



Technical Assistance Consultant's Report

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Mongolia: Establishing an Effective Anti-Money Laundering Regime (Cofinanced by the Government of Spain)

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For the Bank of Mongolia

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Asian Development Bank

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List of Acronyms

ADB	Asian Development Bank ('the Bank')
AML	Anti-money Laundering
APG	Asia Pacific Group on Money Laundering
CC	Cooperation Council
CDD	Customer Due Diligence
CFT	Combating the Financing of Terrorism
COCS	Consulting Services Division
COSO	Council of State Organizations
CS	Clearing System
CTCP	Centre for Transnational Crime Prevention, University of Wollongong
CTR	Cash Transaction Report
EAG	Eurasian Group on Combating Money Laundering and the Financing of Terrorism
EC	European Commission
EFT	Electronic Funds Transfer
FATF	Financial Action Task Force
FinCEN	Financial Crimes Enforcement Network
FIU	Financial Intelligence Unit
FRC	Financial Regulatory Commission
FSLC	Financial Sector Liaison Committee
FSP	Financial Service Provider
FT	Financing of Terrorism
G7	Group of Seven Industrialized Nations (Canada, France, Germany, Japan, Italy, United Kingdom, United States)
GOM	Government of Mongolia ("the Government")
GPML	Global Program on Money Laundering
ICAC	Independent Commission Against Corruption
IFTIs	International Funds Transfer Instructions
IMF	International Monetary Fund
IT	Information Technology
ITC	Illawarra Technology Corporation
KPI	Key Performance Indicators
KYC	Know Your Customer

MBA	Mongolian Bankers Association
ME	Mutual Evaluation
MFA	Ministry of Foreign Affairs
MJHA	Ministry of Justice and Home Affairs
ML	Money Laundering
MLA	Mutual Legal Assistance
MNT	Mongolian Togrog
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOFE	Ministry of Finance and Economy
NBFI	Non-bank Financial Institution
SEC	Securities and Exchange Commission
SOPs	Standard Operating Procedures
STR	Suspicious Transaction Report
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TA	Technical Assistance
TOR	Terms of Reference
UNODC	United Nations Office of Drugs and Crime
US	United States
USA	United States of America
WB	World Bank

I. Background

Development of the TA Project

Illawarra Technology Corporation (ITC) in association with the Centre for Transnational Crime Prevention (CTCP) at the University of Wollongong was selected by the ADB to carry out a Technical Assistance project to enhance the anti-money laundering (AML) regime in Mongolia on 4 March 2005¹.

The background to this project was set out in our Inception Report provided to the ADB on 16 April 2005. In the context of our work to assist in developing an effective AML regime it is worth repeating the genesis of this project.

Financial sector reforms have been a priority for the Government of Mongolia (GOM) for more than a decade. During the first half of the 1990s, banking activities were liberalized, bank regulations strengthened, and the financial status of nonviable banks improved. More recently, the focus of reforms has shifted to strengthening corporate governance in commercial banks, developing an interbank money market, and establishing the legal and regulatory framework for nonbank financial institutions. Consequently, the level of financial intermediation has increased, and the basic platform for the development of nonbank financial institutions is being put into place.

Financial stabilization and economic growth has brought new issues and challenges. Mongolia has experienced a rapidly growing inflow of funds into the country. This inflow has caused concern because, while details of international funds movements are tracked by the Bank of Mongolia there is a lack of transparency and information about the funds transfers and this leads to gaps in the financial system through which illegal funds could flow. To ensure financial stability, investor confidence, the orderly growth of the financial system, to enable effective investigation of domestic crime and corruption and assist in international investigation of criminal activity Mongolia must establish an effective AML regime. This has been recognised by the Government of Mongolia, key agencies such as the Ministry of Finance (MOF), Ministry of Justice (MJHA) and the Bank of Mongolia (BOM). The ADB funding of this project reflects agreement between the Government and the ADB on the need for assistance to achieve an effective AML regime.

The goal of the TA, as described by the ADB, was to promote the stability and soundness of the financial system in Mongolia by assisting in the creation of an effective AML regime. In turn, the AML regime will also reduce the country's vulnerability to criminal activities and help Mongolia comply with international standards for AML and CFT. The outcome of the TA will be part of a reform program to be supported under the Program Loan 2218-MON: Financial Regulation and Governance Program.

¹ ADB Contract COCS 05-141 dated 4 March 2005.

Background to the Anti Money Laundering Law

The National Security Council adopted a resolution on 12 September 2001 instructing the Government and its agencies to cooperate with international organizations to develop the legal framework relevant to facilitate anti-money laundering activities. Subsequent action by the President and the Government supported international anti-terrorist coalitions and Ministry of Finance and Economy (as it was then known) was instructed to cooperate with international organizations to combat terrorist financing and money laundering activities. Furthermore, the Government has signed the International Convention for the Suppression of the Financing of Terrorism and instructed relevant ministries to exchange information on activities that might be linked to drug trafficking or money laundering. The Bank of Mongolia is circulating to commercial banks the lists of suspected terrorists and terrorist organizations and these are regularly checked against account holders.

On 1 December 2002 Bank of Mongolia issued *Recommendations on Issues Related to Fighting Money Laundering Activities for the Banking and Financial Organizations* designed to implement an anti-money laundering policy in advance of the preparation of comprehensive legislation. They do not have the force of law but have provided guidance to the banks on key issues such as customer identification, identifying unusual or suspicious transactions and AML compliance policies. These remain in place.

Draft AML legislation was prepared with assistance from the International Monetary Fund (IMF). It was originally expected to be passed during the session of the State Great Khural (the Parliament) beginning in September 2004. The legislation was not passed in that session of the State Great Khural. Following general elections held in September 2004, and significant changes in the senior ranks of the bureaucracy, the Government withdrew the draft law and requested that it be reviewed by government agencies. A Committee of officials drawn from Bank of Mongolia, Ministry of Finance (MOF) as it is now styled, Ministry of Foreign Affairs (MFA), MJHA, the General Intelligence Agency and the Criminal Police Department reviewed the draft law and made further changes to it. At the time we mobilised for the first onsite visit in March 2005, the revised law was expected to be considered by the Government in mid to late April and be introduced into the State Great Khural in the session which commenced in April and ran through until July 2005.

The original legislation was drafted having regard to recommendations of the Financial Action Task Force on Money Laundering and reflected substantial compliance with international standards for an effective legal framework. In addition to the ADB, other donors have indicated that they will provide relevant training and technical assistance. At the time of our original visit the United States Department of Treasury was proposing a financial crimes advisory assistance project to provide the Government with information on AML regulations and investigative procedures and techniques, as well as short-term training in these areas. At that time the IMF was also proposing to provide training in mid 2005, although the nature of that assistance was not clear. These initiatives have not been progressed, due, no doubt, to the lack of progress with the legislation. More recently the US Treasury has indicated it has no plans to provide assistance to Mongolia.

Overview of activities under the technical assistance project

Our TORs require us to coordinate with other donors. We have remained in contact with the US Embassy and the APG but for the reasons outlined below progress on the legislation was much slower than anticipated. Through the APG, which coordinates the International Donor Group for Mongolia, we have provided details of our activities so that other donor activity is complementary. Our concern is that work may be duplicated and that major gaps in training needs will be unmet. We met with the IMF Resident Representative in Mongolia during our second visit in August 2005. We have met with the ADB project officers throughout the project and maintained regular contact with them via email.

The Government's consideration of the draft law was much slower than envisaged by both the government and the ADB at the time TA 4393-MON was developed. There have been significant further delays since the time of our first onsite visit. Our original intention was to undertake the first onsite visit in March 2005, a second visit in May 2005 and a third visit in July 2005. It was apparent in March 2005 that this timetable would not be satisfactory and, in consultation with the ADB and Bank of Mongolia we revised the timetable and the work to be undertaken on our second visit which took place in August 2005. In consultation with ADB and the Bank of Mongolia, we delayed the third visit until 2006 when there was a clearer indication of the final shape of the law. As it transpired that did not become clear until mid July 2006. The law was passed by the Khural on 8 July 2006. In anticipation of its passage we had agreed with both ADB and Bank of Mongolia that we would return in August/September 2006.

During our first onsite visit we provided extensive oral and written advice to the relevant government agencies on the problems we saw with the draft AML law as it then stood. This advice was incorporated into our Inception Report. Subsequently, Government officials reviewed the law and a fresh draft was prepared. We discussed this draft with officials and also provided written advice to both the Bank of Mongolia and the Ministry of Justice and Home Affairs on what we saw to be the remaining problems with the draft law. These were detailed in our Interim Report of August 2005. For present purposes they fall into two distinct areas: those which involved key policy considerations and those which represented key technical issues. We noted that the technical issues would make the legislation more difficult to administer if they were not addressed but could and should be fixed. An example was the absence of a specific power to extend freezing orders that under the draft law only operate for three days. Another problem is the failure to include a power to direct financial institutions to provide additional information. The former was not addressed in the law while the latter point was dealt with.

During our second onsite visit in August 2005 we spent considerable time seeking to improve the draft law. As we reported, there were some issues where the then government was not prepared to revise the terms of the draft law. These included the setting of reporting thresholds for cash transactions at levels which were far too high to be effective in providing useful financial intelligence. While the law was still in draft form, and it was not therefore possible to assist the Bank of Mongolia to formally establish its financial intelligence unit, we provided a significant quantity of material setting out both guideline material for financial institutions and operating procedures for the FIU. This material was also translated into Mongolian. In addition we provided an AML Awareness Seminar for representatives of the financial institutions. The full range of activities was set out in the Interim Report.

Our third onsite visit commenced on 25 August. Two of our international consultants, John Broome (Team Leader) and Hugh Dixon (Financial Sector Expert) arrived that day in Ulaanbaatar. The third international consultant, Pat O'Sullivan (FIU Expert) arrived on 3 September. Details of the activities undertaken during the third onsite visit are set out later in this report. Our emphasis during the third visit was on the finalisation of the documentation to enable the Mongolian financial intelligence unit to be established. This involved reviewing the material we had prepared during earlier visits to reflect the terms of the law as passed by the Great State Khural and preparing additional material to assist the establishment of the FIU. We also conducted a workshop to assist the Mongolian authorities prepare for the forthcoming APG mutual evaluation.

A fourth onsite visit was able to be undertaken by two of our international consultants, Mr John Broome (Team Leader) and Mr Hugh Dixon (Financial Sector Expert) from 5-12 November 2006. The activities undertaken during this visit are also set out later in this report.

UNODC Involvement

Mr O'Sullivan's continued involvement in the project was due to the effective and constructive cooperation of the Global Program Against Money Laundering (GPML) within the UNODC. Subsequent to his involvement in the earlier stages of the project he was engaged by the GPML as a Money Laundering Expert (Law Enforcement). Following consultation with the UNODC it was agreed that Mr O'Sullivan would assist in the finalisation of the project ensuring continuity and the benefit of his extensive knowledge. This was arranged with the GPML meeting some costs with the remainder being met under ADB TA 4393-MON. We were most grateful that both GPML and the ADB agreed to these arrangements. They reflect the close cooperation between the two organisations and are a very practical expression of effective cooperation in the area of AML and CFT. ITC wishes to express its gratitude to the GPML for allowing Mr O'Sullivan to assist in the completion of the TA and to the ADB for its flexibility in allowing the necessary contract variations to allow this to happen.

II. TA Project Outputs

The Technical Assistance (TA) Project (TA 4393-MON) TORs required us to deliver a number of specific outputs. At the time the TA was developed it was expected that the law would have been passed prior to our initial deployment. Accordingly the TA envisaged that, with the AML legislation in place, the TA would focus on the drafting of the implementing rules and regulations, establishing an effective suspicious transaction monitoring system, and transferring knowledge and building capacity in key institutions in order to establish an effective AML regime.

The major outputs required under the TA were:

- (a) a time-bound plan with milestones for implementing an effective AML regime that will also provide a common reference for what needs to be done and when,

- (b) a blueprint detailing the design and requirements for a system to monitor suspicious transactions,
- (c) establishment of a financial intelligence unit and provision of a comprehensive draft of key responsibilities of this entity,
- (d) specialized training programs for staff of key institutions responsible for the implementation of an effective AML regime; and
- (e) development and implementation of a strategy for strengthening and maintaining support for the implementation of an effective AML regime.

While the TA only called for the development of 'a blueprint detailing the design and requirements for a system to monitor suspicious transactions', the draft law which was under consideration by the Government in 2005 provided for the reporting of *all* transactions of MNT 20,000,000 or more¹. The threshold was very high having regard to the level of wages and salaries and the purchasing parity of the Mongolian Togrog. Based on the analysis we conducted it was likely that only a handful (no more than 5 transactions per day) of cash transactions would exceed this level. Even if all transactions (not just cash) were counted at this threshold this would only see about 350 transactions reported each day.

