

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 is the processing of the proceeds of crime so as to disguise their illegal origin. The financing of terrorism is generally understood to be 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.¹

2. Money laundering and financing of terrorism are global problems affecting both developed countries and ADB's developing member countries (DMCs). Assistance in combating these financial crimes is urgently needed by many DMCs. It is timely for ADB to strengthen its 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-money-laundering area than in combating the financing of terrorism for at least two reasons. First, the money laundering problem is believed to be much larger than the financing of terrorism problem, at least in most of Asia and the Pacific. Second, combating the financing of terrorism involves 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, money laundering and financing of terrorism. ADB's policy on enhancing its role in anti-money-laundering and combating the financing of terrorism (AML/CFT) is guided by the following principles:

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

¹ The United Nations International Convention for the Suppression of the Financing of Terrorism (1999) stipulates in its Article 2 that: "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."

OPERATIONS MANUAL BANK POLICIES (BP)

- (ii) ADB does not attempt to duplicate the ongoing efforts and programs of other organizations such as the Financial Action Task Force on Money Laundering, the United Nations, the Asia/Pacific Group on Money Laundering, the International Monetary Fund, and the World Bank. Instead it seeks to identify additional measures that it might usefully take to complement the efforts of these other organizations, either through its lending operations or through technical assistance.
- (iii) ADB's role is also tailored to take account of the special problems and circumstances faced by Asia and Pacific DMCs, notably lack of or weak AML/CFT laws and weak institutional capacity, and lack of specialized and sustainable training for government officials so that they can effectively implement and enforce AML/CFT laws.²

C. Scope of the Policy

- 4. Guided by the above principles, ADB's AML/CFT policy has four key elements:
 - (i) Assisting DMCs in establishing and implementing effective legal and institutional systems to combat money-laundering and the financing of terrorism;
 - (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.³

² See also ADB. 2008. *Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank, 2008-2020*. Manila. p. 20

³ A review of ADB's AML/CFT activities under the policy was completed in 2008. See ADB. 2008. *Review of Enhancing the Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism*. Manila.

**OPERATIONS MANUAL
BANK POLICIES (BP)**

- 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.
- ADB. 2008. Doc. IN.108-08, *Review of Enhancing the Asian Development Bank's Role in Combating Money Laundering and the Financing of Terrorism*, 24 April. 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 combating money laundering and the financing of terrorism is to be implemented through the 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 anti-money-laundering and combating the financing of terrorism (AML/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/CFT issues must be explicitly incorporated into the country partnership strategy (CPS) and regional cooperation strategy, and relevant sector and aid agency consultations.

3. In DMCs where AML/CFT efforts are more limited, ADB assists the DMC's policy makers to recognize the dangers and risks that money laundering and the financing of terrorism 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 strengthen their regimes and ensure their 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 Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), 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.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

6. In the course of country dialogue, ADB encourages all DMCs to participate actively in international and regional AML/CFT forums and activities, starting with regional forums such as the APG and the EAG.

7. ADB's assistance may be funded by technical assistance (TA) grants, project, program, or TA loans; and/or funds provided by other sources through cofinancing arrangements. The assistance could be directed, for instance, to raise awareness of the risks that the issues pose; to establish or strengthen 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 and regional conferences, workshops, and seminars.

8. In the case of assistance through loans, the principal modality is financial sector loans. Despite a tendency for some DMCs to prefer TA grants to loans when requesting ADB's assistance, 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.

9. Assistance through TA grants may be considered, depending on the nature, urgency, and priority of the request. Complementary assistance through the use of loans and TAs may also be explored. Where common needs for assistance exist for a region or a subregion, a regional or subregional TA may be developed. The 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 Asia and the Pacific, 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:

- (i) adopting the FATF's Forty Recommendations on Money Laundering and Special Recommendations on Terrorist Financing, which incorporate relevant United Nations conventions and Security Council resolutions¹, as the primary international standards to guide ADB's operations;
- (ii) strengthening ADB's cooperation and collaboration with the APG and the EAG; and

¹ See www.fatf-gafi.org for the full text of the FATF Recommendations and United Nations instruments.

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

- (iii) participating in meetings and workshops of relevant international organizations and multilateral/bilateral aid agencies on a more regular basis, such as the FATF plenary meetings and typology workshops.

C. Strengthening Internal Controls to Safeguard ADB Funds

11. While ADB is not a deposit-taking institution and its treasury operations are consequently less directly exposed to money laundering and financing of terrorism 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 the rules, procedures, and systems for borrowers and other external parties concerned in ADB's projects to ensure that ADB funds are not misused for the purposes of money laundering and financing of terrorism through fraudulent procurement, contracting, and accounting. Adequate due diligence should also be carried out to ensure that integrity-related risks are addressed in the course of project processing.²

13. Through project and financial management, ADB strengthens borrowers' financial accounting and auditing arrangements in relation to ADB projects to prevent misuse of ADB funds. ADB should also strengthen its system to screen sources of commercial cofinancing operations.

D. Role of Departments and Offices

14. Since AML/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/CFT issues into all relevant aspects of policy dialogue with DMCs and into loan and TA operations for which the regional departments and the Private Sector Operations Department (PSOD) are primarily responsible. ADB also needs to incorporate these issues into the administration of its own financial operations and procurement-related activities for which the Office of the Auditor General (OAG), the Office of Anticorruption and Integrity (OAI), the Central Operations Services Office (COSO), the Controller's Department (CTL), and the Treasury Department share responsibilities. OAG also carries out independent audits of ADB's AML/CFT activities.

² For nonsovereign operations, such due diligence should adhere to the requirements of OM D10 and the integrity due diligence guidelines for nonsovereign operations. Similar due diligence should be carried out for applicable sovereign operations (notably, financial intermediation loans).

OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

The Office of the General Counsel (OGC) and the Regional and Sustainable Development Department (RSDD) support the work of these departments and offices.

16. The regional departments assist DMCs in establishing and implementing effective systems to combat money laundering and financing of terrorism through enhanced policy dialogue and provision of loans (or loan components) and TA, as appropriate. They also explore ways of enhancing regional and subregional cooperation among DMCs. For DMCs where no relevant project is being implemented, processed, or planned, the regional departments first identify whether it is appropriate to include AML/CFT issues in the policy dialogue and then in the CPS. The regional departments take into account the latest developments of international and regional AML/CFT efforts 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. OAG, OAI, COSO, CTL, TD, and PSOD incorporate international best practices as applicable within their mandates and responsibilities and in close coordination with other concerned departments and offices.

18. OGC monitors the implementation of the policy and provides legal advice and other information on the latest developments in the global and regional AML/CFT efforts. OGC is also responsible for organizing and conducting staff training in coordination with the Budget, Personnel and Management Systems Department, RSDD and external experts. OGC, in coordination with relevant departments and offices, will continue to attend selected international and regional meetings and workshops as appropriate.

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.