



Asian Development Bank

## REPORT TO THE ASIA PACIFIC GROUP ON MONEY LAUNDERING Manila July 2006

### Ongoing Technical Assistance and Plans

#### 1. Background

As previously reported, ADB has provided and is providing direct and indirect assistance to a number of its developing member countries (DMCs) for the development of their anti-money laundering and combating the financing of terrorism (AML/CFT) regime through country-specific financial sector loans which include AML/CFT reform measures, a regional technical assistance (TA) project, directed country specific TAs, and ad hoc technical legislative drafting support. This work is undertaken in accordance to ADB's policy on *Enhancing The Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism*<sup>1</sup> which was adopted on 1 April 2003 to enable ADB to respond effectively to DMCs' needs related to establishing and implementing their AML/CFT regimes. To date, TA activities have included country-specific research on AML regimes, training for officials involved in AML operations, assistance in drafting AML/CFT legislation, and technical advice to establish financial intelligence units (FIU). Much of ADB's assistance to DMCs to combat money laundering has been undertaken within the broader context of its existing policies and strategies to facilitate poverty reduction, promote good governance, reduce corruption, and strengthen national financial systems.

#### 2. Ongoing Technical Assistance

Current technical assistance being undertaken is as follows:

- Cambodia

The draft law on anti-money laundering (AML) and combating the financing of terrorism (CFT) has been with the Council Ministers since July 2005. An ADB expert is supporting the National Bank of Cambodia (NBC) to prepare for the introduction of the FIU, with the development of terms of reference and a training program for staff.

- Indonesia

ADB's second targeted TA aims to provide assistance for effective implementation of the AML regime that was established during phase I under ADB's TA 3849. Technical support for AML related activities cover the following areas: (i) the development of nonbank AML supervision approaches, policies and procedures for the Directorate General of Financial Institutions (DGFI) in the Ministry of Finance; (ii) capacity building for financial sector supervisory agencies (Bapepam and DGFI); (iii) capacity building for Attorney General's Office and Judges; (iv) public awareness and education campaigns and programs; and (v) the development of a process for conducting AML computer-based training in outer provinces. This TA is expected to be completed by July 2006.

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<sup>1</sup> The four main components of the policy are: (i) assisting DMCs in establishing and implementing effective legal and institutional systems for AML/CFT; (ii) increasing collaboration with other international organizations; (iii) strengthening internal controls to safeguard ADB funds; and (iv) upgrading ADB's staff capacity.

- Lao PDR

The Bank of the Lao PDR has, as a reform measure under ADB's Banking Sector Restructuring Program, established an FIU Committee pursuant to the AML Decree which was approved on 27 March 2006. Concerns have been raised about the very limited application of the Decree. Amendments are required to extend the application of the AML Decree to strengthen the AML regime while rules, procedures, and implementation guidelines must be issued to support the implementation of the Decree. These include rules and procedures under Article 4 to specify how the detection, combating and deterring of money laundering shall be conducted. Article 13 requires a regulation to be issued to specify details of data collection while Article 24 requires a regulation to issue to specify the staffing structure of the FIU, and Article 25 requires a number of regulations and directions to issue regarding rights and duties. BOL and the Ministry of National Security must also issue the guideline for implementing the Decree under Article 34.

ADB has funded several workshops to raise the awareness of the AML/CFT within and outside of BOL, and continuing support is being provided.

- Mongolia

Further to the Technical Assistance on Establishing an Effective Anti-Money Laundering Regime, the ADB Board has since approved the Financial Regulation and Governance Program which will enable the Government of Mongolia to issue regulations; invest in IT-MIS for the FIU; train the FIU staff; and train financial institutions in compliance, and relevant agencies in investigation and prosecution of money laundering. Delays in the passage of legislation is still an impediment to the progress of a functioning AML regime.

Just an update on Mongolia so far as the ADB TA project is concerned.

After a number of false starts we are going back for our final visit in late August. The Bank of Mongolia had asked that we delay our return until the law was passed so that they would know exactly what the law was and we could provide assistance that was most relevant. We expect to arrive on 25 August and leave around 15 September.

As most of you would know the Great State Hural passed the new AML law on 8 July, the last day before the break for Nadaam and the summer holidays. There is no official translation yet and we understand that there need to be some formal processes completed before the Mongolian text is available. We hope to have that before we go back to Ulaanbaatar.