It was originally expected that, as the law would have been enacted by the time the TA commenced, we would analyse the law and provide a list of suggested amendments which could be implemented in future. It was also expected that there would be an urgent need to develop regulations to complement the law. In fact the delay in the introduction of the law meant that an analysis of the draft law was the most urgent task when we began work on the TA. We spent considerable time on this task during the first onsite visit and, as subsequent drafts were produced, during periods spent offsite. This continued during the second onsite visit as the draft had not yet been introduced into the Parliament. While this was never recognised as a major output in the original documentation, circumstances dictated that significant time and effort was devoted to this activity over the course of the TA. Indeed, as is noted below, there are still substantial changes needed to the law as enacted if it is to meet the accepted international standards.

We also developed a strategy to implement the time-bound plan and incorporated that draft strategy in the Inception Report. We combined both the plan and the strategy into a Strategic Plan for the implementation of an effective anti-money laundering regime in Mongolia. The draft Plan was included in the Interim Report (and also included in the Mid Term Report) and was finalised during our third onsite visit.

In developing our recommendations for changes to the draft law and in preparing the draft Strategic Plan we have had regard to the FATF Forty Recommendations on Money Laundering and the FATF 9 Special Recommendations on Terrorist Financing (hereafter the FATF 49 Recommendations). These represent the accepted international standards

¹ The current exchange rate is approximately MNT 1,170 to USD 1

and will be the measure against which the international community will judge the content of the Mongolian law. However, it is also important that the regime established in Mongolia is relevant to the legal, economic and social situation of the country. This means that the law must reflect the circumstances in Mongolia and that the Strategic Plan must also be based on a realistic analysis of the likely money laundering vulnerabilities and the actual threats identified. Where we see reasons to depart from the form (but not the substance) of international standards, because of the particular circumstances operating in Mongolia, we have indicated the reasons for our approach.

In the end, the enacted law has considerable shortcomings. It has varied from the earlier draft in significant and deleterious respects. These are discussed in detail later in this report but it needs to be noted at the outset that there are serious departures from the accepted international standards and that this will attract significant criticism from the international community, particularly through the APG Mutual Evaluation of the Mongolian AML/CFT regime, the on-site visit of which took place in December 2006. While we have sought as far as possible to help establish the FIU, developed a blueprint for IT services and prepared a strategic plan we have been unable to provide the level of training we had intended (and which the original TORs envisaged) because the essential starting point (the law) was not in place and a great deal of the available time was spent on work relating to the law and the establishment of the FIU, rather than on the expected post legislative activities. These difficulties were discussed regularly with the ADB and were reflected in contract variations approved by the ADB.

There was little momentum to establish the AML/CFT system while the law remained in draft form. The individual officers of the key agencies involved put considerable efforts into the development of the draft law and their contribution should be acknowledged. It is clear that there was a lack of political commitment in some quarters. For example the government simply rejected any attempt to lower the reporting threshold for cash transactions. In this context it is hardly surprising that agencies were focusing on more immediate priorities during our visits in 2005. We detected a much greater interest in the legislation and its implementation during our third visit. There is a sense of urgency to get procedures in place now that the AML Law has been passed. In addition, the APG Mutual Evaluation of Mongolia (discussed below) has provided an important impetus for action.

III. Team Deployment and Activities Undertaken During Third Onsite Visit

Two of the international consultants, John Broome (Team Leader) and Hugh Dixon (Financial Sector Expert) arrived in Ulaanbaatar on 25 August 2006. Pat O'Sullivan (FIU Expert) arrived on 3 September. Hugh Dixon left on 14 September, John Broome on 16 September and Pat O'Sullivan left on 17 September 2006.

The timing of the third visit had been delayed, at the request of the Bank of Mongolia, until the law was passed. The timing of our return visit was agreed with the Bank of Mongolia and office accommodation was available prior to our return. This enabled our domestic consultants to ensure we had a functioning office on our arrival. On this visit we re-engaged the assistance of two domestic consultants:

Mr Bayardalai Bat-Ireedui (Anti Money Laundering Support)

Mr Erdenechuluun Sukh-Erdene (Financial Sector Support)

In addition Ms Khaltarpurev Tuya continued to provide administrative support to the team.

We occupied accommodation in the main Bank of Mongolia building (which we had used previously), with telephone and internet access, and with all of the necessary office furniture. We used the IT equipment provided for in the TA budget to set up the office IT system. This equipment was made available to the FIU on completion of the TA. The following sections detail the activities undertaken on the third visit.

Strengths and Weaknesses of Mongolia's Financial System

In the Inception Report we set out our findings on the nature of the financial system, the level of understanding of AML/CFT issues, and the strengths and weaknesses of the Mongolian economy, social and political system so far as they were relevant to the development of an effective AML/CFT regime.

The inherent strengths within the present government and financial arrangements in Mongolia include:

- A reasonable working relationship between the Bank of Mongolia, Mongolia's central bank, MOF, MFA, MJHA, FRC and the Police. This should assist in promoting and enhancing close cooperation as matters are investigated. However there was, and remains, tension between the Police and other agencies concerning the role and location of the FIU.
- Mongolia's economy is still quite small. Its GDP in 2005 was estimated to be \$ 5.2 billion with growth estimated at around 6%. Total deposits in the 17 commercial banks amount to \$1 billion². Total exports for 2005 were about \$1.5 billion, although increasing commodity prices in the last year mean this figure will be greater for 2006. This means that any significant movements of funds into or out of Mongolia should come to the attention of the banks, particularly if the system of STRs and CTRs (including foreign transfers) is implemented with an effective education and training program and the law is enforced effectively.
- Remittances from Mongolians working overseas were believed to generate about \$195 million in 2004, an increase of about 16% over 2003. Almost all of the revenue derived from Mongolians working overseas is received through remittances. These remittances need to be 'captured' by the reporting system to identify misuse of the remittance system.

² References to \$ are to US Dollars

- The location of the FIU within the Bank of Mongolia is, in our view, the most appropriate solution for Mongolia. While the IMF and the US Treasury have previously expressed concerns about the lack of independence of the FIU if it is located within the central bank, we believe that these concerns are more than outweighed by the obvious benefits flowing from the location within the central bank. These include:
 - Public confidence in the integrity of Bank of Mongolia.
 - Recruitment and retention of high calibre staff. As is the case in many Asian jurisdictions, the central bank staff are remunerated at much higher levels than most, if not all other areas of the public sector.
 - The Mongolian public sector is small and many major government agencies consist of relatively few staff. A separate FIU is a luxury Mongolia can not afford. Its location within the Bank of Mongolia enables it to draw on the institutional support of the central bank while exercising its powers under the law.
 - The Bank of Mongolia and the other financial regulators are best able to exercise direct influence over the institutions which they regulate. This should assist in achieving higher levels of compliance with the AML/CFT Law.
 - The present system of reporting international financial transactions provides a sound basis for the collection of this data by the FIU when it is established.
 - The powers of the Bank of Mongolia as the central bank may be able to overcome some deficiencies in the AML law, at least in the short to medium term.

We also identified a number of weaknesses inherent in the draft law that had been developed by the time of our first visit. We noted these in the Inception Report. These related to issues of both policy and the practical operation of the law.

We noted that tax avoidance appears to be rampant. Not only are there problems with large entities and wealthy individuals there is said to be widespread failure to pay tax by ordinary Mongolians. Following the passing of a new tax law in 2006 the personal tax threshold is MNT 70,000 per month (about USD 60). There are only 100,000 Mongolians registered as tax payers and 37,000 companies registered for taxation purposes. This means that there is political resistance to the use of 'low' reporting thresholds because there is a belief that this will identify untaxed wealth, create a political backlash and therefore make the law and the politicians unpopular.

We explained that this is not the case as even a threshold of MNT 5,000,000 would not identify ordinary Mongolians who were not paying tax. In the public sector, average monthly salaries are between MNT 60,000 and 70,000. The head of a government agency receives about MNT 150,000 per month. We were told that members of parliament are paid MNT 500,000 per month. Given these amounts a threshold of MNT

5,000,000 is an amount that represents about 6 years of total salary for an average government employee. The threshold problem and the taxation issue were discussed in detail in the earlier reports.

An effective transaction reporting system would have significant benefits from a taxation perspective. It would assist in identifying large transactions, well beyond the financial capacity of ordinary Mongolians, which might warrant review by the taxation authorities. For similar reasons reporting systems can be an effective anti corruption device.

We again raised these issues in our Mid Term Report. While they were well understood by the officials with whom we spoke, the fact remains that such concerns obviously played on the minds of the politicians in the Government who considered the draft law and those in the Khural who finally settled the terms of the AML Law. This is demonstrated by the fact that the only offence which is excluded as a predicate offence for the purposes of the definition of money laundering in the AML Law is taxation fraud under Article 166 of the Criminal Code. While the law will be less effective as a result it will be some time before there could be any likelihood of the Khural revisiting these issues.

The AML law departs in a number of significant respects from acceptable international standards. Money laundering is still defined in a limited way in Article 163 of the Criminal Code, although the Criminal Code is being reviewed at present. The scope of the AML Law falls short of that required by the FATF Recommendations, particularly in not covering what are referred to as designated non financial businesses and professions (DNFBPs). While the obligation to report 'cash transactions' covers much more than simple cash transactions the reporting threshold is far too high. The reporting requirements for suspicious transactions are convoluted and unclear.

The immediate consequences of this are threefold:

- The law will be less effective than it could have been in combating money laundering and terrorist financing. In particular there is likely to be under reporting of suspicious transactions and less effective financial intelligence available to investigative agencies;
- There is likely to be significant international criticism of the AML Law and the AML regime from international organisations, donors and individual countries. In particular the forthcoming APG Mutual Evaluation will highlight these problems; and
- Mongolian financial institutions, particularly the banks, will have problems in maintaining correspondent accounts with overseas institutions, especially those in the US and Europe where regulators are demanding that correspondent banks meet international AML/CFT standards.

In relation to the final point we are aware of Mongolian banks which are under pressure from foreign institutions with which they have correspondent relationships to ensure their internal AML/CFT procedures meet international standards. At least one of the major banks has recently had difficulty in maintaining correspondent links with US banks. It lost its correspondent relation with one bank and it was some months until it could satisfy

another US institution that its internal AML/CFT procedures were adequate and a correspondent relationship was established.

It is most unfortunate that, despite all of the work done within the Bank of Mongolia and in other agencies, the AML Law has policy and operational shortcomings. The major deficiencies are noted below.

Further advice on AML Law

While the AML Law has recently been enacted, and there is little immediate prospect of amendment, we have listed the remaining deficiencies at Attachment 1. These problems will need to be addressed. The APG Mutual Evaluation will no doubt highlight the legislative deficiencies in the AML Law and we would not wish to understate the fact that there are serious problems, notably in relation to the lack of clear obligations to report suspicious transactions.

We therefore sought to provide advice on how these deficiencies might be overcome, at least in the short to medium term with administrative arrangements, cooperation from the reporting entities and the use of the powers of the Bank of Mongolia and the FRC. The starting point was to identify where the AML Law still falls short of the required standards, to identify where those shortcomings could be met or at least ameliorated by administrative action and the use of the powers of the Bank of Mongolia, and the development of proposals for consideration by the Bank of Mongolia and the FIU.

The key problems are:

- The lack of a clear reporting obligation in relation to suspicious transactions is a very important weakness. While Article 3 contains a definition of 'suspicious transaction', Article 6 requires 'special monitoring' of what might be seen as unusual or suspicious transactions and Article 7 is headed 'Reporting on Suspicious Transactions' there is no explicit obligation to report such transactions to the FIU. Indeed while article 5.1.6 specifically refers to the need to obtain further customer information in relation transactions suspected of being involved in money laundering or terrorist financing, that provision is omitted from the kinds of transactions which must be reported to the FIU pursuant to Article 7.1.
- The absence of clear offence provisions in relation to breaches of the AML Law. The AML Law relies on the application of administrative penalties in relation to breaches of some but not all of the key provisions. Article 21 uses a technique which is common in Mongolian laws by leaving it to the Criminal Procedure Code and the Criminal Code to identify criminal conduct. Article 21 refers to violations of the AML Law 'which do not constitute a criminal offence' as being subject to, administrative penalties. This leaves the issues of what breaches would amount to criminal offences unclear.
- High thresholds for cash transaction reporting. The amount of 20 million togrogs is far too high and needs to be reviewed.

The widespread misunderstanding about the purpose and operation of an AML/CFT regime needs to be addressed by public education as well as by awareness activities

within government and financial institutions. This is an activity that may need donor funding and it will be an important element in establishing public confidence in the AML/CFT regime. It is addressed in the Strategic Plan and the milestones.

The following table sets out the major changes needed in the AML Law and other legislation and the possible short term means which might be adopted to overcome those problems in the short term.

