

出國報告（出國類別：國際會議）

**參加 2017 年亞太防制洗錢組織(APG)評
鑑員訓練研討會
(APG Assessors Training 2017)**

服務機關：金融監督管理委員會保險局

姓名職稱：葛專門委員映濤

出國地點：澳洲雪梨

出國期間：106 年 5 月 1 日至 5 月 5 日

報告日期：106 年 6 月 1 日

摘要

亞太防制洗錢組織（APG）於今（106）年5月1日至5日在澳洲雪梨舉辦評鑑員訓練研討會，計有來自24國或地區之39名代表與會。

本次研討會之性質，係以完訓人員應配合APG要求執行預定於106年至108年間辦理之Cook island, Indonesia, Myanmar, Palau, Chinese Taipei, Philippines, Pakistan及Solomon Islands等國家或地區之APG相互實地評鑑工作。

本次研討會之進行方式，係以虛擬之Pseudopolis為教案，施作以APG會員國相互評鑑程序、實地評鑑時程、FATF最新修訂之國際標準／評鑑方法論、實地評鑑會議等模擬演練（mock interviews）及即時完成相關評鑑報告及講評評鑑報告結果等訓練。各國代表以分組方式，針對防制洗錢金融行動工作組織（FATF）發布之國際標準與評鑑方法之各個面向，按個人專業進行分工，完成相關模擬演練作業並進行廣泛討論與交流。

藉由參與本次評鑑員訓練研討會，對強化本會對FATF評鑑方法之瞭解、促進金融機構洗錢防制機制與國際接軌及因應APG於106年至我國進行第三回合實地相互評鑑等事務，均有正面積極效應。

關鍵詞：“亞太防制洗錢組織”、“APG”、“防制洗錢金融行動工作組織”、“FATF”、“金管會”金融情報中心、“FIU”、“洗錢防制法”、“洗錢”、“相互評鑑”

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壹、前言

「亞太防制洗錢組織」(Asia/Pacific Group on Money Laundering, 簡稱: APG) 係於 1997 年依據聯合國公約及「防制洗錢金融行動工作組織」(Financial Action Task Force on Money Laundering, 簡稱: FATF) 建議所成立之區域型防制洗錢組織。目前有 41 個會員國(包括香港、澳門及中國大陸), 秘書處設於澳洲雪梨, 現任秘書長為紐西蘭籍 Dr. Gordon Hook; 另設 2 位共同主席, 分別由澳洲及斯里蘭卡代表擔任。

亞太防制洗錢組織為對其會員國之金融監理、法律制度及執法機關之「防制洗錢與打擊資助恐怖分子」遵循情形進行相互評鑑 (Mutual Evaluation, ME), 定期舉辦評鑑員訓練研討會, 並指派評鑑團隊赴受評鑑國家進行實地評鑑, 以辨識各國遵循該國際標準之程度, 並結合立法、金融監理及執法專家, 推動各國在防制洗錢及打擊資恐之制度改革, 俾提高執行成效。每年舉辦一或二次「評鑑員訓練」, 每次約 40 人, 由各會員國指派一或二位代表, 到指定地點接受 APG 官方人員為期一個星期的反洗錢訓練。受訓課程完全由 APG 安排, 目的在講授最新的國際洗錢防制標準、評鑑程序, 進而培訓成為推動各會員國防制洗錢、打擊資助恐怖主義活動之人力資源, 並將於每次受訓學員中精挑數人, 於每一輪會員國相互評鑑過程中, 組成官方共組評鑑團, 前往各會員國現地評鑑。

APG 於今 (106) 年分別於美國華盛頓地區 (3 月間) 及澳洲雪梨 (5 月間) 舉辦評鑑員訓練研討會, 報告人係參加 5 月 1 日至 5 日在澳洲雪梨舉辦之評鑑員訓練研討會。本次研討會之參

訓條件，係以完訓人員應配合 APG 要求，執行預定於 106 年至 108 間辦理之 Cook island, Indonesia, Myanmar, Palau, Chinese Taipei, Philippines, Pakistan 及 Solomon Islands 等國家或地區之 APG 相互實地評鑑工作。

本次研討會之進行，係以虛擬國家「Kingdom of Pseudopolis」為教案，並以 14 個作業程序模組方式，分別施作 APG 會員國相互評鑑程序可能涉及之相關作業工作，包括實地評鑑時程、FATF 最新修訂之國際標準／評鑑方法論、實地評鑑會議等模擬演練（mock interviews）及即時完成相關評鑑報告及講評評鑑報告結果等相關作業。本次會議期間共 5 日，計有亞太地區 24 個國家 39 位代表參加（名單詳附件 1），主要依據 FATF 2012 年發布之國際標準及 2013 年發布之評鑑方法論進行研討及安排模擬演練，大會並依照各國代表之專業知能，以分組方式，針對防制洗錢金融行動工作組織（FATF）發布之國際標準與評鑑方法之各個面向，按個人專業進行分工，完成相關模擬演練作業並進行廣泛討論與交流，並要求與會人員依各自專業（法律、金融監理或執法機關）於限定時間內完成相關分析意見及報告之提交，以及參與對虛擬國家 Kingdom of Pseudopolis 之實施模擬實地評鑑與撰寫相互評鑑報告，會議流程十分緊湊且模擬演練課程之事前準備亦相當繁重。



