

## **OPERATIONS MANUAL BANK POLICIES (BP)**

*These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

### **ENHANCING THE ASIAN DEVELOPMENT BANK'S ROLE IN COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM**

#### **A. Introduction**

1. Money laundering (ML) is the processing of the proceeds of crime so as to disguise their illegal origin. The financing of terrorism (FT) is generally understood as an act of providing or collecting funds with the intention that they should be used or in the knowledge that they are to be used in order to carry out terrorism.<sup>1</sup>

2. ML and FT constitute global problems affecting both developed countries and ADB's developing member countries (DMCs), and assistance in combating these financial crimes is urgently needed by many DMCs. It is timely for ADB to strengthen its own assistance to DMCs in response to ever increasing requests for assistance, within its mandate as an international financial institution. However, it is likely that ADB's role will be more prominent in the anti-ML (AML) area than in combating FT (CFT) for at least two reasons: First, the magnitude of the ML problem is believed to be much larger than the FT problem, at least in most of the Asian and Pacific region. Second, CFT involves more law enforcement issues that do not fall readily within the mandate or expertise of ADB.

#### **B. The Policy**

3. ADB shall combat, and assist its DMCs to combat, against ML and FT through adoption of a consolidated strategy and approach. ADB's policy on enhancing its role in AML and CFT is guided by a number of principles:

- (i) ADB locates and implements its AML/CFT activities within the broader context of its existing goals, policies, and strategies for assisting DMCs such as poverty reduction, strengthening financial systems, and promoting good governance and anticorruption. This will ensure that ADB's work on AML/CFT does not compete with or override existing operational priorities or divert scarce financial and human resources.

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<sup>1</sup> There are more than one definitions of FT. The United Nations International Convention for the Suppression of the Financing of Terrorism (1999), for example, stipulates in its Article 2 as follows: "Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out (a) an act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or (b) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act."

- (ii) ADB does not attempt to duplicate the ongoing efforts and programs of other organizations such as Financial Action Task Force on Money Laundering, the United Nations, Asia/Pacific Group on Money Laundering, International Monetary Fund, and the World Bank. It instead seeks to identify additional measures that it might usefully take to complement the efforts of these other agencies, either through its lending operations or training of government officials and other forms of technical assistance.
- (iii) ADB's role is also tailored to take account of the special problems and circumstances faced by the Asian and Pacific DMCs. Notable among these problems and circumstances are lack of or weakness in AML/CFT laws, weak institutional capacity, and lack of specialized and sustainable training for government officials to effectively implement and enforce AML/CFT laws.

### **C. Scope of the Policy**

4. Guided by the above principles, ADB's policy on AML/CFT has four key elements:

- (i) Assisting DMCs in establishing and implementing effective legal and institutional systems for AML/CFT;
- (ii) Increasing collaboration with other international organizations and aid agencies;
- (iii) Strengthening internal controls to safeguard ADB's funds; and
- (iv) Upgrading ADB's staff capacity.

**Basis:** This OM section is based on:

ADB. 2003. Doc. R45-03, *Enhancing the Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism*, 4 March. Manila.

This OM section is to be read with OM Section C6/OP.

**Compliance:** This OM section is subject to compliance review.

**For inquiries:** Questions may be directed to the General Counsel, Office of the General Counsel.

**OPERATIONS MANUAL  
OPERATIONAL PROCEDURES (OP)**

*These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

**ENHANCING THE ASIAN DEVELOPMENT BANK'S ROLE IN COMBATING MONEY  
LAUNDERING AND THE FINANCING OF TERRORISM**

**A. Introduction**

1. ADB's policy on anti-money laundering (AML) and combating the financing of terrorism (CFT) is to be implemented through adoption of a consolidated strategy and approach.

**B. Application of the Policy**

**1. Assisting Developing Member Countries in Establishing and  
Implementing Effective Legal and Institutional Systems**

2. As a matter of the first priority, ADB encourages the inclusion of AML and CFT issues in the policy dialogue with its developing member countries (DMCs), where necessary and appropriate, particularly when DMCs request ADB's assistance in this area. In these cases, the AML and CFT issues must be explicitly incorporated into the country strategy and program and its update (CSP/CSPU), subregional cooperation strategy and program and its update (SCSP/SCSPU), and relevant sector and aid agency consultations.

