

AML/CFT MEASURES & TYPOLOGIES

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Inspections of Market Intermediaries**

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Money laundering, financial crimes, and terrorist financing

- not easy to address
- complicated financial schemes
 - trade price **manipulation**,
 - terror financing operations through charitable and not for profit organizations,
 - legitimate corporations being **bankrupted** through illegal use of shell companies, corruption, and abuses of derivatives transactions
 - Heavy **fines** from some jurisdictions (AMEX in Florida)

WHY -Negative Economic Effects

Money laundering:

- **reduces productivity** in the economy's real sector,
- **encourages crime** and corruption,
- **impedes** economic growth, and
- damages **prospects** for long-term development
- hinders the **development** of financial institutions
 - vulnerable to corruption by criminal elements seeking to gain further influence over their money laundering channels.
 - any perception of money laundering involvement could put at risk customer trust, fundamental to sound financial institutions

HOW MUCH -difficult to quantify.

Impact of AML/CFT requirements on Financial System

- Need to stay in **global financial system**
 - Adopt AML/CFT systems which meet international standards (FATF 40+9 Recommendations)
- Clarify **regulatory responsibilities - overlap**
- Reflect **international norms** but **local responses**
 - Based on nature of financial sector
 - Analysis of risks
 - New functions for central banks, securities commissions and other supervisors

How Do Regulators Respond?

- Develop an **Integrated Plan**
- Effective **networks**
 - national/regional/global
 - share information
- **Training**, include private sector

Integrated Plan

- At Agency level
- Endorsement by industry associations
- Work together—share experiences and information

HOW TO START? Answer: Process map

Process Map

STEP 1 - explain how the AML regime **currently works**,

STEP 2 - systematically identify key money laundering-related **vulnerabilities and bottlenecks** to effective implementation

STEP 3 - suggest **positive actions** to make the system operate more effectively and efficiently

Step 1 - Describe the AML regime regulatory framework

- the laws, regulations, instructions, guidelines (**IMOLIN database**)
- the regulators that supervise the institutions and activities, (**banks, securities and insurance commissions**)
- the network of enforcement agencies that link into the regulators to implement the regime (**customs, police, prosecutors**)

Step 1B - Magnitude of the Problem - an overview of criminal activities

- Illegal sources of laundered funds easy to identify but estimating the amounts derived is a more difficult task.
- drug trafficking, graft and corruption, kidnap-for-ransom, bank robbery and smuggling have been identified as major sources of laundered funds. **fraud, violations of securities laws, and tax evasion.**
- CFT issues - authorities link drug and firearms trafficking activities to terrorist organizations.

Identify ML activities

- **Bribery & corruption undermine AML/CFT measures:** Corruption (bribe officials) to undermine AML/CFT measures, including possible influence by politically exposed persons (PEPs): eg investigating officials or private sector compliance staff in banks being bribed or influenced to allow money laundering to take place.
- **Structuring (smurfing):** A method involving numerous transactions (deposits, withdrawals, transfers), often various people, high volumes of small transactions and sometimes numerous accounts to avoid detection threshold reporting obligations.

Identify ML activities

BANKING SECTOR

- **credit cards, cheques, promisory notes etc:** access funds held in a financial institution, often in another jurisdiction.
- **Currency exchanges / cash conversion:** used to smuggle funds to another jurisdiction or to exploit low reporting requirements on currency exchange houses to minimize risk of detection - eg purchase travellers cheques to transport value to another jurisdiction.
- **Use of foreign bank accounts:** to move funds away from interdiction by domestic authorities and obscure the identity of persons controlling illicit funds.

Capital Market Activities

- **Investment in capital markets:** to obscure the source of proceeds of crime to purchase negotiable instruments, often exploiting relatively low reporting requirements.
- **Mingling (business investment):** A key step in money laundering involves combining proceeds of crime with legitimate business monies to obscure the source of funds.
- **Use of shell companies/corporations:** a technique to obscure the identity of persons controlling funds and exploit relatively low reporting requirements.
- **Use of offshore banks/businesses, including trust company service providers:** to obscure the identity of persons controlling funds and to move monies away from interdiction by domestic authorities.
- **Use of nominees, trusts, family members or third parties etc:** to obscure the identity of persons controlling illicit funds.
- **Identity fraud / false identification:** used to obscure identification of those involved in many methods of money laundering and terrorist financing.
- **Use “gatekeepers” professional services (lawyers, accountants, brokers etc):** to obscure identity of beneficiaries and the source of illicit funds. May also include corrupt professionals who offer ‘specialist’ money laundering services to criminals.
- **New Payment technologies:** use of emerging payment technologies - examples include cell phone-based remittance and payment systems.

Other activities

- **Trade-based money laundering and terrorist financing:** usually involves invoice manipulation and uses trade finance routes and commodities to avoid financial transparency laws and regulations.
- **Gaming activities (casinos, horse racing, internet gambling etc):** Used to obscure the source of funds – e. g. buy winning ticket from legitimate player; use casino chips as currency for criminal transactions; use online gambling to obscure the source of criminal proceeds.
- **Abuse of non-profit organizations (NPOs):** May be used to raise terrorist funds, obscure the source and nature of funds and to distribute terrorist finances

Identify Target Financial Institutions

- Placement of illegal funds - usually through financial institutions - purchase of securities or insurance products.
- Which institutions are targeted?
 - securities dealers, brokers, salesmen, investment houses and other similar entities managing securities or rendering services as introducing brokers and certain investment advisors, agents, or consultant;
 - mutual funds, collective investment schemes, close-end investment companies, common trust funds, pre-need companies and other similar entities;
 - Options and futures firms;
 - foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities;
 - other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property
 - insurance firms