Issue	Bank of Mongolia Powers	Other Regulators' Powers	Amendment to Law
<p>Money Laundering</p> <p>The AML Law contains a definition of money laundering in Article 3 but the AML Law does not create a money laundering offence. This is found in Article 163 of the Criminal Code. The offence described in Article 163 is too narrow in that it does not incorporate the capacity to infer the necessary mental element from the surrounding circumstances as is required by recommendations 1 and 2 of the FATF Forty Recommendations or relevant international conventions such as the UN Convention Against Corruption.</p>	No	No	<p>Yes, amendments to the AML Law and the Criminal Code are both required.</p> <p>While the AML Law includes a definition of money laundering this has little practical effect as the offence of money laundering is defined in Article 163 of the Criminal Code. It is the offence provision that must be brought into line with international standards, the most comprehensive of which is now contained in the Palermo Convention. The definition in the AML Law should then reflect the definition contained in the Criminal Code.</p>

<p>Terrorist Financing</p> <p>The definition in Article 3 falls short of the comprehensive coverage required by the FATF standards and the relevant UN obligations (for example UN Security Council Resolution 1373).</p>	No	No	<p>Yes, amendments to the AML Law and the Criminal Code are both required.</p> <p>It is essential the Criminal Code contains all of the relevant offence provisions required by the UN Security Council Resolutions (which are binding on Mongolia) and by the conventions which it has ratified, such as the UN Convention on the Suppression of the Financing of Terrorism. The AML Law should then reflect this amended definition.</p>
Predicate Offences			

³ The extent to which the regulation making power under the Central Bank Law can be used remains in doubt. We have raised this issue with the Bank of Mongolia on a number of occasions but not received definitive advice. This is an issue the Bank of Mongolia needs to resolve urgently.

⁴ Similar issues arise under the FRC law especially as it was enacted prior to the AML Law and not specifically referred to in that Law.

<p>The AML Law refers inferentially to predicate offences. It does this by defining money laundering to relate to assets obtained by illegal means and then defining this concept to apply to 'less grave, grave and exceptionally grave offences' under the Criminal Code. While this is comprehensive and covers all 'serious offences' – the test applied by FATF – it does not contain the list of offence types now advocated by FATF. This will attract adverse comment although the coverage is, in fact, wider than many AML laws.</p> <p>There will however be problems arising from the use of 'asset' which is undefined and gives rise to doubts as to whether this term includes all property and funds.</p>	<p>No</p> <p>It may be possible³ to use the regulation making powers of the Governor under Article 19 of the Law of Mongolia on the Central Bank (the Central Bank Law) to define 'asset' for the purposes of the AML Law.</p>	<p>No</p> <p>It may be possible⁴ to use the regulation making powers under Article 35 of the Law of the Legal Status of the Financial Regulatory Commission (the FRC Law) for the purposes of the AML Law.</p>	<p>Yes, amendments to the AML Law and the Criminal Code are required.</p> <p>Amendment to the AML Law to define 'asset' is required in the long term.</p>
<p>Reporting Entities</p> <p>The AML Law also defines reporting entities in Article 3. These are the financial institutions which have obligations to report various transactions, identify customers and maintain customer records. The list is limited to banks and non bank financial institutions such as insurance companies, securities market entities, casinos, foreign exchange dealers and pawnbrokers. It does not include the designated non financial professions</p>	<p>No</p>	<p>The laws that the FRC is responsible for, that is Law on Non-Bank Financial Activities, Securities Law of Mongolia, Law on Insurance, Law on Professional Participants in the Insurance Industry Law on Cooperatives and the</p>	<p>Amendment to the AML Law to widen the definition of reporting entities so that it is consistent with the FATF glossary.</p>

<p>and businesses now covered by the FATF Recommendations, nor does it include many of the financial institutions defined in the FATF Glossary. However, it should be noted that while using different terms the functions of many of the institutions referred to in the Glossary are covered. For example the Glossary refers to 'brokerage firms' while the AML law uses the term 'licensed securities market entities'.</p>		<p>Law on the Legal Status of the Financial Regulatory Commission provide, in the short-term, an effective coverage of non-bank financial institutions in Mongolia.</p> <p>The powers of the FRC could not be used to include non financial professions and businesses in the definition of reporting entities.</p>	
<p>Definition of authorized organizations</p> <p>Authorized organizations have the power to request information from informant entities, and to receive information and documentation from the FIU when transactions are suspended because of possible criminality. These are wide powers that are needed only by a small number of agencies. To minimise the potential for abuse these organizations and the procedures involved should be specified.</p>	<p>Rules to be approved by the Governor of the BOM and the Prosecutor-General list authorized organizations for the purpose of Article 7.4 of the Law</p>	<p>Article 19 of the FRC Law allows information to be transferred to named organizations.</p>	<p>Amendment to the AML Law to define authorized organizations and the circumstances in which they can obtain information and documentation.</p>
<p>Non inclusion of non-profit organizations</p> <p>Given concerns about the misuse of charities in the</p>			<p>Amendment to the AML</p>

<p>financing of terrorism the omission of non-profit organisations from the scope of the AML Law creates a risk that a number of organizations that should be subject to the AML Law are not. This was partly dealt with in the earlier draft but was omitted from the final law.</p>	No	No	Law to subject transactions involving non-profit organisations to enhanced scrutiny.
<p>International Settlement Transaction</p> <p>This term is used in Article 5 but is not defined. We have been consistently advised by the Bank of Mongolia that this term refers to all foreign transfers. It will therefore capture all international funds transfers but this is not immediately clear. It will important that this interpretation is emphasised in the provision of information to the reporting entities.</p> <p>Article 7 requires that only those international settlement transactions that meet the definition of a cash transaction need to be reported to the FIU. This is inconsistent with the view of the Bank of Mongolia as to the meaning of the term 'international settlement transaction'.</p>	<p>No</p> <p>Article 19 of the Central Bank Law allows the Governor of BOM to issue regulations on the requirements of banks. This may be able to be used to require the reporting of all international transactions into and out of Mongolia.</p>	<p>No</p> <p>Article 35 of the FRC Law may allow the FRC to require Non Bank Financial Institutions to report all international transactions into and out of Mongolia.</p>	<p>Amendment to AML Law to define International Settlement Transaction.</p> <p>Amendment to AML Law to remove the requirement that it also be a cash transaction.</p>

<p>Reporting Threshold</p> <p>The AML Law contains a requirement for the reporting of cash transactions of 20 million MNT or more (or the equivalent in foreign currency). While the FATF 49 recommendations do not require cash reporting at all the ADB, the IMF and a number of key donors, such as the United States, all take the view this is an essential element of an effective AML system and that the thresholds must be set at realistic limits. In the Mongolian context, given the nature of the economy and the number of transactions involved, the figure should be no higher than 5 Million MNT. However, if international practice were followed this would support a limit of 10 Million MNT but no higher.</p>	<p>No</p>	<p>Probably not. However the FRC Law does deal specifically with AML issues and Article 35 of the FRC Law may allow the FRC to require reporting to it of lower threshold transactions. These could then be reported to the FIU. This would not be a desirable approach as all reports should go directly the FIU.</p>	<p>Amendment to AML Law to reduce the threshold.</p>
<p>Shell Banks</p> <p>The failure to specifically ban dealing with shell banks is a key breach of recommendation of the FATF and other international standards.</p> <p>The absence of this provision may result in the access of Mongolian financial institutions to the financial systems of a number of other countries, especially the USA, being restricted.</p>	<p>Article 19 of the Central Bank Law allows the Governor of BOM to issue regulations on the requirements of banks and to improve the security of the banking system. This power could be used to issue regulations to prohibit the use of, and dealing with,</p>	<p>Article 35 of the FRC Law allows the FRC to adopt procedures for determining the policy and requirements for action against money laundering and terrorist financing. This power could be used to issue policies and procedures to prohibit the use of, and dealing with,</p>	<p>Amendments to the AML Law and the Law on the Legal Status of the Financial Regulatory Commission to define shell banks and prohibit banks and non-bank financial institutions from dealing with shell banks.</p>

	shell banks by Mongolian banks.	shell banks by Mongolian non-bank financial institutions.	
<p>Names of Company Directors</p> <p>While the AML Law requires details on company management to be obtained there is no reference to directors or beneficial owners. Lack of this provision will affect the ability of the FIU and law enforcement agencies to trace the controlling persons behind companies who have been reported as a party to a suspicious transaction.</p>	<p>Article 19 of the Central Bank Law allows the Governor of BOM to issue regulations on the requirements of banks and to improve the security of the banking system. This power could be used to require banks to obtain information on company directors and beneficial owners when entering into a business relationship or reporting suspicious transactions.</p>	<p>Article 35 of the FRC Law allows the FRC to adopt procedures for determining the policy and requirements for action against money laundering and terrorist financing. This power could be used to require non-bank financial institutions to obtain information on company directors and beneficial owners when entering into a business relationship or reporting suspicious transactions.</p>	<p>Amendment to the AML Law to require information on company directors and beneficial owners to be obtained by reporting entities.</p>
<p>Examination or verification?</p> <p>Article 5 of the AML Law refers to the 'Examination of information on customers' but it is unclear whether this extends to verifying the information so obtained. We understand that the use of the word examination is the best translation of the Mongolian word used and that it does not extend to 'verification'. Article 5 should be amended to</p>	<p>Article 19 of the Central Bank Law allows the Governor of BOM to issue regulations on the requirements of banks and to improve the security of the banking system. This</p>	<p>Article 35 of the FRC Law allows the FRC to adopt procedures for determining the policy and requirements for action against money laundering and terrorist financing. . This power</p>	<p>Amendment to the AML Law to impose a requirement on reporting entities to collect, examine and verify customer information consistent with</p>

require not only the collection of information but, where required by the international standards, the verification of that information.	power could be used to require banks to verify customer information in the circumstances listed in Article 5 of the AML Law and in circumstances required by the international standards.	could be used to require non-bank financial institutions to verify customer information in the circumstances listed in Article 5 of the AML Law and in circumstances required by the international standards.	international standards.
<p>Who is a citizen?</p> <p>Article 5.2.1 refers to identification information about 'citizens'. We understand that this is an accurate translation and that the word used is not 'individual'. However, we have also been told that the concept used in the law refers to the citizen of any country, not just to Mongolian citizens. The result is that while the effect of the law is to cover all customers, including those who are not Mongolian citizens, it will be read by those who only see the English translation as being more limited in scope.</p>	No	No	Amendment to the AML Law to include a definition of 'citizen' or replace it with a reference to an individual..
<p>Transactions of Special Monitoring</p> <p>Article 6 requires 'special monitoring' of certain specified kinds of transactions. But it does not clearly indicate the purpose of such 'monitoring'.</p>	It may be possible to issue regulations under Article 19 of the Central Bank Law to	It may be possible to issue regulations under Article 35 of the FRC Law to further	Amendment to the AML Law to provide a link between Articles 6 and 7 of

While such transactions give rise to the need to obtain addition information or explanation (see Article 6.2) these provisions are not related to the need to report suspicious transactions covered by Article 7.	further expand in the nature and purpose of the special monitoring to be undertaken.	expand in the nature and purpose of the special monitoring to be undertaken.	the AML Law.
<p>Politically Exposed Persons (PEPs)</p> <p>Article 6 requires special monitoring of transactions conducted by public officials or political party leaders from countries on a list that do not have ‘a financial monitoring mechanism to combat money laundering and terrorism financing’. The problem with this approach is that it does not accord with the international definition of PEPs. In addition, no list presently exists and it is by no means clear on what basis a list of countries without a financial monitoring mechanism to combat money laundering and terrorism financing, can be prepared by the Governor as required by Article 3.2.</p>	Article 19 of the Central Bank Law allows the Governor of BOM to issue regulations on the requirements of banks and to improve the security of the banking system. This power could be used to require special monitoring by banks of transactions conducted by or for the benefit of, PEPs as defined in the FATF Recommendations.	Article 35 of the FRC Law allows the FRC to adopt procedures for determining the policy and requirements for action against money laundering and terrorist financing. This power could be used to require special monitoring by non-bank financial institutions of transactions conducted by or for the benefit of, PEPs as defined in the FATF Recommendations.	<p>Amendment to Article 6 of the AML Law to require special monitoring of transactions conducted by or for the benefit of, PEPs.</p> <p>Amendment to the AML Law to include a definition of PEPs.</p>
<p>Reporting on Suspicious Transactions</p> <p>Article 7 creates serious problems. It only requires that three kinds of transactions have to be reported:</p>	Article 19 of the Central Bank Law allows the Governor of BOM to issue	Article 34.1 of the FRC Law requires that if a transaction of a financial service	Amend AML Law to require reporting entities to report

<ul style="list-style-type: none"> (i) Cash transactions of 20 million togrogs or more; (ii) Cash transactions of smaller amounts but which total 20 million togrogs or more AND which are believed to be structured to prevent reporting; and (iii) International settlement transactions that are also cash transactions. <p>It DOES NOT require the reporting of suspicious transactions identified under Article 5.1.6. This will attract significant criticism.</p>	<p>regulations on the requirements of banks and to improve the security of the banking system. Using this power the Governor of the BOM should be able to issue regulations requiring banks to report suspicious transactions to the FIU.</p>	<p>provider is suspected to have an intention to launder money or finance terrorist activities the FRC shall be notified immediately. Article 34.2 allows the FRC to transfer the matter to an authorized legal body for investigation. Article 35 allows the FRC to adopt procedures for determining the policy and requirements for action against money laundering and terrorist financing. These Articles would allow the FRC to require non-bank financial institutions to report suspicious transactions to the FIU.</p>	<p>all suspicious transactions.</p>
<p>Suspension of Transaction</p> <p>A three day period of suspension is far too short to allow the FIU to take the required action, especially the collection of information from foreign organizations. There needs to be provision for the extension of the period through approval either by the Courts or the Procurator. The grounds on which the approval can be sought also need to be</p>	<p>No</p>	<p>No</p>	<p>Amendment to the AML Law to allow for extensions of the suspension period with the approval of the Court or the Prosecutor.</p>