貳、與會情形及重要研討內容

一、與會情形

會議議程

日期	議程	主持人
5月 1日	1. Opening Address, Course Outline and Introductions 2. Opening Questionnaire on Recommendations, Methodology, and Procedures 3. Module 1 - The Mutual Evaluation Process 4. Module 2 - Assessing Technical Compliance, R.24 & R.25 (Gordon Hook) 5. Module 2 - Mini exercise 6. Module 3 - Technical Compliance Assessment Exercise 7. Hand in completed Technical Compliance Assessment Exercise Participants should work in their assigned mock mutual evaluation teams.	Gordon Hook (APG 秘書長) Ms Lindsay Chan (APG 秘書) MS Marnie Campbel (APG 秘書) MS Mitali Tyagi (APG 技術協助與訓練處長) Mitali Tyagi Mrs Suzie White (APG 秘書)
5月 2日	1. Results and Feedback on Opening Test 2. Module 4 - Discussion on	Mrs Suzie White, MS Mitali Tyagi & MS Lindsay Chan

日期	議程	主持人
	Technical Compliance Assessment Exercise 3. Module 5 - Risk and Context 4. Module 6 - Assessing Effectiveness 5. Module 6 - Effectiveness Analysis Exercise 6. Module 8 - Data and Statistics 7. Module 8 - Data and Statistics Exercise	(APG 秘書) Gordon Hook (APG 秘書長) David Shannon ((APG 秘書) David Shannon David Shannon David Shannon
5月 3日	1. Module 7 - Conclusions and Recommendations to Assessed Countries 2. Module 9 - Discussions and Interviews 3. Module 9 - Discussions and Interviews Exercises 4. Module 10 - Writing and Presenting the Mutual Evaluation Report 5. Module 13 - Communication, Feedback, and Transparency 6. Module 14 - Challenges in Conducting Assessments 7. Module 11 - Effectiveness Assessment Exercise (Team Discussions)	Ms Lindsay Chan (APG 秘書) Ms Lindsay Chan (APG 秘書) Ms Lindsay Chan (APG 秘書) Mrs Suzie White (APG 秘書) Mrs Suzie White (APG 秘書) Ms Lindsay Chan (APG 秘書) Ms Lindsay Chan (APG 秘書)

日期	議 程	主持人
	and Preparation - participants should work in their assigned mock mutual evaluation teams	
5月 4日	<p>1. Module 11 - Effectiveness Assessment Exercise</p> <p>Participants will work in their assigned mock mutual evaluation teams. Each team will conduct four mock interviews with counterparts from the prosecutors' office, FIU, law enforcement and supervisor.</p> <p>Interview Round 1, 2, 3, 4</p> <p>2. Module 11 - Effectiveness Assessment Exercise</p>	<p>Mock Interviews (模擬面談)</p> <p>由以下人員擔任教案內虛擬國家「Kingdom of Pseudopolis」相關部門人員-</p> <ul style="list-style-type: none"> ● 金融情報中心(FIU) Brad Brown 扮演(任職於澳洲交易報告分析中心, Australian Transaction Reports and Analysis Centre, AUSTRAC) ● 執法部門(Law Enforcement) Shaun Mark 扮演(任職於澳大利亞聯邦警察署 Australian Federal Police, AFP) ● 檢察官(Prosecutor) David Shannon 扮演(任職於 APG 秘書處) ● 監理官員(Supervisor) David Mackey 扮演(任職於澳洲交易報告分析中心, AUSTRAC) <p>Report writing</p>
5月	1. Module 12 -	Team Presentations and Ratings

日期	議程	主持人
5日	Discussion on Effectiveness Assessment Exercise 2. Module 12 - Discussion on Effectiveness Assessment Exercise	(10 minutes for each team) Debrief (All facilitators)

二、重要研討內容

日期：5月1日

議程：

介紹相互評鑑程序介紹 (Mutual Evaluation Process) 及技術遵循評估；由學員就模擬教案進行技術遵循評估之演練，並由學員就各自評鑑見解即時回應講師詢問事項。

主持人：Ms Lindsay Chan (APG 秘書)、MS Marnie Campbell (APG 秘書)、MS Mitali Tyagi (APG 技術協助與訓練處長)、Mrs Suzie White (APG 秘書)

研商內容：

一、本會議由 Ms Lindsay Chan (APG 秘書)、MS Marnie Campbell (APG 秘書)、MS Mitali Tyagi (APG 技術協助與訓練處長)、Mrs Suzie White (APG 秘書) 擔任講座，主要研商內容如下：

(一) 針對防制洗錢金融行動工作組織 (Financial Action Task Force, FATF) 40 項建議及注釋 (101 年 2 月版、105 年 10 月更新) 相關內容進行簡報，包括簡介相互評鑑之目的、主要步驟及時程表，包括：

1. 相互評鑑之目的，在於具體呈現受評國家的重要風險、瞭解其監理制度之建立情形，及評估相關監理制度之執行成效，並經由參與評鑑之過程，相互觀摩學習，產生國際間之同儕壓力。
2. APG 會員國有義務接受相互評鑑。評鑑工作由 APG 秘書處負責相關作業規劃，該處在與受評國家確認評鑑期間後，將安排曾經接受評鑑員訓練之其他國家或地區之專家組成評鑑團隊，負責評鑑任務，依書面審查、實地評鑑，及實地評鑑後之書面審查等三階段，進行整個評鑑工作，所需時間約 18 個月。值得注意的是，各評鑑員赴其他國家或地區執行評鑑任務之所需差旅等費用，必須由各評鑑員所屬國家或地區自行編列經費支應。
3. 各受評鑑國於接受實地評鑑前，必須先出具相互評鑑問卷送交評鑑團隊評鑑 (Mutual Evaluation

Questionnaire，屬於自我評鑑階段之應配合事項），再依據評鑑團隊要求，提出相關補充說明。

4. 評鑑團隊收到受評鑑國填送之評鑑問卷後，應評量國際標準、問卷填覆情形及實地評鑑觀察結果等綜整資訊，向受評國家提出必要之詢問及要求提出必要之佐證資料。評鑑團隊於實地評鑑結束後，應將評鑑報告草案送交受評國家檢視，並於雙方達成共識後，於當屆 APG 會員大會提交審查，經大會通過成為正式之評鑑報告，至於各受評鑑國之改善情形，則由 APG 續行追蹤。