Role of the Regulator

Adequate powers to:

- monitor and ensure **compliance** with Client Due Diligence obligations
- require information **identifying** persons who beneficially own or control securities accounts.
- adopt **regulations** to impose CDD requirements. (No domestic secrecy laws, regulations, codes or provisions should prevent or restrict the collection of the information and records by the regulator.)
- Conduct **inspections** and be empowered to obtain, and if necessary, to compel production of any relevant information;
- Obtain identification records and CDD information on a **timely basis**;
- impose adequate administrative **sanctions** for failure to comply with requirements;
- require information identifying persons who **beneficially own** or control accounts

Step 3- Control Measures

(a) CLIENT IDENTIFICATION AND VERIFICATION

- *verify the client's identity using reliable, independent source documents, data or other information.*
- *exercised in a **reasonable manner**,*
- *occur as soon as is **reasonably practicable** after the client has been identified, in order to avoid illegal activities while verification is pending.*
- ***Ongoing** - risk management procedures to monitor accounts while client identity is being verified, taking into account the conditions under which a client may utilize the business relationship prior to verification of identity*

Identify Natural Persons

Which methods are adequate:

- A **government-issued identification** - nationality or residence and bearing a photograph-current/expired?
- a driver's license or passport?
- dog owner's permit;
- compare client information with information from a consumer reporting agency, public database, or other independent source;
- Check references with other financial institutions.
- Obtain account statements;
- ADB ID Badge;
- Face to face meetings; interviews; statements; home visits; references from previous business relationships.

Higher Risk Categories

- Where risk of misidentification or illegal securities activity is higher, apply more stringent client identification measures.
- Examples of higher risk accounts for :
 - politically exposed persons.
 - entities with complex corporate structures.
 - nationals from countries that are considered as non-cooperative or inadequately-regulated.
 - unregistered or unregulated investment vehicles.

Higher Risk -

- Omnibus accounts
 - accounts established by financial institutions to engage in securities transactions on behalf of their clients.
 - enhanced CDD process
- Beneficial Owner Identification
- Know Your Client (KYC)

Consultation with Private Sector

- **Essential** if the process is to work
- **Consultation** with financial and business sector
 - Agreement on outcomes
 - Design solutions together—efficient and effective
- **Ongoing process**

Coordination Systems

- Government Agencies
 - High level
 - Working level
- Private Sector
 - Industry associations
 - They are the front line
 - Must be able to make the system work
 - Look for efficient and low cost systems

Opposition and Resistance

- Some based on **genuine concerns**
 - Concerns about cost, privacy
 - Address with information, assistance
- Some based on **self protection**
 - Criminals, corrupt officials, and businesses
- **Political will** is essential
 - Government must be committed
 - Keep ministers/commissioners aware of emerging issues

Opposition and Resistance (2)

- **Finance sector support** is essential
 - Bankers association
 - Foreign bankers
 - Other industry groups
 - Major institutions
- **Public support** important
 - Industry and professional groups (DNFBPs)
 - International
 - Neighbours
 - Regional associations (APEC, ASEAN, APG)
 - Donor community

Responding to Concerns

- **Fears and misinformation**
 - Do not ignore
 - Educate
 - Inform
 - See AML/CFT as part of good governance-integrate
- **Genuine concerns and real problems**
 - Do not ignore—respond – hotline/focal persons
 - Provide assistance/training internally
 - Engage external support
 - Seek and provide feedback both internally and externally

Evolving AML/CFT Processes for Changing Risks



- Increased cash supply (remittances)
- Sophistication of criminals (internet, cell phones, relocate very quickly)
- Public gullible (and greedy)

Recent Case Study

- Ponzi Scheme via internet
- HK regulators query to Swiss regulators
- Answer-no registration
- Warning issued
- Malaysia, Singapore, Philippine Regulators found schemes

Necessary Judicial Powers

Domestic/foreign **investigations powers** to

- locate, freeze and confiscate
- search and seize
- compel witnesses/prisoners
- transfer proceedings
- joint investigation
- enforce foreign orders
- share assets

Cooperation + information sharing

- Effective **networks**
 - national/regional/global
 - share information
- Legislative ability to share with other regulators (local + international)
- **Training**, include private sector

Current Developments

- Public awareness campaign
 - Press releases for journalists –train them!
- Link with anticorruption initiatives
- Trade-based money laundering
- Cross-border issues (C.I.Q.S.)
- UN assessment of CFT measures

What do YOU Need?

- How do you identify needs?
 - Process map to identify gaps – work with FIU
- Are these common needs in the region or specific to your country?
- Who can assist?
 - Various sources
 - Asia/Pacific Group on Money laundering
 - ADB, IMF, World Bank
 - EC, regional (APEC/ASEAN) and bilateral (USAID, AusAID, etc)
- What sort of process would assist you?
- How do you engage this support?

Websites and Contact Details

AML Toolkit website

See www.adb.org/Documents/Others/OGC-Toolkits/Anti-Money-Laundering/default.asp

ADB/OECD Anti-Corruption Initiative for Asia-Pacific

See www1.oecd.org/daf/ASIAcom/

The regional, web-based reference centre + anti-corruption knowledge tools.

See www1.oecd.org/daf/ASIAcom/countries

ADB's AML related activities.

See www.adb.org/Documents/Others/OGC-Toolkits/Anti-Money-Laundering/aml0500.asp

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Thank You

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The logo for the Asian Development Bank (ADB), consisting of the letters "ADB" in white, serif font, centered within a dark blue square.

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