<p>specified.</p> <p>In Mongolia the police have the power under the Criminal Procedure Law (section 134) to freeze accounts or to seize property or assets which are the subject of an investigation, and under Article 49 of the Criminal Code the courts can order confiscation of property. While these provisions do not meet all of the requirements usually found in legislation to deal comprehensively with the proceeds of crime they do provide a limited capacity to deal with these issues.</p> <p>A new comprehensive law to deal with the location, freezing and confiscation of the proceeds of crime is needed.</p>			<p>Development of a Proceeds of Crime Law to allow for the freezing and seizing of the proceeds of crime with appropriate safeguards.</p>
<p>Absence of Power to Issue Regulations</p> <p>There is no regulation making power in the AML Law. This is a serious deficiency. A power to issue Regulations under the Law should be granted to the Governor of Mongol Bank, as his powers to issue Regulations under other Laws may not be sufficient. Rules and guidelines under the AML Law will be insufficient to develop and implement procedures to allow the AML Law to operate effectively and to overcome notable weaknesses in the AML Law.</p>	No	No	<p>Amendment to the AML Law to allow the Governor of the BOM to issue Regulations under the AML Law. This should be similar to Article 35 of the Law on the Legal Status of the Financial Regulatory Commission.</p>

<p>Penalty Provisions</p> <p>The absence of clear offence provisions in relation to breaches of the AML Law is a serious omission. The AML Law relies on the application of administrative penalties in relation to breaches of some but not all of the key provisions. Article 21 uses a technique which is common in Mongolian laws by leaving it to the Criminal Procedure Code and the Criminal Code to identify criminal conduct. Article 21 refers to violations of the AML Law 'which do not constitute a criminal offence' as being subject to, administrative penalties. This leaves the issues of what breaches would amount to criminal offences unclear.</p> <p>The current capacity to impose administrative penalties in limited circumstances should be extended to breaches of the following provisions</p> <p>Article 4 – Required activities for reporting entities</p> <p>Article 5 – Examination of customer information</p> <p>Article 6 – Transaction of special monitoring</p> <p>Article 7 – Reporting on suspicious</p>	<p>No</p> <p>No</p>	<p>No</p> <p>No</p>	<p>Amendment to the AML Law to include offence provisions in the AML Law. If this is unable to be done in the Mongolian legal context, then the offence provisions should be explicitly included in the Criminal Code which is currently undergoing amendment.</p> <p>Amendment to the AML Law to extend the administrative penalty provisions.</p>

transactions			
Article 8 – Retaining information and documentation on customers			
Article 9 – Information on suspicious transactions			
Article 11 – Suspension of transactions			
Article 13 – Confidentiality of reports			
Article 14 – Internal monitoring programs			
Article 15 – Transportation of money across the borders of Mongolia.			

Development of the FIU – Documentation

At the conclusion of our second visit we provided to the Bank of Mongolia a number of draft documents which could be used to assist in the establishment of the FIU. These included;

- A draft Step by Step Guide to establish the FIU (which was translated into Mongolian);
- Draft Standard Operating Procedures (SOPs) for the FIU (which were translated into Mongolian); and
- We also developed draft Guidelines for the Reporting Entities which could be issued by the FIU to assist reporting entities to meet their obligations.

In the light of the actual provisions of the AML Law we undertook a revision of the material which had been provided previously and amended the documents to reflect the AML Law. The amended sets of documents are listed below:

- Step by Step Guide to Establish the FIU (Attachment 2)
- Mongolian translation of the Step by Step Guide to Establish the FIU (Attachment 3)
- Standard Operating Procedures (SOPs) for the FIU (Attachment 4)
- Mongolian Translations of Standard Operating Procedures (SOPs) for the FIU (Attachment 5)
- Guidelines for Reporting Entities (Attachment 7)⁵

The nature of these documents is described in more detail below.

Step by Step Guide for Establishing FIU

The **Step by Step Guide**, which was provided to Bank of Mongolia in both English and Mongolian, is intended to provide a basis for the first six months' operation of the FIU. A copy of both documents is at Attachments 2 and 3 respectively. This document sets out all of the key steps including the development of budgets and staffing plans as well as the need to establish operating procedures, interagency and financial sector relationships and the development of the IT system. Prior to the appointment of Mr B. Tumurbat as the Acting Director of the FIU we worked with the two staff members of the FIU who have already been appointed to explain the Step by Step Guide and assist in its implementation.

⁵ Attachments 2-7, 9 and 11 contain operational material and therefore have not been included in the electronic version of the Final Report.

We have designed draft **Posters, Circulars, Forms and MOU's**. These are included at the end of the Step by Step Guide.

We have also prepared an FIU Draft Action Plan which sets out the tasks needed to be undertaken, and critical dates (Attachment 10).

Revision of Standard Operating Procedures (SOPs) for the FIU

Detailed **Standard Operating Procedures** (SOPs) were developed for the FIU. These are broken into 16 separate procedures and are at Attachment 4. We also arranged for the SOPs to be translated and these are at Attachment 5. These were originally produced in August 2005 and were revised in August and September 2006 to reflect the actual provisions of the AML Law.

We provided the FIU with **standard reporting forms** (Attachment 6) for use by informant entities. These cover the main kinds of reports such as Suspicious Transactions, High Value Transactions, International Funds Transfers and Cross Border Currency Declarations. Draft forms have been prepared and provided to Bank of Mongolia. These could be used as either paper based or electronic documents.

Development of draft Guidelines for distribution by the FIU to the Reporting Entities

In addition we prepared **draft Guidelines** to be issued by the FIU. These cover the key elements of the AML Law to be applied by the financial institutions and other entities with reporting and compliance obligations.

- **Guideline 1: Background**
 - Explains money laundering and its international nature. It also provides an outline of the legislative requirements as well as an overview of the FIU's mandate and responsibilities.
- **Guideline 2: Responsibilities of Reporting Entities**
 - Explains the requirement for reporting entities to identify clients and carry out customer due diligence (CDD) activities, keep records, apply know your customer (KYC) policies, report high value and suspicious transactions and meet training obligations.
- **Guideline 3: High Value Cash Transactions**
 - Explains the nature of high value transactions and why they are an important element in developing financial intelligence.
- **Guideline 4: Suspicious Transactions**
 - Explains the nature of suspicious transactions and provides guidance on how to identify a suspicious transaction, including general and industry-specific indicators that may help when conducting or evaluating transactions.
- **Guideline 5: Temporary Measures to Prevent and Combat Money Laundering Under Article 11**

- Explains the requirement for reporting persons and entities to implement requirements to suspend transactions, freeze accounts, temporarily seize assets and arrest those suspected of involvement in money laundering.
- **Guideline 6: Submitting Suspicious Transaction Reports and High Value Cash Transaction Reports to FIU Under Article 7**
 - Explains when and how to submit reports to ensure compliance with their obligations under the AML Law.

These have not been translated as much will need to be settled beforehand. However they will form the basis of material that the FIU can distribute. These are at Attachment 7.

We have worked with the Bank of Mongolia providing advice to assist it to set up the FIU. This has covered issues such as organisational design and identifying the skills required within the FIU. We previously provided a copy of the World Bank material (Module 4) on **Establishing an FIU** and discussed the issues with Bank of Mongolia staff.

Preparation of Amended English Translation of AML Law

The Bank of Mongolia prepared an English language version of the AML shortly after the law was passed. That gave us an understanding of the law but it was apparent that some of the specialised concepts had been translated literally rather than using the 'terms of art' which have developed internationally in relation to AML and CFT. We developed a second translation with the assistance of our domestic consultants and then used terms that would be familiar to an English language audience. That translation was then provided to Bank of the Mongolia to consider against the original Mongolian text.

The result is an English version of the AML Law which we believe accurately reflects the meaning of the original Mongolian text but which will be easier to understand. It may assist in the mutual evaluation process as it should ensure discussion is about the content of the law and not about translation issues. The revised translation is at Attachment 8.

Draft Rules

We have prepared draft Rules required to supplement the AML Law (Attachment 11). Despite raising the need for a specific regulation making power on a number of occasions no such provision was included in the AML Law. This means there is no authority to make regulations or rules other than that specifically contained in the provisions of the AML Law. This is a serious deficiency and one which has limited the ability of the Bank of Mongolia to overcome some important arising from the terms of the AML Law.

This omission is quite inexplicable. No regulation making power was included in the early drafts of the law despite advice from the Ministry of Justice to us that it was essential. The Ministry of Justice had indicated it would take up this issue before the draft was sent to the Parliament.

In the absence of such a regulation making power the only way in which the Bank of Mongolia can seek to overcome some of the gaps in the AML Law is to use its powers under the Central Bank Law or under the Banking Law of Mongolia. While this is an indirect route it would be possible to overcome some problems using the powers of direction vested in the Bank or the Governor. For example, the failure to require the reporting of all transactions identified under Article 6 as requiring 'special monitoring' and which, on examination are found to be suspicious, could be overcome by a directive that such transactions must be reported to the FIU. As it stands Article 7 of the AML Law, which is supposedly about the reporting of 'suspicious transactions', only requires reporting of large value cash transactions and international payments. We have discussed these options with the Bank of Mongolia. We have been advised that the Central Bank Law is to be reviewed, **this will provide an ideal opportunity to address some of the identified gaps in the AML Law in the short-term.**

Mongolia has established a new non-bank financial regulator, the Financial Regulatory Commission. This will supervise insurance companies and other financial institutions outside the control of the Bank of Mongolia. The Commission has been given the power to adopt procedures for actions against money laundering and terrorist activities. This power should be used to partially overcome the gaps in the AML Law though we have been advised that as the law establishing the regulator was enacted prior to the enactment of the AML Law, the AML powers in the law may be obsolete. **This situation needs to be clarified and, if necessary, remedied by the Mongolian authorities.**

Compliance Policy

We prepared a draft Compliance Policy in 2005. Now that it is clear that the FIU will have a compliance role we have revised that policy to reflect this fact. This is at Attachment 9. At present the AML Law only applies to reporting entities which fall within the generally accepted limits of financial institutions. Other possible reporting entities, such as lawyers, accountants and real estate agents (DNFBPs) which were included in the draft law have been omitted from the AML Law. While these entities can report (as can any individual or legal entity) this will reduce the compliance load on the FIU.

The FIU will need to work with this FRC in developing its compliance strategies for the reporting entities within the purview of the regulator to ensure consistency across the financial sector.

Anti Corruption Agency

A draft law on corruption was before the Khural at the same time as the AML Law was being debated. It was passed on 6 July 2006. It is expected to take effect on 1 November 2006. One of the features of the law is the proposal to establish an anti corruption agency. This agency would be a significant beneficiary of the financial intelligence developed by the FIU. Obviously, given the legal obligations contained in the corruption law to make declarations of pecuniary interests, imposed on senior politicians and officials, access to cash transaction reports and suspicious transaction reports would be a valuable tool in detecting breaches of these reporting obligations.

Just as the anti corruption body will benefit from the existence of the FIU the FIU will also enjoy benefits from the work of the anti corruption agency. Identification of corrupt officials increases the likelihood that the financial intelligence developed by the FIU will

be used effectively. Furthermore, the operation of such a body can change the public expectations about corruption and encourage them to report not only corruption but other crime. The work of ICAC in Hong Kong has shown that tangible progress can be made when there are effective and well resourced anti corruption agencies.

Role of the General Police Department

As we have reported earlier there is a lack of clarity about the roles of key areas of the General Police Department. During our first visit we met with police officers and found confusion about which parts collect 'intelligence', which parts conduct 'investigations', and how the prosecutors who oversight parts of the investigative process actually fit into the system. We sought to clarify these issues during the second visit with little success. Part of the problem was in getting access to key officials. Despite attempts by officers of the Bank of Mongolia, no meeting was successfully arranged. This was possibly due to what seemed to be continuing resentment within the Police to the fact that the FIU, which they appeared to see as a potential threat to their established information networks, will be located outside the Police Department. We had discussed these concerns with the police during our first visit and believe they are wrong. Nothing in the AML Law (either in the earlier drafts or the final law) affected in any way any existing legitimate access the police had to financial information.

The police continued to seek changes to the draft law but the AML Law has confirmed the location of the FIU within the Bank of Mongolia.

Such a location is an important factor in obtaining public support for the institution. There is widespread public concern about the effectiveness of the police and prosecution services. An example of this was seen in comments by the head of a parliamentary group which developed the draft legislation to combat corruption, including the proposals to establish an independent anti-corruption agency. As noted above the anti corruption law has been approved by the Khural. When asked why a new body was needed her response was to say that 'prosecutors and police officials are amongst those most heavily involved in corruption.... It is doubtful that those organisations can fight against corruption.'

We are in no position to endorse or reject the accuracy of those views but they are illustrative of concerns about the capacity of the existing agencies to deal with corruption, which is recognised as a significant issue in Mongolia. The potential synergies between the FIU and the anti corruption agency are discussed below.

