

ADB AML/CFT Activities & Impact on Examination Process

Rita O'Sullivan, Senior Counsel

ADB

14 July 2006

The views expressed in this paper/presentation are the views of the author and do not necessarily reflect the views or policies of the Asian Development Bank (ADB), or its Board of Governors, or the governments they represent. ADB does not guarantee the accuracy of the data included in this paper and accepts no responsibility for any consequence of their use. Terminology used may not necessarily be consistent with ADB official terms.

ADB AML/CFT Operations

ADB has extensive experience developing AML/CFT regimes

Technical Assistance Support (part of Financial Sector Reform Programs) – Cambodia, Lao PDR, Mongolia, Sri Lanka, Thailand, Viet Nam

Specific Projects – RETA in Pacific, Indonesia, Mongolia, People's Republic of China, Philippines & Thailand

Regional Training Seminars – Mekong Region, Central Asia

Working with other Donors – IMF, UNODC, OECD, WB, AUSIAD, AUSTRAC, Bank Negara, Malaysia, USAID, ABA

ADB-OECD Anti-Corruption Initiative

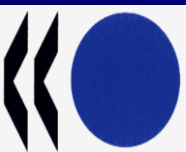
Focus on link between corruption & AML

Action Plan endorsed in 27 countries

Steering Group /Advisory Group

Secretariat in ADB

- provides technical advice
- selects/implements priority reform areas and supporting projects
- liaise with the international donor community



Study to examine AML Paradigm Shift from Cash to Digital

E & M-commerce Operational concerns for regulators

- KYC in digital world
- M-AML legislation relative to search arrest & seizure of assets on cell phones/PDAs, etc
- If open system between alternate remittance providers – rethink AML controls

Legal Issues

- **Nature of E-Money**
 - **M-commerce Transactions**
 - **Regulation of Issuers – outside formal banking system**
 - **Enforcement Aspects –peer2peer**
- **Regulatory Framework Issues**
 - ✓ **Philippines- small value, closed system**
- **Operational Considerations**
 - ✓ **Cross border transactions**

Brunei, Malaysia, Indonesia, Philippines East ASEAN Growth Area (BIMP-EAGA)

<http://www.eaga.org.bn/>



AML Risks /Opportunities

Trade-based AML

All aspects of border controls (CIQS) need improvement

Limited AML penetration

Limited or no proactive joint AML operations between countries

- Criminal organizations haven
- Cross border movement of bulk cash
- Under/over declaration of values to avoid tax

Purpose of the AML/CFT on-site examination

- To determine whether the FI has developed, administered and maintained an effective program for compliance with AML/CFT laws and regulations.
- International obligations on supervisors
 - FATF – recommendation 23
 - BCP – principle 15
 - IAIS – principle 28

Basel Core Principle - Principle 16

An effective banking supervisory system should consist of some form of both on-site and off-site supervision.

FATF Recommendation 23

Countries should ensure that financial institutions are subject to adequate regulation and supervision and are *effectively* implementing the **FATF Recommendations**.

On-site examination manual

Provides a guide for the examination of compliance with AML/CFT laws, regulations, guidelines and other rules.

Outlines a work program covering examination procedures.

Supervisors should be flexible when on-site.

- In some cases a supervisor might only need to perform procedures if problems or weak internal controls are identified.

Core Principles for on-site work

- Review the written AML/CFT policy
- Review the compliance program (manual)
- Conduct independent testing
- Check the role of the compliance officer
- Adequacy of staff training?
- Transaction testing

Planning the Examination

Prior Stage:

Assess the risk profile

Define the scope of the examination

Examination:

Undertake core elements – see checklist document

Perform the examination

Evaluation of findings

Prepare the report

Communicate the results

Follow-up

Assess the risk profile

- What is the profile of the FI's clients and where located?
 - Mums & dads, non-residents, third party introduced
 - Geographic (OFAC, NCCT, drug trafficking jurisdictions)
- Does FI operate in a largely cash based economy?
- Is the institution part of larger group supervised by another authority, and if so, do FATF recommendations apply?
 - *FATF Recommendation 22 - FIs should ensure that AML/CFT requirements apply to branches and subsidiaries in countries which do not apply the FATF recommendations*

Assess the risk profile

- Is there a compliance officer and compliance culture?
 - Based on previous dealings and market intelligence
 - Compliance with statutory and regulatory requirements
- Does the audit program (internal and external) cover AML/CFT policies?
- Does it have a lot of correspondent banking relationships?
- Have the rules changed recently?

Common Problems Identified

Policies not 'up-to-date' with Acts and Regulations

Compliance function dissociated from the 'floor'

Unclear instructions/guidelines

Incomplete records

Poor/inadequate training

Understanding source of wealth

Documenting management discretion

The verification of identity

More Information

Contact Rita O'Sullivan rosullivan@adb.org

ADB's AML/CFT Toolkit <http://www.adb.org/Documents/Others/OGC-Toolkits/Anti-Money-Laundering/default.asp>

ADB/OECD Anti-Corruption Initiative for Asia-Pacific
<http://www1.oecd.org/daf/ASIAcom/>

The regional, web-based reference centre + anti-corruption
knowledge tools <http://www1.oecd.org/daf/ASIAcom/countries>

ADB's Anti-corruption Policy and activities
<http://adb.org/Anticorruption/default.asp>