Our focus will be on getting the FIU 'up and running', working on the necessary regulations to support the law and providing assistance to the financial institutions (predominately the banks) to set up their reporting systems. Given the reporting thresholds there will not be large numbers of reports for some time. The ADB is also in the process of awarding a new non bank financial sector TA which has a component to assist the Bank of Mongolia develop its IT capacity for the FIU.

We have already provided a significant amount of written material to the FIU. This covers procedural matters for its internal operation, relationships with financial institutions and guidelines for distribution to the reporting entities. These will be reviewed in the light of the final provisions in the law and adapted as necessary. Given that the law has not changed materially since the drafts we had available to us this will not be a major task.

The regulations will need to fill some gaps in the law. There still seems to be some doubt about the scope of the regulation making power and the issues that can be dealt with by regulation but we expect to make some significant progress on this front.

We will not carry out the range of training envisaged in the original TA specifications. The ADB TA was planned more than two years ago and assumed that the law would be passed before we commenced work. In practice we have spent a lot of time trying to have the draft law improved (as have many others) and helping the Bank of Mongolia to develop basic procedures for the FIU. We have run training/awareness courses for the government agencies and the financial institutions. The latter was done under the joint sponsorship of the Bank of Mongolia and the Bankers Association. We will try to provide some more basic training and will also look at ways that we can build on the relationship you developed with the Police Academy.

- Philippines

The first phase of technical assistance to the Philippines in support of strengthening its AML regime provided support for the establishment of key elements of an AML regime while phase two of the technical assistance is aimed at providing support for sustained, effective implementation of the regime. Phase II consists of several components, including development of: i) a process map that is intended to provide a comprehensive and common frame of reference for the Government as well as interested development partners to allow for a more systematic and coordinated approach to implementation issues; ii) a strategy and monitorable implementation plan for strengthening compliance with suspicious transactions reporting requirements; iii) strengthened legal and regulatory framework for AML including development of complementary legislation and regulation; iv) locally-based training programs and computer-based training materials to allow for sustainable, cost-effective capacity building; and v) strengthened relationships between Philippine AML authorities and counterparts in selected other jurisdictions in the region.

A draft of the process map has now been completed and is being circulated to stakeholders for feedback. It is anticipated that activities under phase two will be completed by third quarter 2006.

- Sri Lanka

Under the ADB's Financial Markets Program for Private Sector Development (Loan No. 2138-SRI), support is being provided for the drafting of an Anti-Money Laundering Bill. Submission of the draft Bill to the Cabinet is a required reform measure under the Program, which is scheduled for June 2006. Introduction of the AML Bill in Parliament is expected soon after that. The IMF is also providing technical assistance to draft the AML Bill. ADB will assist with the coordination of further technical assistance to build capacity within the Government to implement the Law once it is enacted.

## Thailand

Technical assistance to Thailand is targeted at achieving a higher level of compliance in the area of international cooperation within the framework of established international standards. The first of the two TA components is assisting the Government to: (i) reassess the legal, institutional, and procedural requirements for conforming to the FATF recommendations on international cooperation; and (ii) formulate an action plan through consultation with all stakeholders, including government agencies, the private sector, and international and regional AML-CFT related organizations. The second component involved training sessions undertaken in May 2006 for officials from the Mekong region, including measures for establishing the legal and institutional framework for an AML-CFT regime and cross-border issues. Consultants have completed the draft of the 3-year action plan which is being revised with additional technical inputs from the relevant government officials concerned and discussions on the feasibility of the action plan with the AML/CFT working group. The action plan is expected to be adopted once the new Government is in place.

- Viet Nam

The basis of the AML system in Vietnam is the Governmental Decree to Prevent and Combat Money Laundering which became effective on 1 August 2005. The draft Decree was originally prepared with assistance provided under an earlier ADB TA. The Anti-money Laundering Information Center (AMLIC- financial intelligence unit version of Vietnam) was established within the State Bank of Vietnam and a Director has been appointed to head it. However, the AMLIC is not yet fully operational and needs appropriate international donor support to provide training and technical assistance to get it running. Training for other relevant government agencies and for the financial sector must also be provided. ADB TA is currently under way. The timing and nature of this assistance needs to be coordinated with other donors in consultation with the Director of AMLIC.