However, the police will be important recipients of the financial intelligence developed by the FIU. That, after all, is the purpose of its existence. If there are serious issues with the capacity of the police and the extent of corruption, it may be that Mongolia needs to examine other options including the use of the anti corruption agency as a specialised agency to deal with economic crime. Most corruption is linked to economic crime. There is also a question of training and capacity development and we have addressed these issues in the Action Plan and the recommended training activities.

We again met with senior police on our third visit. Now that the decision about the location of the FIU has been legislatively confirmed there seems to be a desire to move on and explore the best way to use the financial intelligence which will be generated. This is encouraging as an effective relationship between the FIU and the police is

essential. To this end we have canvassed with both the Bank of Mongolia and the police the desirability of placing a police officer with the FIU as a liaison officer. This is a model used in a number of jurisdictions and it can be a very effective means of building trust and cooperation between the agencies. This idea has received support on both sides and we would encourage the placement of an appropriately qualified and experienced police officer with the FIU as soon as possible.

Reporting Thresholds

As noted above, the issue of the reporting threshold for financial transactions remains a sticking point. We have consistently advised the Bank of Mongolia that the preferable approach was for the reporting of all transactions (not just cash) above MNT 5,000,000. The approach taken by the government was to adopt an initial reporting threshold of MNT 20,000,000 for the time being. That was the view also taken in the Khural. However, the definition of cash transaction is considerably wider than just cash. That is a significant improvement. It includes checks, bills (as defined in the Law on Bills) and securities widely used in international settlements. This makes the reporting provisions more powerful as they will catch more transactions and these can be checked against suspicious transaction reports and other lists of people of interest to law enforcement agencies.

It remains to be seen just how many transactions will be reported under the current thresholds. On the basis of the analysis done at the time we finalised the IT Blueprint the numbers will be small.

However, the problem is that while we strongly support the use of low thresholds, the need to use cash reporting, let alone transaction reporting, is not reflected in the international standards. Both ADB and IMF want thresholds but this is not the FATF position. The Mongolian authorities can argue that high value transaction reporting is not part of the international standards. That is true but it is also one of the major failings of the FATF standards and one which most jurisdictions in Asia have recognised by including high value cash reporting in their AML laws.

As we said in the Inception report,

'The fact that a high value transaction report is made **does not involve any negative implication** at all. It merely reflects that a transaction of a certain size has occurred. Often countries are reluctant to impose lower thresholds because of the concern that 'innocent' transactions will be caught up in the reporting process. If the transaction is legitimate there will be no cause for concern. Unless the FIU has good reason to do so it will not examine the individual transaction and it would not be disseminating information about that transaction to other parties. Moreover, if the transaction involved a movement of funds into or out of

Mongolia it is already being reported⁶ to Bank of Mongolia under current arrangements.'

It is to be hoped that this issue is revisited by the Government and the Khural and that the threshold is reduced. We are aware of anecdotal evidence that there are large cash transactions occurring within the economy (well in excess of the reporting threshold) some of which never enter the formal economy. In addition the size of the informal economy is significant. A lower threshold would assist the Bank of Mongolia and the FRC to obtain better information about the informal economy.

Movement of funds across the Mongolian Border

Mongolia's geography poses problems for the development of industry, the movement of goods and people, and the development of national infrastructure. It also provides the basis for serious AML activity by criminal groups in China and Russia. Action needs to be taken to address this issue as cross border movements of criminal funds from both of Mongolia's major neighbours is a real threat.

The AML Law provides for the reporting of what are referred to as 'international settlement transactions' in an English version (Article 5.1.5). We specifically discussed this language with the Legal Division of the Bank of Mongolia and were assured this was intended to refer to all inwards and outwards funds transfers. We stressed the need for the Mongolian version of the law to adequately reflect this intention. This language has been retained in the AML Law. This will now provide an extension of the existing system where the central bank is advised of all funds transfers for the purposes of maintaining balance of payment data. The present system does not collect account holder details, account numbers or other transaction details. These details will now be collected as all international transfers will be treated as a form of cash reporting, but without a threshold. This is a significant outcome in the AML Law.

Article 15 of the AML Law also contains a dual reporting obligation in relation to cash movement across Mongolia's borders. For amounts between 5 million⁷ and 20 million⁸ togrogs (or the equivalent in foreign currency) a declaration is required at the border. Where a person has in excess of 20 million togrogs (or the equivalent in foreign currency) they must also make a declaration of this cross border movement to an authorised representative of the FIU. We understand that Customs officials, who operate the border control system, will be authorised for this purpose. These rules will apply at both airports and border crossings. We understand that there have been previous requirements to declare cross border movements of funds but that these were

⁶ In practice the banks report aggregate international funds transfers, not individual transactions, as part of the Bank of Mongolia's scrutiny of the movement of funds into and out of Mongolia.

⁷ At 1 September 2006 this is approximately USD 4270

⁸ As at 1 September 2006 this is approximately USD 17090

discontinued because no one was analysing the information. The FIU will now do so and there is recognition in a number of agencies of the potential usefulness of this data.

However, there remains a problem with control of physical cross border movements of cash. Flights into Ulaanbaatar come from Moscow, Beijing and Seoul. Neighbouring countries have different arrangements. China, for example, requires the declaration of RMB 5,000 on entry or exit. It also requires a declaration in relation to foreign currencies exceeding USD 10,000 or the equivalent in any other currency. Russia allows the importation of up to USD 10,000 (or equivalent) without the need for declaration, but requires a declaration in the case of the export of between USD 3,000 and USD 10,000 (or equivalent) and prohibits the removal of more than USD 10,000 (or the equivalent in any currency). Korea requires the declaration of more than USD 10,000 when entering or leaving Korea.

The result at present is that amounts which must be declared to the Chinese authorities on entry to or exit from China do not have to be reported to the Mongolian authorities. In the case of Russia, amounts that have to be reported to the Russians on departure do not have to be reported on arrival in Mongolia. Amounts reportable on departure from Mongolia (above 5 million togrogs) do not need to be reported on arrival in Russia. Similar anomalies exist in relation to Korea.

It is highly desirable that countries adopt similar rules to those of its neighbours as currency movements are of increasing concern to the international community. Yet the disparity apparent between Mongolia and its neighbours is hardly a unique anomaly. It is a common feature around the world as there is a lack of international consistency both on the policy of reporting and the amounts to be reported. And there is a risk that uniformity will come through the adoption of a lowest (in this case in fact the highest) common denominator approach.

Taxation Issues

The AML Law explicitly excludes taxation offences under Article 166 of the Criminal Code (see the definition of 'assets derived from criminal activity' in Article 3.1.4). It is the only predicate offence excluded from the law. The result is that a reporting entity which believed that a transaction involved the laundering of funds derived from taxation fraud could not report the transaction as a 'suspicious transaction' because it is *defined out* of the definition of 'suspicious transaction'. Of course the transaction would be caught if it was above 20million togrogs or if a number of transactions were believed to be used to avoid the reporting of cash transactions. This is an issue we highlighted in our earlier reports. It is unfortunate because in many jurisdictions it is the taxation authorities (and therefore the wider community) who have been major beneficiaries of the reporting system. This is because it can be an effective mechanism to identify and combat tax fraud.

APG Mutual Evaluation Process

The APG conducts mutual evaluations of member countries to ascertain their level of compliance with the FTAF 49 Recommendations. Each country is evaluated using a standard methodology and consistent ratings to measure the level of compliance. This is necessary to ensure there is transparency in the process and to ensure that mutual evaluation reports can be relied on to fairly and accurately reflect the position in the

country at the time the evaluation took place. The evaluations are a 'snapshot' taken at the time the evaluation occurred. All members of the APG have agreed to the mutual evaluation process and the APG is presently undertaking a second round of evaluations which commenced in 2005. The FATF is also now in the third round of mutual evaluations of its members.

Mongolia is currently being evaluated, with the in-country visit having taken place in December 2006. The report prepared by the mutual evaluation team, which consists of experts from APG member countries assisted by the APG Secretariat, will be discussed at the APG Annual Meeting in 2007.

Given that the AML/CFT systems in Mongolia are very new, there are deficiencies in the AML Law and the FIU will only have operated for a short time by the date of the mutual evaluation, it can be expected that the mutual evaluation report will highlight a number of shortcomings. However, there will also be an opportunity to acknowledge the positive steps which have been taken and to provide constructive advice on priority areas which Mongolia should address.

The mutual evaluation will be an important event for Mongolia.

Involvement in Video Link between APG Secretariat and Mongolian Agencies arranged by US Embassy

The United States Embassy in Ulaanbaatar arranged for a video link between the Embassy and the United States Consulate in Sydney, Australia so that the APG Secretariat could provide advice to all of the key Mongolian institutions (public and private). The ADB headquarters in Manila was also linked by phone so that Ms Rita O'Sullivan, Senior Counsel, Mr Masashi Tanabe, Financial Economist and the project officer for TA 4393-MON, and Mr John Forbes, Special Advisor could also take part.

The hook-up linked Ian Knight and David Shannon from the APG with key officials in Mongolia. These included the then First Deputy Governor, now Governor, of the Bank of Mongolia, Mr Batsukh and senior Bank staff, representatives of the MOFA, MOF, MJHA, Police and the General Intelligence Agency. In addition a number of the large private banks were represented at very senior levels. Many of the international organisations were also represented including IMF, World Bank and ADB. John Broome and Hugh Dixon were invited to attend the hook-up and were able to indicate that they would be conducting a workshop on the mutual evaluation process during their third visit to Mongolia under the TA. This had been discussed and agreed with the APG Secretariat, the Bank of Mongolia and the ADB in advance.

This was an excellent initiative. It was arranged by Mr Tsung-Tao Yang from the Office of Technical Assistance in the US Treasury and Mr Patrick J Freeman at the Embassy. It has established what could be a very useful precedent for future mutual evaluation processes and one which the Mongolians found very helpful.

The Embassy advised that if it was thought beneficial it would endeavour to arrange a further video link prior to the visit of the Mutual Evaluation team.

Conduct Mutual Evaluation Workshop for Mongolian Agencies

As agreed with ADB, APG and the Bank of Mongolia, and foreshadowed at the video hook-up, the Workshop was held on Tuesday 12 October in the Bank of Mongolia Conference Centre. Invitations were extended to all of the relevant government agencies and to the major banks. Twenty five representatives attended.

Other Meetings

During our visit we worked closely with Mr G Erdenebayar - Director, Legal Division and Mr T Dulamsuren and Mr T Tumurbat from the Legal Department. Both Mr Dulamsuren and Mr Tumurbat are expected to be involved in the establishment of the FIU.

On 7 September John Broome and Pat O'Sullivan, together with Mr G Erdenebayar of the Bank of Mongolia, met with Mr L Bold, Chief of the Supervision Department, State General Prosecutor's Office of Mongolia. Mr Bold oversees all police investigations. His office determines whether police investigations should be terminated or reinstated. It is an important function as it ensures that cases are not terminated on the decision of the police alone. Mr Bold indicated that there was a need for both prosecutors and investigators to have training in relation to AML/CFT issues and that there was a need for both training in investigative techniques generally and in relation to financial crime as well.

Mr Bold indicated that while there are about 375 prosecutors in Mongolia he envisaged that 5-7 prosecutors would be identified as those that would specialise in money laundering cases. This is sensible and would allow these prosecutors to develop expertise in handling these cases.

On Monday 11 September Pat O'Sullivan and Hugh Dixon met with Mr B. Buyantur, Senior Detective and the Head of the Anti-corruption and Economic Crimes Division (intelligence) area of the General Police Department, and on 13 September Pat O'Sullivan and Mr Erdenebayar met with Colonel Enkhtur, Head of the Investigation Division of the Police to discuss the training needs of the Mongolian intelligence and investigation areas of the police and the possibility of UNODC training in the first half of 2007.

On Tuesday 12 September Pat O'Sullivan and Hugh Dixon met with Ms B. Ouyngerel of Customs and discussed the reporting obligations for cross border movements of funds under the AML Law.

On Wednesday 13 September John Broome and Hugh Dixon met with the Chairman of the Financial Regulatory Commission of Mongolia, Mr D Bayarsaikhan. We also met with Mr S. Jargalsaikhan, Director, Policy and Regulation Department, Financial Regulatory Commission and Mr M Ulziibat also of the Policy and Regulation Department. We discussed the need for the FRC to undertake compliance activities relating to the operation of the AML Law and the need for it to work closely with the FIU and the Bank of Mongolia in the development of and application of a common AML/CFT Compliance Policy by all of the supervisory agencies in Mongolia.

We also discussed the forthcoming APG Mutual Evaluation and the issues likely to be raised with the FRC by the Mutual Evaluation team.

We met with Mr Masashi Tanabe, Financial Economist, ADB on a number of occasions when he was in Ulaanbaatar on mission. Mr Tanabe is the Project Officer in charge of the TA. We also met with Mr Ganbaatar Jambal, Economics Officer, Finance, Governance, and Trade, ADB Mongolia Resident Mission.