(二) 針對技術遵循(Technical Compliance)之重要觀念進行簡報，包括技術遵循之評鑑流程、分析範例解說及評鑑等級說明等，由相互評鑑工作小組引導技術遵循之分析與演練，主要內容包括：

1. 進行受評鑑國之風險及背景(Risk and Context)評估。
2. 在評鑑各評鑑國之風險辨識情形時，應注意受評鑑國家對於風險強度及廣度之認知程度(受評鑑國家應向評鑑員清楚說明(1)該國具體掌握所面臨洗錢／資恐之風險及曝險狀況；(2)該國是否已依據風險程度規劃訂定相關優先處理事項評估；(3)該國是否以風險評估情形作為相關技術遵循指標及要件權重之決定基礎)。
3. 技術遵循之評鑑，採書面審查(Desk-based review)方式進行，審查內容應包括(1)過去評鑑結果及後續追蹤報告；(2)受評國家現階段最新資訊。
4. 評鑑團隊應對於受評國家遵循 FATF 所列 40 項建議之執行情形給予評等結果。遵循程度由高至低依序分別為「C」(建議事項中所有必要準則均已遵循)、「LC」(大部份遵循，僅有部分小缺失)、「PC」(部分遵循，有中度缺失，惟已採行部分重要措施)、「NC」(未遵循，有較多重要缺失，大部分未遵循)、「NA」(不適用，因國家結構、法律或制度等特性，無法適用該項要求未遵循)

5. 學員以分組方式就模擬教案進行技術遵循評估之演練，並就各自評鑑見解即時回應講師詢問事項。

二、報告人所屬分組於當日完成教案之技術遵循(Technical Compliance)分析與演練內容如下：

RECOMMENDATION 3 MONEY LAUNDERING OFFENCES		
	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 3.1	<ul style="list-style-type: none"> • Money laundering is criminalised under the Penal Code in accordance with the Vienna and Palermo Conventions. • The offence covers the conversion, transfer, concealment, disguise, acquisition, possession and use of proceeds of crime. <p>Questions</p> <ul style="list-style-type: none"> • Is there only one offence? • Is knowledge required? 	Mostly Met
Criterion 3.2	<ul style="list-style-type: none"> • Pseudopolis uses a list approach to classify offences as ML predicates under the Penal Code. • There are gaps in the list, with offences from the categories of: <ul style="list-style-type: none"> (i) terrorism or terrorism financing; (ii) extortion; (iii) murder, grievous bodily harm; and (iv) kidnapping, illegal constraint and hostage taking not listed. • The non-listing of terrorism and terrorism financing as ML predicates is an important deficiency given the TF risks faced by Pseudopolis. <p>Question</p> <ul style="list-style-type: none"> • What are offences from the other four categories not listed? • Have considerations been made for crime which feeds into this Rec such as Cyber Crime? 	Partly met
Criterion 3.3	Not applicable due to list approach	N/A
Criterion 3.4	The Penal Code defines “property” broadly as funds and other property of every description, movable and immovable, tangible and intangible, whether situated in Pseudopolis or outside of Pseudopolis. However, it is unclear whether property is required to directly or indirectly represent the proceeds of crime.	Partly met

	<p>Question</p> <ul style="list-style-type: none"> • Is property required to directly or indirectly represent the proceeds of crime? • Is there a Property value threshold? 	
Criterion 3.5	Section 5 of the Penal Code provides that it is not necessary for the prosecution to secure a conviction for any predicate offence in order for any funds or other property to be considered proceeds of crime.	Met
Criterion 3.6	<p>Section 254 of the Penal Code provides that offences against the laws of a foreign country, that would have constituted an offence if it had occurred in Pseudopolis, qualify as ML predicate offences in Pseudopolis. It is unclear whether the deficiencies identified with the scope of offences listed as ML predicate offences in Pseudopolis (see criterion 3.2) impact on criterion 3.6.</p> <p>Questions</p> <ul style="list-style-type: none"> • Does the deficiency in the scope of offences that are ML predicates under the Penal Code cascade into the scope of foreign offences that are considered as predicates in Pseudopolis? 	Partly met
Criterion 3.7	Self-laundering of the proceeds of crime is an offence under section 258 of the Penal Code.	Met
Criterion 3.8	The Supreme Court ruled in <i>Public Prosecutor v John Smith</i> [1973] that, to secure a conviction for a ML offence, the requisite knowledge and intent may be inferred from objective factual circumstances. All courts in Pseudopolis are legally bound to follow this decision.	Met
Criterion 3.9	<p>The sanctions available for natural persons convicted of a ML offence are a maximum of 5 years imprisonment or a maximum fine of FLO 250,000, or both.</p> <p>The sanctions available are not dissuasive and proportionate. The maximum penalties are significantly less than the maximum penalties for predicate offences that pose significant ML/TF risks for Pseudopolis. For example, the maximum penalty for drug trafficking is 14 years imprisonment and FLO 500,000 and for members of criminal groups 14 years and FLO 500,000.</p>	Partly met
Criterion 3.10	<p>The Penal Code provides that legal persons convicted of ML proceeds of counterfeiting or environmental crimes are punishable by a maximum fine of FLO 500,000. For all other ML offences the maximum fine is FLO 100,000.</p> <p>It is unclear whether it is possible to conduct a parallel</p>	Partly met

