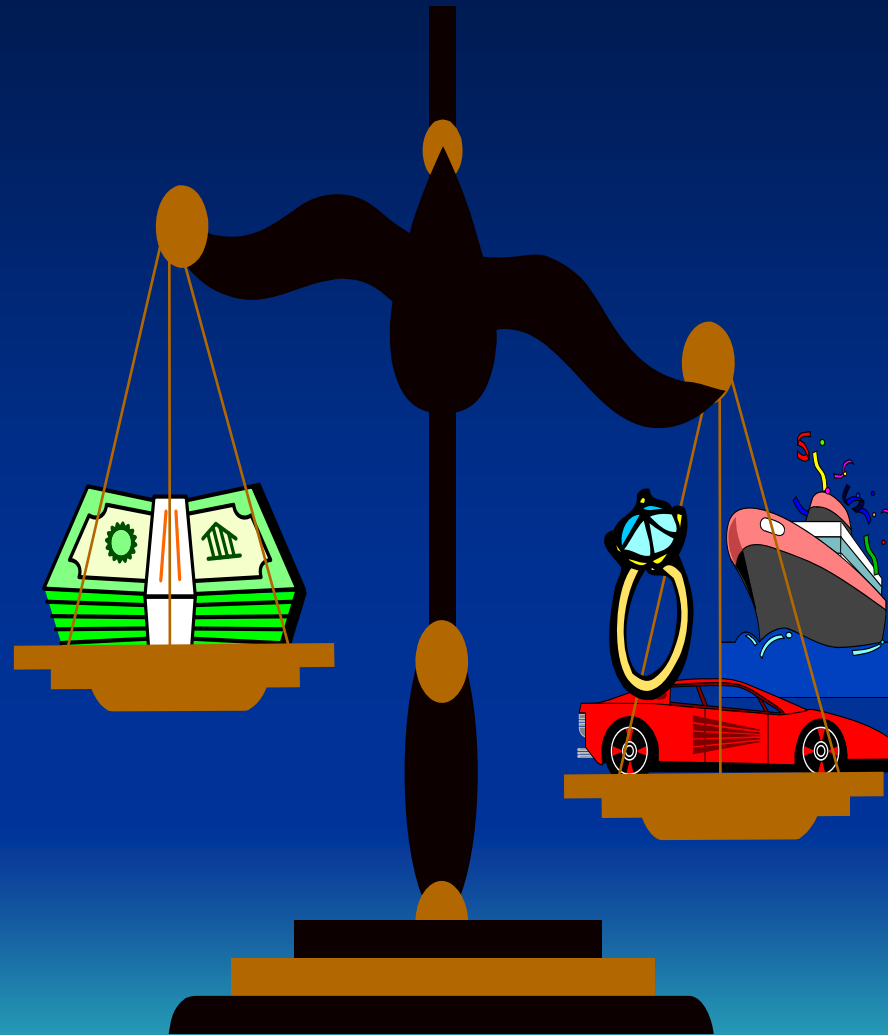
How to Overcome Nominee Ownership

- ✓ To interview the nominee
- ✓ To conduct financial Investigation to the nominee
- ✓ To use surveillance
- ✓ To interview the seller
- ✓ To debrief informant
- ✓ To check telephone and utility records



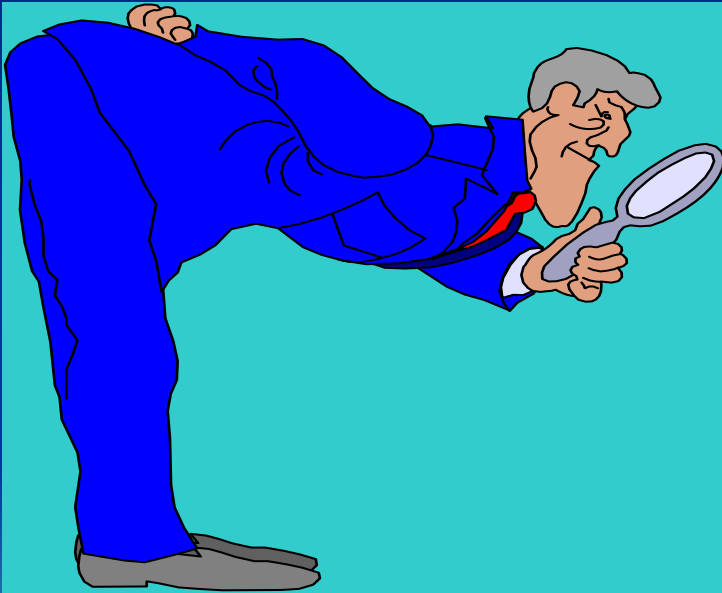
ASSETS NET WORTH ANALYSIS

- Demonstrating the suspect's assets is inconsistent with the income to prove the existence of possible criminal activities.