In addition we met with Mr Hannes A. Takacs, who is Managing Partner of CAPMEX. CAPMEX is the one of the joint venture companies which as been awarded the contract by the ADB to undertake TA MON 34135-03 *Capacity Building for Financial Sector Reforms*. The ADB is examining the possibility of using some capacity available under this TA to assist with the establishment of the FIU and the development of reporting arrangements with the reporting entities.

Domestic Consultants

The domestic consultants continued to work on the project during our visit. They translated the material we have developed for the FIU into Mongolian as well as translating other materials. Their knowledge of the financial system and local arrangements has continued to be invaluable.

We are indebted to all of the domestic consultants who have assisted us in this project. They have provided invaluable support and expertise. They have assisted us to gain a greater understanding of the country, its culture and social systems. They have been prepared to work long hours whenever needed. Each brought different knowledge and skills and we were indeed most fortunate to work with them.

IV. Fourth On-site Visit to Mongolia

In discussions with Mr Tanabe and Mr Erdenebayar we explored the possibility of utilizing the remaining funds in the TA budget to allow for a short fourth visit to Ulaanbaatar. We indicated our willingness to assist, noting the desirability of being able to meet with the new Director of the FIU and assist in decision making on procedures and forms. We also prepared, as requested by Mr Tanabe, a draft program for a weeklong visit and a list of training needs over the next 12 months.

Mr Tanabe subsequently advised that the ADB wished us to undertake the further visit. This was arranged for the week of 6-10 November 2006. John Broome and Hugh Dixon arrived on 5 November and left Ulaanbaatar on Sunday 12 November.

During this period we spent time with the two staff of the FIU, Mr T Dulamsuren and Mr T Tumurbat, and also had a number of meetings with Mr G Erdenebayar, the acting head of the Administration Department. This Department includes the Legal Division which has been primarily involved in the establishment of the FIU. We took the FIU staff through all of the material we had prepared and encouraged them to adopt the Step by Step plan we had prepared as a basis for the establishment of the FIU. We discussed the guidance material, procedural guidelines and the basic publicity material we had prepared.

Unfortunately the appointment of the new Director of the FIU had not been made at the time of our visit. We had hoped that we would have had the opportunity to meet with the

Director to assist that person to understand the material we had prepared and to be available to answer questions that might arise. We were also conscious that the impending APG Mutual Evaluation required the appointment of the Director as a matter of urgency and we had hoped that the timing of our visit may have assisted in some way to advance the appointment. This did not occur, although there were a number of reasons for the delay in the appointment. The former First Deputy Governor of the Bank of Mongolia, Dr A Batsukh was appointed Governor of the Bank of Mongolia in November and the appointment of the Director of the FIU has to be made in consultation with the Minister of Finance. There had been little time to make such an appointment and the new Governor obviously had many issues to address.

Shortly after our visit Mr Tumurbat was appointed as the Acting Director of the FIU. This meant that the time we had spent with Mr Tumurbat and his colleague had been well spent. We have offered to keep in touch with the FIU and will continue to do what we can to respond to any questions they have.

V. IT Blueprint Report

Our TORs called for the development of a 'blueprint detailing the design and requirements for a system to monitor suspicious transactions'. All effective AML regimes provide for the collection of suspicious transaction reports from financial institutions. These are invariably sent to the FIU. Many AML systems also provide for the collection of cash transaction reports (however styled) which require institutions to lodge details of transactions above a given threshold with the FIU. In most cases only cash transactions are reported, but in some countries the obligation extends beyond cash to all transactions⁹ and this can provide a very effective means of acquiring financial intelligence, which is after all the principal function of the FIU.

In the case of Mongolia the AML law provides for the reporting of cash transactions above a threshold of 20 million MNT. While this threshold is far too high to be effective, it does provide the basis for subsequent reductions in the threshold. In addition the law also requires the special scrutiny of all international settlement transactions and reporting of those international settlement transactions that are also cash transactions. This is a significant element and one that will substantially increase the effectiveness of the FIU. This will allow the FIU to gather data on all international funds transfers, irrespective of value and this will enable a valuable data base to be established over time. In particular it should ensure that suspicious transactions into and out of Mongolia can be identified not just by the informant entities but also by the FIU itself.

While the final shape of the law was not finalised, its general structure was known at the time the IT Blueprint has completed in August 2005. The IT Blueprint was delivered and a detailed discussion of the underlying assumptions was contained in the Mid Term Report. They are not repeated here.

⁹ Ideally with the capacity to exempt certain classes of transactions such as inter bank settlements which do not provide useful financial intelligence.

The ADB has included a capacity to further develop the IT capacity of the FIU as part of ADB AOTA: MON 34135-03. The exact nature of the IT needs of the FIU will depend on expected volumes of reports and this will need to be reassessed in the light of experience. The system should be adequate for immediate needs and capable of expansion as the number of reports increases as is inevitable as reporting entities become more cognisant of their responsibilities.

UNODC IT Software for Financial Intelligence Units

However, a major development has occurred which has the potential to be of very significant value to the Mongolian FIU and which will enhance its capacity to deal with both money laundering and terrorist financing. The UNODC has been developing a software package for use by FIUs. This is an initiative of the GPML within the UNODC. This package will enable the collection and analysis of financial intelligence and will be made available, over time, to FIUs in developing economies. It will be provided free of charge and the UNODC will install, maintain and update the system. Trials are well advanced and the system is expected to be available to Mongolia early in 2007.

This is a major development and one which has been needed for a long time. All FIUs need IT software to collect and analyse the information provided to them by both the reporting entities and also from other sources. Until now FIUs had to develop their own systems or purchase commercial products, often at great expense. Many of the commercial products were not well suited to the role and functions of the FIUs. The UNODC initiative will enable FIUs, especially the newer ones, to better utilise financial intelligence. It will also facilitate the transmission of data from reporting entities as it will enable them to transmit data which can be converted into a form which can be accepted by the FIU.

UNODC has, through Pat O'Sullivan who has worked on the TA since its inception, now offered the software package to Mongolia. This offer is likely to be accepted by the Bank of Mongolia and will ensure that the Mongolian FIU is very well placed to collect and analyse reports received under the AML Law. It will also allow it to share financial intelligence with other FIUs and to use systems which are compatible with both the commercial financial institutions and other FIUs.

This offer has implications for the proposed delivery of IT consultancy services under TA MON 34135-03. This TA had contained a number of consultant months (both domestic and international) to be used to further develop the IT system for the Mongolian FIU. These implications have been discussed with both the ADB and the consultants engaged for this TA. This will enable the capacity available under the new TA to be deployed to other areas of need.

VI. Establishment of the Financial Intelligence Unit

Our TORs required us to assist the Mongolian authorities to establish a financial intelligence unit (to be known in Mongolia as the Financial Intelligence Unit of

Mongolia)¹⁰ and to provide a comprehensive draft of key responsibilities of this entity. In relation to the FIU we were also to provide specialized training programs for its staff.

The role of an FIU is to receive, analyse, and disseminate disclosures of financial information and other relevant information and intelligence concerning suspected money laundering or financing of terrorism activities (see Egmont Statement of Purpose). The FIU should meet the Egmont group definition¹¹ of an FIU.

The international obligations to counter terrorist financing arise from a number of sources including the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism, the consequent national legislation to give effect to the provisions of the Convention in domestic law and the specific United Nations Resolutions, made in the aftermath of the September 11, 2001 terrorist attacks in the USA, which require Member States to take action to prevent terrorist financing. The responsibilities of the FIU should include:

- (a) issuing guidelines for the identification of complex and unusual transactions or patterns of transactions;
- (b) providing guidance to financial institutions and other reporting entities regarding the manner of reporting, including the specification of reporting forms. These should be carefully developed to keep them as simple as possible, consistent with obtaining the necessary level of information. They should not by their complexity or content discourage reporting.
- (c) either directly or through other competent authorities, access to financial, administrative and/or law enforcement information, on a timely basis, to enable it to adequately undertake its responsibilities.
- (d) the capacity to authorise sanctions or penalties (including meaningful fines and/or license suspensions) against reporting parties for failure to comply with their reporting and other obligations.
- (e) authority to receive from and disseminate to domestic authorities or foreign counterparts financial information and intelligence for investigation or action when there are grounds to suspect ML or FT and should be authorised to

¹⁰ The BOM is considering whether the FIU will be referred to within the BOM as the Financial Information Service.

¹¹ Since 1995, a number of the countries' FIUs began working together in an informal organisation known as the Egmont Group (named for the location of the first meeting in the Egmont-Arenberg Palace in Brussels). The goal of the group is to provide a forum for FIUs to improve support to their respective national anti-money laundering programmes. The Egmont definition of Financial Intelligence Unit is "A central, national agency responsible for receiving (and as permitted requesting), analysing and disseminating to competent authorities, disclosures of financial information (i) concerning suspected proceeds of crime or terrorist financing, or (ii) required by national legislation or regulation, in order to combat money laundering or terrorist financing".

enter into agreements such as memoranda of understanding to allow for such exchanges. The FIU should be able to provide reports spontaneously to another FIU without the need for a mutual assistance request.

- (f) keeping statistics on:
 - STRs received, analysed and disseminated;
 - STRs resulting in investigation, prosecution, or convictions;
 - Requests for assistance received by the FIU or other competent authorities, from both domestic and foreign authorities, as well as the number of responses provided to the requests received;
 - Spontaneous referrals made by the FIU or other competent authorities to both domestic and foreign authorities; and
 - If the jurisdiction requires the reporting of large currency transactions, statistics should be kept on the number of reports filed.
- (g) publishing periodic reports, including statistics, typologies and trends regarding its activities.
- (h) establishing and maintaining close working relationships with its client organizations and providing regular and accurate feedback on results achieved. This requires the development of close working relationships built on trust and cooperation. This is not easy and requires continual work by all involved. It is, however, of fundamental importance and is an issue we deal with below.

In addition the FIU must ensure that the exchange of information is consistent with national laws and internationally agreed principles on privacy and data protection. The FIU may be located within existing government agencies or as a separate authority but it must be able to operate independently and protect the information it receives. Finally, the FIU should be adequately staffed, and provided with sufficient technical and other resources to fully perform its functions.

These are the principles we have sought to apply in developing the material to assist the Bank of Mongolia to establish the FIU.

As noted above we have provided to the Bank of Mongolia the following material to be used by the FIU in establishing its physical presence and reporting systems and its capacity to met the obligations imposed on it.

- Step by Step Guide to Establish the FIU;
- Mongolian translation of the Step by Step Guide to Establish the FIU;
- Standard Operating Procedures for the FIU;
- Mongolian Translations of SOPs for the FIU;

- Guidelines for Reporting Entities;
- Forms for reporting cash transactions, suspicious transactions and customs declarations for border movement.

Staffing Arrangements and Secondments

The Bank of Mongolia is planning to allocate around five staff members to the FIU. This will consist of a Director, who will have a senior position within the Bank's structure, reporting directly to the First Deputy Governor. The Director will be supported by around four or five officers. Two of these have already been appointed. They have experience in the central bank, are fluent in English and both have undertaken post graduate training overseas.

The appointment of the Director is expected to take place shortly. Mr B. Tumurbat has been appointed as the Acting Director of the FIU.

VII. The Strategic Plan

The agreed Strategic Plan is set out below. It identifies key outcomes and identifies realistic deadlines based on current expectations on the timing of the implementation the AML law. This indicates the tasks that must be undertaken and the sequencing of these tasks. Even if the commencement of the process is delayed the content and sequencing will need to be followed. It may be that certain activities may need to be carried out in tighter time frames if external deadlines, such as adherence to ADB loan conditions, are to be maintained.

An earlier draft of the Strategic Plan was included in the Mid Term Report. The earlier draft was provided to key agencies involved in the development and implementation of the AML law and comments were sought. The fact that the legislation was still some way off no doubt explained the lack of responses. We revised the draft once the AML Law was passed and sought comments from the Bank of Mongolia. We also asked the Bank of Mongolia to consult with the key agencies involved in the development and implementation of the AML Law. The final version reflects the milestones agreed with the Bank of Mongolia.

There are still a number of major unknowns including

- the extent to which the staffing levels of the FIU will be satisfactory for the scope of its work;
- the provision of assistance from donors particularly in relation to training and technical assistance;
- the level of reporting and the volume of reports which will be generated;
- the amount of ongoing funding available to FIU; and

- the extent to which FIU resources will need to be directed at compliance arrangements for the AML Law .

In developing the Strategic Plan we met our requirements to provide:

- (a) a time bound plan setting out milestones for the development of the AML system over the next few years; and
- (b) development and implementation of a strategy for strengthening and maintaining support for the implementation of an effective AML regime.

The Strategic Plan is intended to do more.

We believe it will provide the basis for the future development of an effective anti-money laundering regime in Mongolia. Achieving that goal will not only enable Mongolia to properly address money laundering in Mongolia, it will assist the fight against money laundering and terrorist financing in the region. An effective anti-money laundering regime is not of itself enough to combat terrorist financing but it is an essential element in meeting that objective.

The Strategic Plan includes identified milestones. It will enable Mongolia to measure the improvements in its capacity to combat money laundering.