	<p>criminal, civil or administrative proceedings with respect to legal persons in countries where more than one form of liability is available. This capability is important given that the NRA indicates that legal persons in Pseudopolis pose a risk for money laundering the foreign proceeds of crime, particularly from organised crime groups in neighbouring countries.</p> <p>The fines available for legal persons convicted of ML are not proportionate or dissuasive. A more significant fine is available for counterfeiting and environmental crimes, but these offences do not pose a high ML/TF risk in Pseudopolis. The maximum fine of FLO 100,000 for all other ML offences is inadequate, and does not align with the ML risk profile of Pseudopolis and the penalties for predicate offences that generate proceeds of crime.</p> <p>Questions</p> <ul style="list-style-type: none"> • Is it possible to conduct a parallel criminal, civil or administrative proceedings with respect to legal persons in countries where more than one form of liability is available? 	
Criterion 3.11	Pseudopolis has appropriate ancillary offences to the ML offence. These apply to all ML offences and are set out in section 299 of the Penal Code.	Met

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 26.1	<p>The Financial Supervisory Authority is the independent Government agency supervising and monitoring AML&CFT compliance of Banks, Savings and loan institutions, Credit unions, Securities firms, Securities brokers, Insurance companies, Insurance agents Money remitters and Foreign Exchange dealers under the Financial Sector Supervision (FSS) Act. But the financial leasing, even though limited, is still beyond supervision.</p> <p>Our outcome is based on the low risk posed to the sector by financial leasing.</p>	Mostly Met
Criterion 26.2	<p>Financial institutions such as banks are required to be licensed by the FSA to operate in Pseudopolis. It is mentioned that FSA does not approve of the establishment of shell banks.</p>	Met
Criterion 26.3	<p>Executive managers and directors of financial institutions undergo 'fit and proper test' through criminal check before availing license for the FI.</p> <p>Further information required</p> <ul style="list-style-type: none"> • Please define some members of senior management (應說明資深經理人之定義) • Please ensure if these fit and proper measures extend to beneficial owners as well. (應補正說明負責人適格性之相關規定，是否同樣適用於金融機構據控制性持股之大股東或最終受益人) <p>Question:</p> <ul style="list-style-type: none"> • Do requirements in regards to registration apply to those created before 2002? 	Partly met
Criterion 26.4	<p>FIs are regulated and supervised by the FSA. Financial leasing is not supervised.</p>	Mostly Met.
Criterion 26.5	<p>The frequency and intensity of on-site AML&CFT supervision appear mostly in line with FSA's risk assessment based on risk model.</p> <p>Question:</p> <ul style="list-style-type: none"> • What is in place for off-site supervision?(應 	Partly Met

	補正說明場外監理之施作內容)	
Criterion 26.6	<p>Some aspects of risk based approach is followed in this regard.</p> <p>It is not mentioned whether supervisors review ML/TF risk assessment when there are major developments in the management and operations of the FI or group.</p> <p>There is no regime to assess risk for changes to management team or an occurrence of an event</p> <p>Further information required Mention if there is any formal mechanism for the supervisors to update their assessment of sectoral ML/TF risks when there are major events or changes to a particular financial institution or sector. (Off-site supervision is a discussion point)</p> <p>(應補正說明金融監理機關是否已建立相關機制，俾利於金融機構相關部門發生重大事件時，對於該金融機構防制洗錢及資恐相關風險評估機制)</p>	Partly Met

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 27.1	<ul style="list-style-type: none"> ➤ FSA is adequately empowered to supervise AML&CFT compliance of the core principles FIs. ➤ Nothing is mentioned about the non-core principles institutions (financial leasing) 	Mostly Met
Criterion 27.2	FSA has broad range of power to conduct inspections. But it does not supervise Financial leasing.	Mostly Met
Criterion 27.3	<p>FSA adequately has the power to compel production of any information relevant to monitoring AML&CFT compliance except for financial leasing.</p> <p>Further information required Mention the section of the law incorporating such provision. (應補正說明與政府機關法律部門之配合辦理情形)</p>	Mostly Met
Criterion 27.4	<ul style="list-style-type: none"> ➤ The FSA has been authorised to impose broad range of sanctions except for financial leasing in this regards. ➤ FSA can't withdraw or suspend license. (金融監理機關欠缺撤銷或吊銷租賃公司執照之法令授權) ➤ Has not specified 'broad range' of sanctions as to the legislation or how it is implemented. (應補正說明金融監理機關依法律授權取得之行政裁罰職權內容及相關行使規範) 	Partly Met

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 28.1	<p>Licensing requirement provides criteria to prevent criminals and their associates from holding significant interest in casinos, management function is missing</p> <p>Further information required Mention the specific criteria applied to determining the suitability of the applicant licensee while awarding license to the casino.</p>	Partly met.
Criterion 28.2	<p>FIU-CRF is has been authorized to monitor ensuring AML&CFT compliance of the DNFBPs other than TCPS. FIU-CRF has only recently started establishing a section in the unit to deal with this.</p> <p>Further information required Please check if adequate authority has been awarded to the UNIT and send a copy of section 2 of AML/CFT Act.</p>	Partly met
Criterion 28.3	<p>Other than TCSPs FIU-CRF has the power to monitor compliance with AML&CFT requirements.</p>	Partly met
Criterion 28.4	<p>Fit and proper criteria do not extend to beneficial owner. It is not clear what kind of fit and proper criteria exist for lawyers and accountants. Fir real estate agents it is not clear whether AML/CFT compliance is taken into consideration before licensing.</p> <p>TCPS are not covered.</p> <p>Nothing much is mentioned about precious metals and stones(except for the reference that it is licensed by Ministry of commerce)</p> <p>Further information required Mention the details of the fit and proper criteria applied before licensing.</p>	Partly met
Criterion 28.5	<p>TCPS not covered. The FIU-CRF has a supervisory policy that state that all DNFBPs will undergo on-site supervision at least one every five years, however there is no mention of off-site or risk based frequency of</p>	Partly met

	supervision. No specific plan for the on-site supervision.	
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**RECOMMENDATION
30**