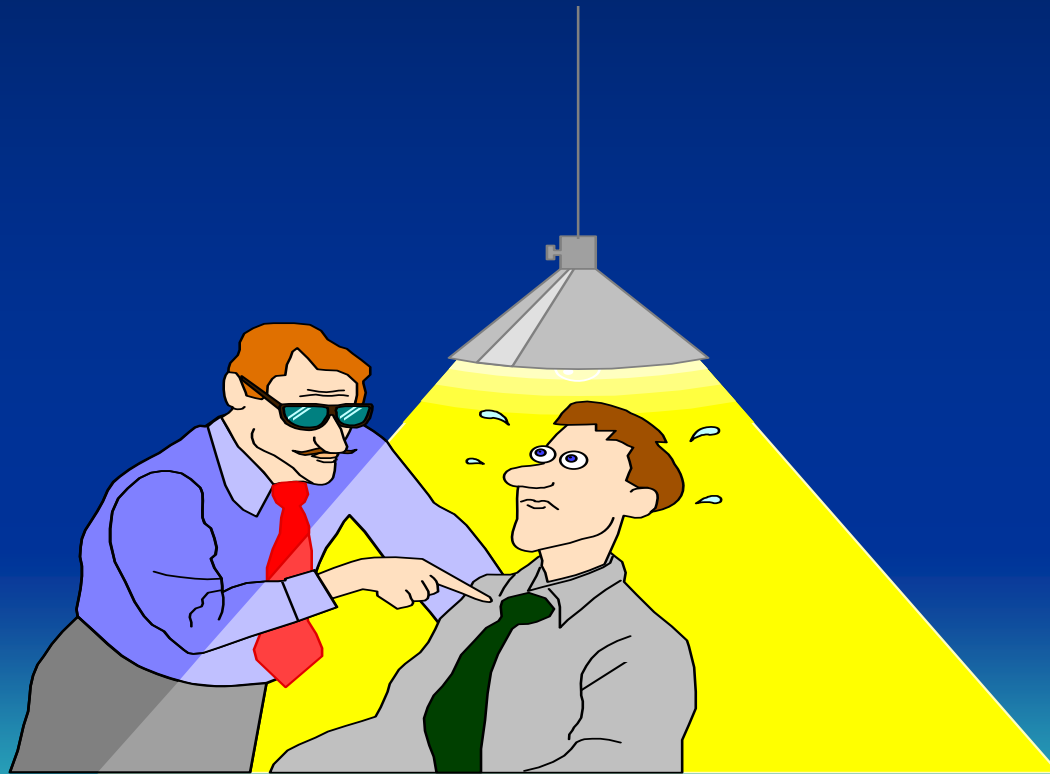
Financial Investigation techniques

- Public Records Checks



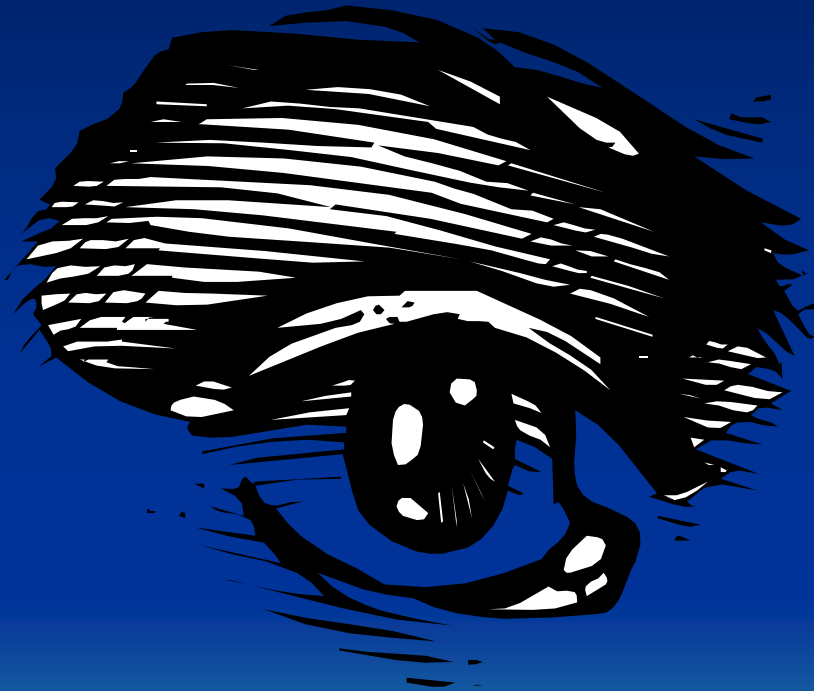
Financial Investigation techniques

- Debrief Informants/witness



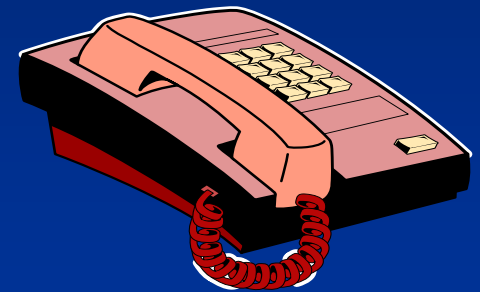
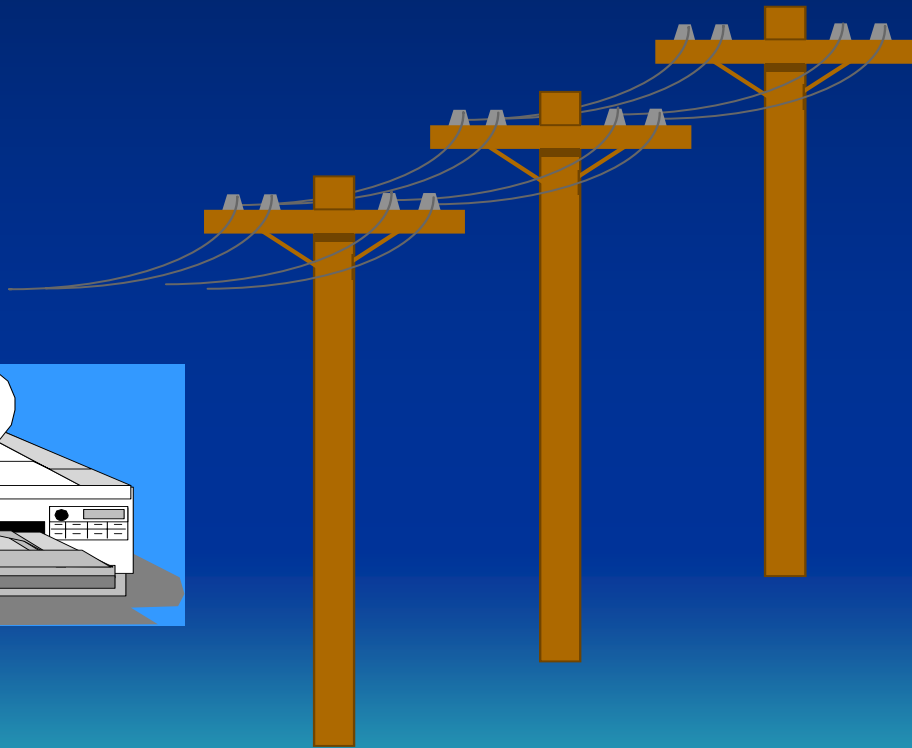
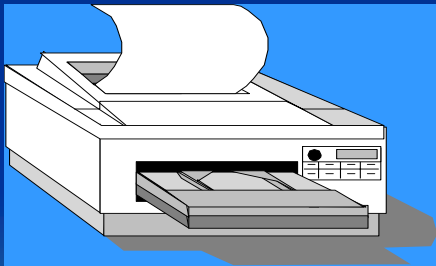
Financial Investigation techniques

- Physical Surveillance



Financial Investigation techniques

- Electronic Surveillance



Financial Investigation techniques

- Financial experts participation



Benefits of financial investigations

- To strengthen the evidence of criminal case
- To keep criminals out of crime business
- To deprive money from the criminal



Conclusion

Criminal
Investigation

+

Financial
Investigation

=

Successful
Prosecution



The End
Thanks for your attention



附 件 八

金融監督管理委員會及中央銀行與會代表對印尼相互評鑑報告提出金融監理方面之問題

Intervener questions for Indonesia MER from Chinese Taipei

1. With respect to Rec. 10, it appears that the Corporate Law of 1997 stipulates the comprehensive and general record keeping requirements of companies incorporated in Indonesia, especially as a fallback in the absence of provisions in other laws or regulations. However, there seems to be insufficient analysis of the ME report in terms of the rigorous criteria set forth in the Rec. 10. Given that Rec. 10 requires specific laws or regulations in place, please kindly clarify the following points and specify the corresponding provisions in laws or regulations to justify the current rating of the LC:
 - Are financial institutions required to keep records for any cash, non-cash, domestic and international transactions?
 - Are financial institutions required to keep transactions records that would allow individual transactions to be reconstructed by the financial institutions for evidentiary purposes?
 - Are financial institutions required to keep customer records for five years following the termination of an account or business relationship?
2. It is noted from the ME report that the Indonesia government has begun the process of bringing the non-bank money remitters into the AML/CFT regime. Please kindly elaborate on the effectiveness of the regulation on money remittance service on December 5, 2006, especially if there are any sanction provisions in cases of violations.
3. In order to ensure Money Changers following CDD obligations, Bank of Indonesia (BI) has issued circular letter prescribing off-site and on-site supervision of Money Changers, does BI conduct on-site examination of Non-bank Money Changers? If Non-bank Money Changers are not pursuant to related regulations, what kind of administrative sanctions may be imposed?
4. According to Article 8 of the AML Law provides criminal sanction for providers of financial services who intentionally do not submit STRs and CTRs, how do you define "intentionally"?