- Central Asia

ADB supported the Central Asia Judicial Conference on Anti-Money Laundering which was organized by the American Bar Association in May 2006.

### **3. Status of APEC Cooperation Fund for Regional Trade and Financial Security Initiative**

- The Cooperation Fund for Regional Trade and Financial Security Initiative (the AML Fund) was approved in June 2004 and became operational with initial contributions from Japan and the United States of US\$1 million each, and Australia for A\$ 1.5 million.<sup>2</sup> The AML Fund seeks to further strengthen assistance to DMCs to establish effective AML/CFT structures and systems and strengthen trade security regimes in line with international requirements. Two batches of proposed projects have been submitted to the three donors. Three technical assistance projects under Batch 1, as previously reported, are currently on-going. Batch 2, consisting of four technical assistance concept papers, was approved by the donors by end 2005 and are under process: a) Capacity Building for Improving Indonesian Port Security System; b) Support for Customs, Immigration, Quarantine, & Security Harmonization; c) Port and Trade Security Working Group; and d) Harmonization of Pacific Civil Aviation Safety and Security Regulation. ADB continues to collaborate with local FRTFSI and non-FRTFSI donors to ensure maximum outcomes for expenditures made. There are several concept papers in the pipeline such as: (i) computer-based training program for the international ships and port facilities security (ISPS) code; (ii) regional port security enhancements; and (iii) regional trade transparency capacity building for trade data collection and AML targeting.

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<sup>2</sup> The AML Fund is expected to run for three years and is open to further contributions from other countries and organizations.

- On 24 March 2006, ADB hosted a meeting of donors and international organizations to coordinate collaboration on port and trade security initiatives in the BIMP-EAGA region and discuss a proposal for a Regional Working Group Meeting to introduce a Single Window regime. ADB now plans to host a meeting of the BIMP-EAGA Customs, Immigration, Quarantine, and Security (CIQS) Task Force together with a workshop on CIQS issues for the region on 17 -18 August 2006 at its Headquarters in Manila, the Philippines.

## **5. Publications/Presentations**

- ADB Staff made several presentations on AML/CFT to various audiences last year: ADB AML/CFT Policy and Alternative Remittance Systems; ADB AML CFT Work in Asia Pacific; Challenges for Courts-lawyers for International requirement on ML and Corruption; Remittance based Money laundering: Paradigm Shift; and The Asia Pacific III Corruption Initiative. These papers are available on ADB's Anti-Money Laundering Toolkit website (please see below).
- The online AML/CFT toolkit is being continually updated to expand the available reference materials in order to facilitate research on AML/CFT topics and to provide more links to relevant websites. See <http://www.adb.org/documents/others/anti-money-laundering-toolkit/>

## **6. ADB/OECD Anti-Corruption Initiative for Asia-Pacific**

APG has been invited by the ADB/OECD Anti-Corruption Initiative for Asia-Pacific to join as observer. The ADB's Anti-corruption Policy and activities are outlined on its website.<sup>3</sup> Support for governments' efforts toward effective and transparent systems for public service, anti-bribery and business integrity, and active public involvement is occurring through the ADB/OECD Anti-Corruption Initiative for Asia-Pacific. See <http://www1.oecd.org/daf/ASIAcom/>

To date, 25 Asia-Pacific governments have endorsed the anti-corruption action plan<sup>4</sup> (the Plan). Key objectives of the Initiative are aimed at supporting endorsing countries to implement the Plan on a national level. The Initiative also has a regional, web-based reference centre which publishes anti-corruption knowledge tools. See <http://www1.oecd.org/daf/ASIAcom/countries/> The Secretariat, which operates within ADB, provides technical advice to endorsing countries in the selection and implementation of priority reform areas and supporting projects, for each implementation phase. This support may include facilitating the liaison with the international donor community. The Secretariat may call upon the Initiative's Advisory Group for additional assistance if required.

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<sup>3</sup> ADB's Anti-corruption Policy and anti-corruption activities are set out at <http://adb.org/Anticorruption/default.asp>

<sup>4</sup> See Plan at <http://www1.oecd.org/daf/ASIAcom/ActionPlan.htm>