It originally incorporated the IT Blueprint for the establishment of an IT system. However, and this is an important qualification, if the offer of assistance from the UNODC materialises as we expect will be the case, the FIU will have a fully functioning IT capacity by early 2007. We have therefore included references to the UNODC system in the Milestones.

The Strategic Plan includes references to the training and technical assistance for the financial, legal and law enforcement elements of the anti money laundering system that will need to be delivered over the next twelve months (until October 2007). But the Strategic Plan goes further by outlining a three year strategy for ongoing training and review of the system to ensure it meets changing circumstances, international best practice and the particular needs of Mongolia.

The Strategic Plan reflects the analysis we have undertaken of the AML Law and the existing institutional arrangements in Mongolia. However, the changing economic circumstances in Mongolia and the developing international response to the problems of money laundering and terrorist financing means that there are new and changing factors to be considered on an almost daily basis. The Strategic Plan needs to be treated as a dynamic document subject to re-evaluation and amendment as circumstances change. This does NOT mean that deadlines can be ignored or put back. It does mean that changing circumstances need to be taken into account.

International pressure will continue to be applied to nations whose systems are seen to be vulnerable to money launderers or whose financial systems might provide a means by which terrorist funds can be distributed. Those pressures may be seen as unfair and intrusive, but they must nonetheless be addressed. The interconnectivity of global markets and the financial systems that drive them means that no country can remain

detached. Despite its geographical isolation Mongolia lies strategically between Russia and China. As both of those nations develop their AML activities there is likely to be a movement of criminal proceeds through other countries, particularly if they are perceived to have less effective regulation. That is why it is critical for Mongolia to take effective action now. This is also why the international community will continue to press for changes to the text of the AML Law where this is seen to be inconsistent with international best practice. For this reason we have built in provisions for the review and amendment of the AML Law.

Mongolia is reliant on exports and inward remittances from 150 000 Mongolians working in other countries. These countries include South Korea, the United States, Germany and Japan. There are also significant remittances to Russia as a result of significant numbers of Russian workers in the mining industry. These transfers that are also cash transactions will be captured as part of the reporting system and will provide a valuable data base for FIU analysis.

Training Program

We had hoped to be able to focus on the development of the FIU and the presentation of a series of training programs to key staff in government agencies and the financial institutions on both our second and third visits. However, this was always dependent on the legislation being introduced into the State Great Khural. There is little point trying to advise financial institutions on compliance with laws which are not yet in the public domain. Equally we needed to have a clear idea of the legislative framework before we could finalise training courses for the FIU staff, investigators, prosecutors and compliance staff in the regulatory agencies.

We had originally expected that we could have undertaken some significant training activities during our third visit but this was not possible for a number of reasons. While we returned to Mongolia for the third visit at a time agreed with Bank of Mongolia it was unfortunate that the appointment of the Head of the FIU was not made prior to the completion of our visit. This meant we did not have the opportunity to discuss implementation issues in detail with the Director. Nonetheless we placed an emphasis on the need to ensure the FIU had the material to be functional as soon as possible. It is difficult to provide training in a vacuum. Until the FIU had staff appointed there was no audience to which FIU training could be provided. It is also preferable to have some reports flowing to the FIU but this has yet to occur.

As noted above, the strategic plan incorporates a training program to cover the first three years that the legislation is in force. This will need to be provided by donors as well as the resources of the Bank of Mongolia and other local agencies.

Mongolian Agency Responses to the Draft Strategic Plan

It is essential that any Strategic Plan is 'owned' by the agencies that will be involved in its implementation. This is equally true of the Strategic Plan we have developed for the AML system in Mongolia. This means that the relevant agencies should agree to its content and time lines.

We provided the revised draft of the Strategic Plan Milestones to the Bank of Mongolia on Friday 1 September and requested comment from the Bank of Mongolia. The Bank

was not able to provide any comments prior to our departure, no doubt due the fact that the consultation process concerning the appointment of the Director was continuing. Without someone in that role there was no capacity to make decisions concerning the FIU or to drive interagency consultation processes already established by the Bank of Mongolia in accordance with our earlier recommendations.

However, we emphasised to the FIU staff, and to Mr Erdenebayar, how important it was that the new Director focus on the milestones and provides comments as soon as possible so that these could be incorporated into the final version of the Action Plan which is included in this Final Report.

Shortly after his appointment we received confirmation from the Acting Director of the FIU, Mr Tumurbat, that the Bank of Mongolia had agreed with the recommendations in the draft final report, including those relating to the Action Plan, and that this will provide the basis for the AML system in Mongolia to move forward.

Strategic Plan for the Establishment of an Effective AML/CFT Regime in Mongolia

Introduction

This Strategic Plan focuses on building the capacity to effectively operate the anti-money laundering regime in Mongolia. It does so by identifying the elements of an effective system and structure, describing the present arrangements, identifying the gap to be bridged and the means to bridge that gap. It looks to achieve quantifiable and objective milestones and long term objectives within realistic timeframes. The Strategic Plan identifies the following key elements:

- Legal framework;
- Organisational structures;
- Knowledge;
- Skills;
- Compliance;
- Coordination arrangements; and
- International relationships and linkages

that will be needed to ensure an effective anti-money laundering regime.

The plan also seeks to answer the three basic questions:

- What needs to be achieved?
- When does it need to be achieved? and
- What techniques can be used to achieve these outcomes?

Legal Framework

During the course of the TA we have provided extensive advice on the necessary changes to the draft law. While many of the changes we recommended were reflected in the draft law there remained major deficiencies in the draft law that was submitted to the Khural. We advised that if the law remained in that form there will be significant practical problems for the FIU and for other agencies involved in the administration of the AML/CFT laws. The expressed rationale for the decision to leave certain matters out of the law was to gain practical experience with the basic legal framework so that the law can be reconsidered in the light of experience. However, as we pointed out, it was most unlikely that the Government and the Parliament would quickly address these problems having already given consideration to these issues throughout 2005 and 2006. Given this fact, we strongly recommended changes to the draft law but these were not included.

These problems have been exacerbated by some of the changes made during the consideration of the law in the Khural. The AML Law now has a number of provisions which are unclear, others where changes have been made which have made the law less effective, and what appear to be oversights or mistakes as cross referencing of certain provisions has not been made. These matters will be the subject of detailed comment in the APG Mutual Evaluation report and the Mongolian authorities will need to consider how they respond to these comments.

Recognising the need for legislative review and amendment, the Strategic Plan provides for a review of the law at the end of its first year of operation (to be completed by September 2007) and for the preparation of amending legislation early in year two.

Rules have been drafted as required by the AML Law but the Bank of Mongolia, and perhaps other agencies, will need to review these before they are finalised and issued by the Governor.

The key areas that need to be addressed in the AML Law are:

Definitions

The definitions of 'money laundering', terrorist financing' and 'reporting entities' are all deficient in important respects. There are other key terms or concepts such as 'authorised organisations' and 'international settlement transaction' which are not defined. The absence of a definition of and application of the AML Law to non profit organisations creates a number of problems: the coverage of the law is uncertain and these organisations are subject to particular concerns because of their misuse in some jurisdictions for terrorist financing purposes.

Reporting threshold for cash transactions

If the threshold is left at 20 million MNT it will need to be reviewed. It is too high.

Shell banks

The AML Law must prohibit dealing with shell banks. Failure to do so may lead to foreign banks refusing to deal with Mongolian banks or to provide correspondent relationships. This is particularly likely with US banks.

Coverage of DNFBPs

The coverage of DNFBPs is inadequate. They are not caught by the definition of reporting entities. Hence the AML Law does not apply to all of the entities that are required by the FATF.

Suspicious Transactions

The coverage of suspicious transactions is deficient. The obligation to report these transactions is vague.

Suspension of transaction

The three day period provided is too short for effective investigations to take place. A longer period or a capacity to extend the initial period or, preferably, both is required. The grounds on which the approval can be sought also need to be specified.

Absence of key powers

(i) Power to issue regulations

The absence of a regulation making power weakens the capacity of the Governor of the Bank of Mongolia to deal with deficiencies and omissions in the AML Law.

(ii) Power to exempt classes of cash transactions

A power to allow the FIU to exempt from the Cash Transaction Reporting requirements regular transactions between organisations would reduce the impost on banks.

Penalties

The current capacity to impose administrative penalties in limited circumstances should be extended to cover breaches of all requirements in the AML Law. In addition, clear indications of which offences are regarded as criminal should also be included.

Knowledge and Skills Development

Training

There is a need for a wide range of training and technical assistance programs to be developed and delivered. These need to cover the FIU, other government agencies and reporting entities defined under the AML Law. There is also a need for public awareness campaigns.

Financial Intelligence Unit

In the short term the principle focus will be on establishing and training of the FIU staff. This will cover the development of internal systems for information collection, storage and retrieval. It will also cover the intelligence cycle, the use and dissemination of financial intelligence and international cooperation.

The development of guidance material for financial institutions and the development of coordination arrangements with the institutions will also be covered.

In the short term the focus will be on establishing FIU and its systems and training of the FIU staff.

- Development and application of internal systems for information collection, storage and retrieval (SOPs)
- The intelligence cycle
- Use and dissemination of financial intelligence

- Development, acquisition and operation of the IT system
- Development and implementation of the internal procedures for the FIU
- Preparation of guidance material for financial institutions
- Preparation of draft forms and notices to be used by the FIU
- Training of FIU in managing the IT system
- International cooperation
- Development of coordination arrangements with the institutions

This would initially involve a week of intensive work with the FIU staff. In addition, additional training in areas such as financial analysis would involve about ten days but spread over a longer period, say the first 12 months.

In addition, training in **compliance** processes for AML/CFT issues is required. This needs to cover

- Development of a Compliance Policy
- Training in compliance techniques
- Specific AML/CFT issues to be covered

This should be provided to a combined audience of BOM staff and other regulators from Ministry of Finance and elsewhere to maximise coverage. Only one or two people at FIU will have a compliance role.

This would be a course of 3-4 days and would include regulatory theory, development of compliance policies, developing a compliance culture, enforcement activity. This course should be run annually.

General public awareness activities

A general public awareness campaign is essential. It will counter misconceptions and fears about the purpose of and operation of the AML/CFT system and the role of the FIU. The development of such a program would take about a week, including preparing material to be used in it. However, given the need to consult with key agencies and the reporting entities this would need to be spread over a longer time frame of around one month. The content of the program would include:

- Posters, pamphlets and local media
- Interviews
- Role of the FIU

Awareness training in financial sector and government agencies

Many government agencies have a role to play in the prevention and detection of money laundering and terrorist financing. In addition to the FIU there are the financial supervisory agencies such as the Bank of Mongolia, Ministry of Finance and the Financial Regulatory Commission. There are also the police, customs and immigration officials, taxation authorities, the anti corruption commission, prosecutors and the courts. Both the Foreign Ministry and the Justice Ministry have specific roles in relation to international cooperation.

Many of the staff in these bodies require a general level of familiarity with the issues involved in responding to money laundering and terrorist financing. Short, half day seminars with basic AML/CFT content – what is money laundering, why is it important, how do we deal with it – should be provided to the staff of these agencies.

Of course those with responsibilities which bring them into direct contact with these issues need more. Initially one day courses with general overview of ML and TF, outlining the AML Law in Mongolia, role of agencies to combat ML and TF, the role of reporting entities and international cooperation. Specialist skills can be developed later.

Reporting Entities

In the financial sector legal obligations are imposed on all reporting entities to develop manuals and to train their staff to comply with the provisions of the AML Law on the informant entities. These include the obligation to report high value and suspect transactions and apply KYC procedures.

The level of knowledge required of staff will vary considerably depending on their responsibilities. Staff who have face to face contact with customers need to be well versed in KYC procedures. They must be aware of the possibility that transactions might be suspicious and that these should be reported. Senior staff, who may deal with customers with significant commercial interests, must also be aware that they may encounter unusual transactions.

Training needs to deal with different kinds of customers and different kinds of banking and other financial products.

Compliance staff will need to have particular expertise so that they can not only meet their responsibilities but ensure the institution is complying with its obligations across all of its operations

There is a need for a **comprehensive AML/CFT workshop** for compliance officers in financial institutions and a **general program** for those staff who will operate internal training programs in the larger financial institutions. These should cover issues such as:

- What is money laundering
- Why is it important
- International responses
- AML Law of Mongolia

- Suspicious transaction reporting
- Know your customer obligations
- Compliance with rules and guidelines on money laundering
- Terrorist financing issues
- Developing internal AML/CFT Programs as required by the AML Law
- Training for trainers in basic money laundering issues so they can conduct ongoing programs within the financial institutions

The Comprehensive training would run for three of four days. The general training program would run for a similar period. These courses would need to be run at least annually to ensure that new staff receive timely training.

Within the reporting entities ALL staff, including senior management, need to receive basic AML/CFT awareness training. This training should be based on models prepared and delivered to trainers. This could be included in the general training referred to above. These one day courses should be run internally at least every six months.

Depending on demand it is likely that these would need to be run at least three of four times a year to groups of no more than thirty.

Law Enforcement

There are a numbers of areas of need. The primary investigative agency is the Police. Within the police is a specialised Economic Crime Division which has an intelligence gathering function and an Investigations Division which investigates major financial crime.