**RESPONSIBILITIES OF LAW ENFORCEMENT AND
INVESTIGATIVE AUTHORITIES**

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 30.1	<ul style="list-style-type: none"> ➤ No mention of which agencies have responsibilities for investigating CFT. However the NPA is the main law enforcement agency. ➤ TC Information does not provide sufficient reference (legislations) to the relevant LEAs / Agencies ➤ No details of which other competent law enforcement bodies (local / overseas) that cases can be referred to. 	Partially Met
Criterion 30.2	<ul style="list-style-type: none"> ➤ Taking as the face value the respond indicted general compliance ➤ No explicit reference to enabling legislation ➤ No explicit information about where the predicate offence occurred 	Not Met
Criterion 30.3	<ul style="list-style-type: none"> ➤ No information provided on which agency would initiate the identification / tracing / freezing the suspected crime proceeds ➤ No information provided on which powers (legislation) are relied upon for identification / tracing / freezing the suspected crime ➤ No information of timeliness 	Not Met
Criterion 30.4	<ul style="list-style-type: none"> ➤ Taking as the face value the respond indicted general compliance ➤ No explicit reference to enabling legislation 	Not Met
Criterion 30.5	<ul style="list-style-type: none"> ➤ The response does not address the question of whether the ACA has authorised to identify / trace / freezing of suspected crime proceeds ➤ No mention of reference (legislation) authorising ACA to investigate TF offence 	Not Met

**RECOMMENDATION
31**

**POWERS OF LAW ENFORCEMENT AND INVESTIGATIVE
AUTHORITIES**

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 31.1	<ul style="list-style-type: none"> ➤ Some supporting evidence indicating relevant legislative powers are missing ➤ Statement that FIU can undertaking compulsory enquiries on behalf of competent authorities appears to contradict paragraph 12 of the MEQ annex (Organisation of Key Competent Authorities) <p>Further information required</p> <ul style="list-style-type: none"> ➤ Further information required on what compulsory measures can be accessed by judicial production order 	Partly Met
Criterion 31.2	<ul style="list-style-type: none"> ➤ Taking as the face value the respond indicted general compliance except for control of delivery ➤ No explicit reference to enabling legislation 	Not Met
Criterion 31.3	<ul style="list-style-type: none"> ➤ The mechanism to identify accounts for natural persons falls short of compliance with the requirement due to the prohibition on orders with general application ➤ The requirement for legal persons to register a bank account does not cover any additional accounts opened by that person <ul style="list-style-type: none"> •The response does not address timeliness •The response does not address whether the owner is notified of enquiries or not 	Not Met
Criterion 31.4	<ul style="list-style-type: none"> ➤ Competent authorities can ask for all relevant information ➤ But there is no guarantee they will receive all relevant information requested 	Partly Met

RECOMMENDATION 35 SANCTIONS

	Analysis and further questions	Met/Mostly Met/Partly Met/Not Met
Criterion 35.1	<ul style="list-style-type: none"> ➤ The fine on criminal sanctions on breach of AML/CTF requirements can be improved considering the sanctions of the predicate offences (the criminal sanction of the money laundering offence is inadequate - Criteria 3.9 and such has a cascading effect) ➤ The reply is unclear about the application of or compliance with Recommendation no. 6, 8 to 23 ➤ The sanctions on DNFBPs are not effective <p>Question:</p> <ul style="list-style-type: none"> ➤ Why has this not yet been implemented? 	Partially Met
Criterion 35.2	<ul style="list-style-type: none"> ➤ The coverage of all FIs and DNFBPs is not complied. ➤ Penalties on the Directors / Senior Managers can be improved (the criminal sanction of the money laundering offence is inadequate -Criteria 3.9 and such has a cascading effect. ➤ Doesn't include TCSP or the DPMS ➤ FIs and DNFBPs as well as their directors and senior managers are applicable to sanctions in appropriate cases. <p>Question</p> <ul style="list-style-type: none"> ➤ Does the scope of application regime impact on these criteria? ➤ Is negligence of directors and senior managers considered an offence? 	Mostly Met

日期：5月2日

議程：

檢討前一日各分組完成模擬教案技術評鑑演練結果；介紹方法論內所列「風險及背景評鑑」(Risk and Context)執行要點；介紹及演練方法論內所列「效能分析」(Effectiveness)相關規範於實務執行之應注意事項；介紹及演練方法論內所列「資料及統計」(Data and Statistics) 相關規範於實務執行之應注意事項。

主持人：

Gordon Hook (APG 秘書長)、Ms Lindsay Chan(APG 秘書)、MS Marnie Campbel (APG 秘書)、MS Mitali Tyagi(APG 技術協助與訓練處長)、Mrs Suzie White (APG 秘書)

研商內容：

一、針對執行效能 (Assessing Effectiveness) 相關內容進行簡報及教案演練，包括：

(一) 說明效能評鑑之目的。效能評鑑報告之產出，係在於確認各國防制洗錢與打擊資恐符合 FATF 要求標準，並指出其執行面弱點，提出建議促請改善。

(二) 說明效能評鑑之進行基礎。效能評鑑著重於評鑑直接成果之達成程度，因此，受評鑑國家有義務依照「方法論」所列核心內容，主動且具體提供效能執行之充分證明；對於未被提供相關證明並予以明確說明之事項，均將被視為直接成果未被達成。評鑑員在瞭解受評鑑國家之客觀環境後，應針對受評鑑國家風險背景之不同情形，彈性調整定義其範圍及重點。

(三) 說明評鑑員執行評鑑之作法。評鑑員在執行評鑑工作時，通常採由「總體」至「個體」方式(Macro-Micro approach)進行。在效能評估過程中，應搭配「技術遵循」檢核內容進行比對檢視，並應具體掌握「被評認為已達成事項之成果內容」及「被評認為未達成事項之原因及可能改善之作法」，以及具體說明支持核心議題結論之相關資訊。