3. In DMCs where AML/CFT efforts are substantially delayed, ADB assists the DMC's policy makers to seriously recognize the dangers and risks that money laundering (ML) and the financing of terrorism (FT) pose to their financial sector governance and integrity. Such recognition needs to be placed on a sound and comprehensive basis to achieve both poverty reduction and sustainable economic development.

4. In DMCs where AML/CFT efforts have made certain progress, ADB assists to further strengthen the AML/CFT regime and ensure its effective implementation in close coordination with other aid agencies concerned.

5. In identifying the appropriate scope and methods of the assistance, ADB takes into account, as feasible, assessments carried out by international and regional organizations including the Financial Action Task Force on Money Laundering (FATF), the Asia/Pacific Group on Money Laundering (APG), the International Monetary Fund (IMF), and the World Bank; and self-assessments by DMCs. Such an approach provides for consistency among the concerned organizations and ADB in addressing AML/CFT matters, and also facilitates cooperation among DMCs.

6. In the course of country dialogue, ADB encourages all DMCs to actively participate in international and regional forums and activities on AML/CFT, starting with regional forums such as APG. This enables DMCs to receive technical advice and guidance from such forums.

7. ADB's assistance may be funded by technical assistance (TA) grants, project, program, or TA loans; and/or funds provided by other sources under trust fund agreements administered by ADB. The assistance could be directed, for instance, to raise awareness of the risks that the issues pose; to establish or strengthen AML/CFT legal, regulatory, and institutional frameworks; to build institutional capacity in responsible institutions; to provide for the sustainable training programs for officials dealing with AML/CFT matters; and to conduct research studies and regional conferences, workshops, and seminars.

8. In the case of assistance through loans, the principal vehicle to be used is financial sector loans. Despite a tendency for some DMCs to prefer TA grants to loans when requesting ADB's assistance for AML/CFT, the feasibility of the assistance through loans needs to be studied. To accelerate DMCs' concentrated efforts supported by political commitment, moderate use of loan covenants or tranche conditions (in the case of program loans) may be appropriate and useful, if carefully examined on a country-by-country basis.

9. Assistance through TA grants may be considered, depending on the nature, urgency, and priority of the request. Combinations of assistance through loans and TAs may be explored. Where common needs for assistance exist for a region or a subregion, a regional or subregional TA may be developed to provide the appropriate assistance. Which method of assistance to choose must be carefully considered, taking into account all the relevant factors, and must be discussed with the DMCs concerned.

## **2. Increasing Collaboration with Other International Organizations**

10. As various international organizations and aid agencies work in the Asian and Pacific region, it is essential that ADB increase and strengthen its collaboration and cooperation with these organizations. To this end, ADB seeks to achieve such increased collaboration through the following measures:

- (i) adoption, as the primary international AML/CFT standards to guide ADB's operation, of FATF's Forty Recommendations as revised in June 2003,<sup>1</sup> and relevant United Nations conventions and Security Council resolutions;<sup>2</sup>
- (ii) strengthening ADB's cooperation and collaboration more fully with APG in its operational work; and

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<sup>1</sup> ADB. 2003. Manual on Countering Money Laundering and the Financing of Terrorism. Manila, provides for basic information on AML/CFT issues and the full text of selected international standards including UN conventions, FATF 40 Recommendations, regulations and model laws.

<sup>2</sup> E.g., the International Convention for Suppression of the Financing of Terrorism; and UN Security Resolution 1373.

- (iii) having meetings and workshops with relevant international organizations and multilateral/bilateral aid agencies on a more regular basis, such as the FATF plenary meetings and typology workshops; ADB needs also to remain active in the recently established international and regional frameworks for aid coordination for TA and training needs initiated by the World Bank and the International Monetary Fund.

### **C. Strengthening Internal Controls to Safeguard ADB Funds**

11. Though ADB is not a deposit-taking institution and its treasury operations are consequently less directly exposed to ML/FT activities than those of commercial financial institutions, the potential for indirect exposure may exist. For this reason, it is important that ADB continues to strive toward international best practice standards in its treasury operations.