(四) 效能評鑑之評等等級及意義。效能評等可以分為四個等級，分別為「高度有效」(已達成絕大部分直接成果之要求，僅須作少部分之改善)、「相當有效」(達成大部分直接成果之要求，須作部分之改善)、「中度有效」(僅達成部分直接成果之要求，須作較大幅度之改善)、「低度有效」(未達成主要之直接成果，需要從基礎機制檢討改善)。

(五) 透過教案演練，由各小組依教案內容，模擬說明與效能評鑑核心方法有關之直接成果 (Effectiveness-Immediate Outcomes, IOs) 相關內容：

1. 效能評鑑包括 11 項「直接成果」。每項「直接成果」均包含多項「核心議題」(Core Issues)，部分「核心議題」可能於不同「直接成果」重複出現。
2. 評鑑團隊應分別針對各項「直接成果」給予有效程度之評等，並整體各項「直接成果」後，彈性決定總體有效程度之評等。
3. 與金融業最為直接相關之直接成果，包括 IO.3 之「金融監理機關對於特定非金融事業體及專業人士 (Designated non-financial businesses and professions, DNFBPs) 應適當的監理、控管及規範金融機構與遵循防制洗錢與打擊資恐之要求，以因應風險」，以及 IO.4 之「金融機構或 DNFBPs 能夠充分運用與其風險相當之防制洗錢與打擊資恐預防性措施，並申報可疑交易」。
4. IO.3 之核心議題略以：
 - (1) 金融機構確認及防制洗錢罪犯及其關係人直接或間接控制金融機構或 DNFBPs 之有效程度。
 - (2) 監理機關對於相關風險之有效掌握程度。
 - (3) 監理機關要求金融機構或 DNFBPs 遵循防制洗錢與打擊資恐之相關監理措施及規範內容。
 - (4) 監理機關採行增進金融機構或 DNFBPs 法令遵循成效之作法。

(5) 監理機關於行政裁量範圍得採行要求金融機構或 DNFBS 改善之措施及制裁手段。

5. IO.4 之核心議題略以：

- (1) 金融機構或 DNFBS 對於自身相關營運活動所涉洗錢或資恐相關風險曝險程度之瞭解情形。
- (2) 金融機構或 DNFBS 對於降低相關曝風程度所採行措施之成效。
- (3) 金融機構或 DNFBS 對於落實客戶審查及紀錄保存措施之執行成效。
- (4) 金融機構或 DNFBS 對於落實特定對象(如擔任重要政治職務人士、通匯銀行、新交易技術、或經 FATF 辨識之較高風險國家等)相關強化作為之執行成效。
- (5) 金融機構或 DNFBS 對於落實可疑交易報告處理情形之執行程度。
- (6) 金融機構或 DNFBS 對於運用內部控制相關機制以確保防制洗錢與打擊資恐要求之執行成效。

二、針對資料與統計(Data and Statistics)相關內容進行簡報及教案演練，包括：

- (一) 說明講解評鑑員應如何針對受評國家所提供之資料及統計數據進行分析及判讀。
- (二) 透過教案分析，由各小組進行演練，演練重點包括「於判讀質化或量化資料時，應注意不同資料來源間之可比較性及其限制性」；「於各階段取得相關資料時，應進行同一單位不同資料之時間序列分析，以及不同單位相同資料之橫向比較分析，以交叉研析其完整性及可比較性」；「於進行任何可能涉及主觀判讀之資料研析時，均應儘可能取得支持此類資料可信性之佐參文件」等。

日期：5月3日

議程：

- 一、介紹方法論內所列「結論與建議」(Conclusions and Recommendations)、「討論與面談」(Discussions and Interviews)、「相互評鑑報告之撰寫及陳述內容」(Writing and Presenting the Mutual Evaluation Report)、「溝通、回饋及透明度」(Communication, Feedback, and Transparency)等內容於實務執行上之應注意事項。
- 二、各小組針對教案內容，於當日提出次日模擬面談時之完整預擬詢問事項。

主持人：

Ms Lindsay Chan(APG 秘書)、Mrs Suzie White (APG 秘書)

研商內容：

- 一、說明相互評估報告內之結論與建議(Conclusions and Recommendations)要點略以：
 - (一) 評估結論屬於評鑑團隊共同商討之結論，非單一評鑑員所為之決定。
 - (二) 對於受評鑑國家之建議事項，其內容應具體明確，並應依優先順序排列；相關建議應避免出現空泛敘述，並應避免以評鑑人員所屬國家之相關作法，當作比較基礎。
 - (三) 個別直接成果項目之評述內容，應分別於報告內名列，其內容應包括「主要發現」(Key Finding)及「總結建議」(Recommendation)等。「主要發現」內容應簡要列出對於受評鑑國國家風險及監理架構之相關發現。總結建議內容，應對照主要發現之內容及評量情形，依優先順序方式列示相關建議。
 - (四) 直接效能之評等等級，應充分考量所有直接成果項目之評量結果，倘有任一直接成果項目之執行程度可能構成明顯影響整體效能達成之關鍵因素，整體效能之評等等級即不宜優於該項直接成果項目之評等等級。

二、說明執行評鑑工作時之討論、面談、溝通、回饋及透明度要點略以：

- (一) 評鑑團隊於進行實地評鑑前，應針對受評鑑國家提供之相關資料進行初步檢核，檢核其相關資訊內容是否足以作為進行技術評鑑之基礎。
- (二) 評鑑團隊於辦理實地評鑑時，應向受評鑑國家表達相互尊重之態度，並應充分申明取得受評鑑國家資訊之必要性，以避免因誤解而發生爭執。
- (三) 倘受評鑑國家對於評鑑團隊所擬撰相互評鑑報告(Mutual Evaluation Report)之內容存有質疑，負責擬撰人員應向受評鑑國家充分說明及溝通，倘受評鑑國家就相關疑義內容另為提出相關佐參資料，評鑑團隊應參酌補正資料內容再為審視報告內容之合宜性。

三、在擇選面談金融機構之對象部分，APG 秘書處講授人員並未針對「擇選條件」提出相關標準。但依各小組參訓人員於討論過程中表達之相關意見可知，評鑑團隊於擇選受評鑑國家金融機構之審視對象時，可能考慮之擇選對象包括「營業收入市占率排名較高者」、「過去一定年度(5至10年)曾發生違反防制洗錢或資恐規定，或因特定事件經認定可能涉屬參與洗錢或資恐之虞者」或「過去一定年度(5至10年)跨境或外幣交易成長幅度較大者」等。

四、報告人所屬小組針對教案內容，於當日提出次日模擬面談時之完整預擬詢問事項如下：

Meeting	Law Enforcement
Date	Thursday 4 May 2017 9:30 – 10:15
Lead Questioner/s	Andy Chan (Hong Kong)
Secondary Questioner/s	Michael McGillan
IO's	IO.7
Issues for discussion/questions: 1. Have you brought any information with you today that you would like to provide to the assessment team?	

2. Please describe your background in money laundering investigations and how the NPA is structured with regard to money laundering investigations – including staffing levels and training
3. Please clarify how/when TIDE, CLUE, SAD and ACA investigate money laundering and how these agencies interact with NPA
4. Have you read the NRA? Do you feel your resources are prioritised accordingly?
5. Are referrals from the FIU useful? Why/why not? Do you provide feedback to the FIU? What other sources of leads do you use (e.g. human source tip-offs, traffic stops etc.)
6. How do you prioritise or triage which matters to investigate?
7. How easy is it to obtain financial information to support your investigation? Do you work with other agencies to obtain this intelligence/evidence? What are your pain points or barriers?
8. How easy is it to get your case accepted for prosecution? How easy is it to secure convictions for different ML offences? e.g. self-laundering accompanying a predicate charge vs. third-party foreign predicate laundering as an autonomous offence. **Do you think drug or corruption offences are prosecuted effectively?** How long does it take start-to-finish?
9. How many of your investigations involve legal persons?
10. If an investigation or prosecution is abandoned or the defendant is acquitted, what other measures are taken to disrupt the criminality?
11. Based on your experience, do you feel convictions result in appropriate sentences? Why/why not?

Meeting	Prosecutor
Date	Thursday 4 May 2017 10:30 – 11:15
Lead Questioner/s	Jennifer Fok (Hong Kong)
Secondary Questioner/s	Carolyn Marsden
IO's	IO. 7

Issues for discussion/questions:

1. Have you brought any information with you today that you would like to provide to the assessment team?
2. Please describe your background in money laundering prosecutions
3. Provide a breakdown of what sort of ML cases are referred to you (i.e. 30% self-laundering, 20% autonomous foreign predicate laundering etc.) What is the size of these cases (in your own words)
4. Please explain how the AGO decides which FIU dossiers it will authorise for disclosure? Do you feel this process is necessary?
5. How do you prioritise or triage what to prosecute? Data suggests that anti-corruption and foreign predicate offences are not often accepted for prosecution – do you agree? Why is this the case?
6. How easy is it to secure convictions for different ML offences? Why are conviction rates for drugs predicate ML cases low? How long does it take start-to-finish? What are your pain points / barriers?
7. Do you use tactics such as dropping a parallel ML charge to secure a plea bargain?
8. Based on your experience, do you feel convictions result in appropriate sentences? Why/why not?

Meeting	Supervision
Date	Thursday 4 May 2017 11:30 – 12:15
Lead Questioner/s	MD Khairul Anam (Bangladesh)
Secondary Questioner/s	Rob Milnes
IO's	IO.3
<p>Issues for discussion/questions:</p> <ol style="list-style-type: none"> 1. For financial institutions: 2. What does the fit and proper test involve? 3. For Core Principles financial institutions, why are fit and proper tests only applied to some members of senior management? 4. How many persons have failed in the fit and proper test? 5. For these declines, did this result in the license being declined? 6. Across all financial institutions, how many persons have failed in the criminal history check? 7. How do your regulatory measures ensure that criminals and their associates do not own financial institutions?*** 8. How often do licenses have to be renewed? 9. What procedures are in place to ensure that changes in director, manager or beneficial owner do not hand over ownership or control of a financial institution? 10. In total, how many criminals have been detected in these positions at financial institutions as a result of the regulatory measures that Pseudopolis has in place? 11. Can you provide some examples of when the risk rating of a financial sector, or a subsector, has increased or decreased and explain why? 12. Can you provide some examples of when the risk rating of an individual financial institution has increased or decreased and explain why? 13. Do the findings of an on-site inspection with a financial institution affect its individual ML/FT risk rating? If so, can you provide some examples of when 	

this happened?

14. What level of AML/CFT specific training do FSA examiners have?
15. What proportion of an on-site inspection is usually spent on AML/CFT verses prudential matters?
16. You have provided your list of sanctions for the last five years. Can you tell us in which sector these sanctions have been applied?
17. Why haven't criminal sanctions ever been applied?
18. Why have the number of fines been steadily dropping?
19. How often do you meet with financial institutions?
20. How often do you really provide guidance? Is this sector specific and can you provide us some copies?

Meeting	FIU
Date	Thursday 4 May 2017 13:45 – 14:30
Lead Questioner/s	Samina Chagani (Pakistan)
Secondary Questioner/s	Fayota Prachmasetiawan
IO's	IO.3; IO.7
<p>Issues for discussion/questions:</p> <ol style="list-style-type: none"> 1. What is the process for the FIU-CRF to provide information to the other licensing authorities? Is this a formal and mandatory process initiated by the licensing authority? 2. What is the response time for the FIU to respond to the other licensing authorities? 3. Is information only provided by the FIU if there are concerns? Or is a response provided regardless? 4. For the real estate license, can AML/CFT compliance be taken into consideration? 5. Across all of the DNFPBs, how many adverse findings have been reported to date by the FIU to the other licensing authorities? 6. Does the FIU-CRF ever receive requests for further information in relation to a particular DNFPB? 7. To date, how many licenses have been declined as a result of information provided by the FIU-CRF? 8. Does the FIU-CRF receive requests relating to changes in ownership or management of a DNFPB? 9. Does Pseudopolis intend to introduce any type of regulatory or supervisory arrangements for TCSPs? If so, when? 10. What assistance have you received from FSA in preparation for your supervision? Can please provide the sector wise and predicate offence wise distribution of STR? 	