12. At the same time, ADB monitors and strengthens each procurement and consultant selection as well as rules, procedures, and systems for borrowers and other external parties concerned in ADB's projects to ensure that ADB funds from loans and TAs are not misused for the purposes of ML/FT through fraudulent procurement, contracting, and accounting.

13. Through project management and audit, ADB strengthens borrowers' financial accounting and auditing arrangements in relation to ADB's project procurement and administration to prevent misuse of ADB funds. It is also important that ADB strengthen the system to screen sources of commercial cofinancing operations.

### **D. Role of Departments and Offices**

14. Since AML and CFT issues require different types of skills and expertise, the implementation of the policy involves several departments and offices of ADB.

15. The principal challenge facing ADB staff initially is to gradually and systematically incorporate AML issues (and CFT issues to a more limited extent) into all relevant aspects of policy dialogue with DMCs and into loan and TA operations for which the regional departments are primarily responsible; and also into ADB's own administration of its financial operations and procurement-related activities for which the Office of the Auditor General (OAG), Central Operations Services Office (COSO), Controller's Department (CTL), Treasurer's Department (TD), and Private Sector Operations Department (PSOD) share responsibilities. The Regional and Sustainable Development Department (RSDD) and the Office of the General Counsel (OGC) support the work of departments/offices in the ways elaborated below so that the regional departments can provide appropriate assistance to the DMCs, being fully aware of ADB-wide activities and efforts by other institutions.<sup>3</sup>

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<sup>3</sup> Given the importance and need for close consultation and collaboration among departments and offices, the existing informal network of staff for AML/CFT matters needs to be developed into a formal network to act as a forum for regular interdepartmental discussions and coordination to implement the policy. The network will discuss and establish as early as possible a specific and preferably time-bound action plan

16. The regional departments assist the DMCs in establishing and implementing effective AML/CFT systems through enhanced policy dialogue and provision of loans (or inclusion of loan components) and TA, as appropriate. They also explore ways of enhancing regional and subregional cooperation among DMCs as well as enhancing public-private partnerships in DMCs in consultation with RSDD and OGC as appropriate. As for DMCs where no concrete project is being implemented, processed, or planned, the regional departments first identify whether it is appropriate for each DMC to include AML/CFT issues in the policy dialogue and then in the CSP/CSPU and SCSP/SCSPU. Where inclusion in the CSP/CSPU and SCSP/SCSPU is deemed appropriate, best efforts must be made to do so in those for 2004. The regional departments take into account the latest developments of international and regional efforts concerning AML/CFT when forming their assistance to DMCs. The regional departments also attend, when appropriate, selected regional forums and country-specific aid coordination meetings to ensure good coordination with other TA providers.

17. RSDD monitors the implementation of the policy through operation of the staff network and periodic reviews. It also provides technical advice to the regional departments as appropriate. RSDD is also responsible for preparing and conducting staff training programs in coordination with OGC, the Budget, Personnel and Management Systems Department (BPMSD), and external experts. RSDD attends, when appropriate, selected international and regional forums in coordination with OGC, the regional departments, and others.

18. OGC provides legal advice and other information on the latest developments in the global and regional efforts for AML/CFT. OGC, in coordination with relevant departments/offices, will continue to attend selected international and regional meetings and workshops as appropriate. OGC further develops the current close working relationship with other international organizations active in AML/CFT in line with this policy. OGC assists RSDD in the formation of the staff network to discuss an action plan and scope of work for implementation of the policy. OGC also prepares and conducts staff training programs in coordination with RSDD, BMPSD, and external experts.

19. OAG, COSO, CTL, TD, and PSOD seek and incorporate international best practices to safeguard ADB's funds against misuse, within its mandate and responsibilities and in close coordination with other concerned departments and offices.

- Basis:** This OM section is based on OM Section C6/BP and the documents cited therein.
- Compliance:** This OM section is subject to compliance review.
- For inquiries:** Questions may be directed to the General Counsel, Office of the General Counsel.