11. When do you expect to start your on-site supervision on DNFBPs? What is the outcome of desk based review?

Questions for IO 7

12. Have you brought any information with you today that you would like to provide to the assessment team?

13. Please describe your background in financial intelligence

14. How do you generate financial intelligence (e.g. proactive analysis of STRs, collection and analysis on request of an LEA, etc.)

15. How many dossiers prepared by the FIU are approved for disclosure by the AGO? Do you feel this mechanism is a barrier to information sharing?

16. Provide a breakdown of what sort of ML cases are referred by your FIU to designated authorities (i.e. 30% self-laundering, 20% autonomous foreign predicate laundering etc.)

17. How do you prioritise or triage what to analyse?

18. Do you receive regular feedback from your customers? Does this feedback indicate satisfaction or constructive criticism?

19. How easy is it to obtain financial information or other agency data sources to support your intelligence generation? Do you work with other agencies to obtain this intelligence? What are your pain points or barriers?

20. Do you provide feedback to the regulated population?

日期：5月4日至5日

議程：

各小組針對教案內容，進行模擬面試演練，並提交模擬教案之相互評鑑報告，並進行口頭報告。

研商內容：

- 一、進行模擬面談之演練（Mock interviews），由 APG 講座分別扮演評鑑國家之警察部門首長、檢察部門首長、金融情報中心首長及金融監理機關首長，輪流至各組接受提問，以模擬實地評鑑之面談程序。
- 二、APG 講授人員強調，受評鑑國透過面談對面溝通及遞交相關佐證資料之方式，可以達到輔助書面文件進行說明之效果。受評鑑國對於面談過程中評鑑團隊提出之待釐清事項，倘無法於面談時即時回應，應於面談結束後儘速提供相關資料予評鑑團隊。評鑑團隊應給予明確告知應補正資料之回應期限，以避免影響相互評鑑報告之完成期程。
- 三、報告人所屬小組針對教案內容提交之模擬教案相互評鑑報告，係依 APG 人員給定之格式，陳列模擬教案之主要發現、評等等級、給予特定評等等級之原因，以及對受評鑑國家提出之建議事項（按優先順序排列）。完整模擬教案報告詳附件。
- 四、各小組分別依序簡報所完成之模擬教案相互評鑑報告相關內容，並於簡報後回應其他小組之提問，最後由各講座進行講評。

參、心得與建議

一、APG 於 106 年間，已分別於 3 月及 5 月舉辦 2 梯次評鑑人員訓練，其舉辦目的，係希望自各國參訓人員內擇選適當人才，協助該組織執行相關國家防制洗錢^{集資恐辦}及^及辦理情形之評鑑工作，而非係提供防制洗錢相關國際規範之教育訓練。值得注意的是，派訓國家之人員一旦獲選為評鑑人員，派訓國家必須自行負擔獲選人員執行他國評鑑工作之所有所需經費，包括住宿、交通及相關雜支等，APG 並不負擔編撰報告以外之其他一切開支。據此，報告人建議，倘我國相關機關有意願持續選派人員參加此類訓練，應事前編列足額經費以為支應，避免屆時因經費限制致衍生相關困擾。

二、APG 認為，協助該組織執行相關國家防制洗錢^{集資恐辦}及^及辦理情形之相關評鑑工作內容，十分繁複且具高度時效，就評鑑人員而言，必須於極短期間內完成大量英文文件之處理，以及隨時即時回應來自 APG 秘書處之交辦事項及受評鑑國家之待溝通事項等，是以，APG 期待各國之派訓人員於未來獲選執行評鑑人員工作時，雖無任何來自 APG 之工作酬勞，仍應以全職方式執行相關評鑑工作。據上，報告人建議，倘我國相關機關有意願持續選派人員參加此類訓練，應事前評估是否有充裕人力得指派專人全職執行 APG 交付之評鑑工作，避免屆時因人力限制致衍生相關困擾。

三、在因應 APG 預計於 107 年第 4 季對我國進行第三輪相互

評鑑之準備工作方面，我國依 APG 相關建議，已陸續完成「將 FATF 標準定於法律或法規命令層級之規範」等相關法制工作，包括參酌 FATF 新標準及新加坡、香港、紐西蘭等立法例於 103 年 1 月 6 日發布「保險業防制洗錢及打擊資助恐怖主義注意事項」等；另參考 FATF 建議，已完成推動保險公會訂定「保險業評估洗錢及資助恐怖主義風險及訂定相關防制計畫指引」及修正「人壽、產物保險業防制洗錢及打擊資助恐怖主義注意事項範本」，納入 FATF 新標準要求應採取風險基礎方法等相關措施，及因應電子商務及國際保險業務分公司等新業務或新交易型態之風險評估及採行適當管理措施。值得注意的是，APG 講授人員於本次訓練過程中一再強調，近期受評鑑之新加坡及澳洲等國家於技術遵循及效能評等相關面向，均仍存在法令規範或管理措施之待提升或改善事項。據上，報告人建議，我國相關機關對於現行已完成之法令規定或管理機制相關內容，仍宜持續運用適當資源持續蒐集「已受評鑑國家依 APG 相關改善建議續行進行之法令檢討情形」，以收借鑑之效並完備相關準備工作。