Prosecutors in Mongolia conduct prosecutions but the Prosecutor-General, through his staff also oversees investigations by the police. Even where police determine that a matter should not be investigated, or further investigated, the prosecutors can require that the matter be investigated.

This means that prosecutors also need a sound knowledge of investigative methodologies, particularly in areas like financial crimes. They need to fully understand money laundering, terrorist financing and the legislative scheme under which they will prosecute offenders.

Police also need to be given training in both general investigative techniques as well as the particular skills needed for financial investigations, including money laundering.

The establishment of the Anti Corruption Commission has created a new entity which will also need the necessary investigative skills.

Finally, the security agencies have a need to have the necessary skills to deal with terrorist financing cases and other financial crime which may have implications for state security.

This means that there is a need for both training in basic investigative techniques and methodologies and in financial investigations for the

- Prosecutors
- Economic Crime Division of the Police
- Investigation Division of the Police
- Anti Corruption Agency
- Security agency

Such courses should deal with:

- Planning an investigation
- Managing an investigation
- Conducting a net worth analysis
- Forensic accounting issues
- Interview techniques
- Intelligence analysis
- Use of covert methods such as electronic surveillance and undercover operations (subject to the availability of such avenues)
- Asset tracing
- Gathering evidence
- Preparation of prosecution briefs of evidence
- The nature and extent of money laundering and terrorist financing
- Current typologies (methodologies) used for money laundering and terrorist financing

The first course should be directed at investigators, prosecutors, investigative staff from the Anti Corruption Commission, security agencies and FIU staff all of whom have a responsibility for investigating (or understanding the investigative process) particularly in relation to economic crimes, money laundering and the predicate offences which give rise to money laundering. These would include corruption, drug offences, kidnapping, extortion, robbery and fraud.

In addition, specialist training in financial investigations will also be needed. This would involve experts used to analysing complex financial transactions including the acquisition and disposal of assets. The target group would be those specialist investigators with

accounting or legal backgrounds with prior experience in financial investigations, prosecutors and the Anti Corruption Commission.

The duration of the general investigation course would be one week and the specialist financial investigators course would be two weeks. These would need to be run at least once a year.

The UNODC has offered to conduct this training, at least in 2007.

Prosecutor Training

Prosecutors need a very detailed understanding of the law and the elements of the offence which must be established. They also need to be conscious of the potential to include money laundering offences in prosecutions for listed offences even where the FIU has not been involved in the investigation of the particular criminal behaviour.

We envisage the need for prosecutors, who are specifically nominated to handle these cases, being provided with training over a period of about a year. Early training on the essential issues to be addressed in prosecutions should be followed up with further training, perhaps as workshops, after they had practical experience of actual prosecutions, and then further training to enhance skills and build on international developments.

The training would involve planning a prosecution, collection of evidence, use of mutual legal assistance, presenting evidence in financial crime cases, financial crime issues, money laundering issues and recovering proceeds of crime. An initial week of training should be followed up with periods of two or three days spread over a year during which actual cases were examined.

Again, these course need to be repeated for the benefit of new staff and to reflect lessons learned from actual cases decided in Mongolia.

Mentor Program

The investigators and prosecutors would be assisted by the placement of an expert Mentor to work with them on cases over a period of time. We envisage that an ideal program would involve an experienced prosecutor or law enforcement practitioner working closely with the prosecutors who are doing money laundering cases and those which involve the relevant predicate offences. A donor country, or another agency such as UNODC, may be prepared to meet the costs of such a placement.

Judiciary

Just as prosecutors need to understand the nature of money laundering and the methodologies used to undertake it, so judges need similar knowledge. However, it is unlikely that until a number of cases have been brought before the courts that there will be significant judicial interest therefore there is less urgency for training in this area. This will probably be needed in late 2007 or even later.

Annual Training Cycle

While there needs to be intensive training activity in the first year that the AML system is operating, training needs do not end. There is a need for a regular training cycle which should be developed and implemented in the FIU, within other government agencies and in the private reporting entities. Under the AML Law reporting entities MUST deliver professional training to their staff and the FIU needs to ensure compliance with this requirement. This is reflected in the Action Plan.

The non law enforcement training and other activities involves about 8 weeks of face to face time. For most of these courses it would be necessary to have at least two presenters. In addition there is preparation time as well (allow one day for three delivered days). Realistically the total person months involved to develop and deliver would be in the order of 4-5 person months. If the material had to be translated and/or delivered using sequential translation the time expands dramatically (face to face time doubles). If simultaneous translation is used the cost is significant (around \$800 per day for two translators) plus equipment.

Training Priorities

1. Immediate Priorities

The immediate needs are

- Internal training for FIU staff to establish basic operating procedures and assist to develop reporting relationships with the reporting entities (5 days)
- Prepare and adopt strategy for implementation public awareness campaign and develop material to be used in consultation with BOM, FIU and reporting entities (4 days over a two to three week period)
- Run course for compliance staff in reporting entities (need procedures for FIU settled first) (3 days)
- Basic intelligence course for FIU – what is intelligence, the intelligence cycle, financial intelligence, introduction to basic tools such as net worth analysis etc. (2-3 days)

This could be undertaken within the next two months.

2. Short Term

Late November and December will be fully occupied with the APG mutual evaluation.

Late January/early February would be the best time for the Study Tour to be undertaken. By this time the FIU will have some appreciation of the role they have to perform and this is a necessary precondition to get the most out of the study tour.

In early 2007 the introduction of the UNODC IT system will be a major focus for both the FIU and the reporting entities.

In March (TBC) UNODC is proposing to provide a basic investigators course (1 week) to be followed later by a financial investigation course (2 weeks). This would be suited for police, prosecutors, corruption agency staff and security agency staff.

3. Medium Term

The more advanced training for intelligence analysts, from the FIU, the police, anti corruption agency and other investigative agencies, should be delayed until there is a body of financial intelligence material in the FIU and some appreciation of how this material can be used.

Prosecutor training, which would focus on prosecuting financial crime and money laundering, should be held in the middle of 2007. It may even need to be delayed until there is some experience with actual cases.

Also around the middle of 2007 would be an ideal opportunity to place a mentor here on a full time basis for 6-12 months. This person would assist agencies investigate and prosecute cases. The UNODC funds a number of AML/CFT mentors in various regions.

4. Long Term

From late 2007 the FIU and the reporting entities should be operating regular training programs. The FIU should be ensuring that there is ongoing training for FIU staff, investigators, prosecutors and related agencies (e.g. the anti corruption agency). The reporting entities need to ensure internal training is ongoing to meet their legal obligations under the AML Law.

A training schedule is included with the Step by Step Guide at Attachment 2.

Coordination Arrangements Within Mongolia

From the outset we recommended that the Mongolian authorities should establish at least two formal coordination mechanisms to assist the effective implementation of the AML Law.

The establishment of these bodies is necessary to assist interagency cooperation within government and the development of relations between government agencies and those private sector agencies who are reporting entities. These arrangements have a clear purpose. They are not ends in themselves. They are established to make the AML/CFT regime work better. They exist to resolve problems not to create them.

Interagency coordination

Article 20 of the AML Law has established what is referred to as the Cooperation Council. It will consist of senior representatives from the Government agencies most involved in AML/CFT issues. The AML Law provides that the Council's functions are to ensure the implementation of laws to combat money laundering and terrorism financing, to exchange information and to prepare recommendations on preventative measures. The composition and rules of this Council will be approved by the Governor of the Bank of Mongolia. We understand it will initially consist of the agencies involved in developing

the AML Law: Bank of Mongolia, Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs, the National Police and the General Intelligence Agency.

This is an important initiative and meets the needs of the coordinating body we had recommended. It should provide a basis for effective implementation of the AML Law. Over time its membership should be extended to include other agencies with a role in the response to money laundering and terrorist financing such as Customs, the Anti Corruption Commission and the FRC. As the coverage of the AML Law extends to designated non bank professions and businesses then the relevant regulators should also be included.

The Council should also be responsible for the continual monitoring of compliance with the law and the effectiveness of the legislation and for developing proposals for both administrative and legislative change to improve the operation of the anti-money laundering regime.

The Cooperation Council should endorse the Strategic Plan to demonstrate acceptance and adoption by all relevant bodies.

Consultation and Cooperation with the Financial Sector

This is critical. We have consistently argued that the institutions will do no more than pay lip service to the reporting obligations if they do not believe they have been properly consulted and that the consultation process will be effective and continuing. As commercial entities they will only devote resources to activities that meet regulatory and legal requirements or which they recognise as important to their own profitability. They will not devote resources to training and compliance if they do not have to because they are driven by financial imperatives.

On the other hand, in most countries the international banks and financial institutions have to comply with the laws and standards imposed on them in their home jurisdictions, and in other jurisdictions in which they operate. This means the US and European institutions will usually have established procedures and training manuals in place. However, no such banks operate in Mongolia at present.

In our discussions with the officers from the banks we found different levels of understanding about the kinds of AML and CFT requirements commonly imposed on banks in other countries. Largely as a result of pressure from correspondent banks there is a growing understanding of the international standards and some banks already have internal procedures relating to AML, KYC and customer due diligence.

Some of the banks were consulted in the development of the earlier drafts of the law but there is a need for further consultations as the AML Law is implemented. The reporting forms and processes will need to be developed, discussed and approved. Procedures will be required to deal with the need to receive information and make additional requests for information. This strongly suggests the need for a mechanism to allow the financial institutions to be consulted and to enable FIU and other government agencies to learn from the institutions.

This consultative group should consist of the FIU and the compliance officers (or their representatives) from all of the types of reporting entities or at least the main institutions.

This would facilitate cooperation, the exchange of information, and the overall effectiveness of the FIU. International experience strongly supports the need for regular and detailed feedback from the FIU to the financial sector. We would also suggest that this group include the FRC and the other financial industry regulators. These bodies should be involved, as they will continue to perform important functions in ensuring that institutions comply with the law and related rules and directions. Such a body might be called the Financial Sector Liaison Committee (FSLC).

Compliance

The issue of which agency or agencies will have responsibility for ensuring compliance with the AML Law has still only been partially resolved. Article 17.2 of the AML Law provides that the Inspectors from the FIU have the power to examine the implementation of the laws to combat money laundering and terrorism financing and require rectification of any breaches of the laws by reporting entities. Alternatively they can refer matters to the relevant regulator for further investigation or the imposition of sanctions.

The FIU will not have the resources to supervise compliance with the AML Law, nor should it. The two principal supervisors of the financial system are the Bank of Mongolia and the Financial Regulatory Commission, both of which have established on site and off site supervision roles. What is needed is for these bodies to incorporate into their supervisory activity a focus on AML/CFT compliance issues. They would then report any problems to the FIU which could address these in more detail, or work with the FIU to deal with the issue using their powers as regulators. The working arrangements should be reflected in an MOU between the agencies.

Whatever arrangements are agreed, a comprehensive compliance program for the reporting entities must be developed and monitored by the relevant supervisors. It is important that there is consistency between the regulators and this can best be achieved if they adopt a common AML/CFT Compliance Policy.

A draft Compliance Policy for this purpose is available. It adopts a staged approach to non compliance. Once adopted by the Bank of Mongolia, FIU and FRC it would provide the basis for comprehensive and effective supervision and enforcement of the implementation of the AML Law by reporting entities.

International Relations and Linkages

Mongolia has been a member of the Asia Pacific Group on Money Laundering since 2004. Mongolia had previously attended APG meetings as an observer. This is important as it provides Mongolia with an opportunity to share its experiences with other nations and to learn from their experiences. It attends the regional typologies meetings and also benefits from the potential to develop closer relationships with other APG members.

In December 2006 the APG conducted a mutual evaluation of Mongolia in accordance with the agreed procedures for APG Members.

Now that the AML Law has been passed and the FIU is being established Mongolia must also become part of the wider international network combating money laundering by joining the Egmont Group as soon as it meets the membership requirements.

Mongolia should ratify each of the relevant international conventions relating to money laundering and terrorist financing and once its domestic law enables Mongolia to fully meet its international obligations.

There are also a number of steps that should be taken by the Director of the FIU as soon as an appointment is made. Letters should be sent to all of the regional FIUs, including those in the APG and the EAG. A copy of the AML Law in English should be provided and the offer of international cooperation, as provided for in the AML Law, should be made.

Coordinating Donor Funding

There are a number of donor bodies now providing assistance to the anti-money laundering efforts in the region. A notable donor in this regard is the European Union. Japan has been a major donor in the region and has specifically funded some AML related programs. The ADB is administering a fund established from funds donated by the United States, Japan and Australia to assist in these areas. A TA in Thailand is being funded from this fund.

This is also true of Mongolia. For example FinCEN, the United States' financial intelligence unit has previously offered to assist the Bank of Mongolia by providing training for analysts. Through law enforcement liaison staff attached to various missions across Asia training and technical assistance is often provided to investigators in police agencies across the region. In addition the German Government, through its Embassy in Singapore, has undertaken to provide assistance to Mongolia in this area. The nature of this assistance is not yet clear although we did make contact with the German Embassy in Singapore to advise them of our activities. .

Most of these offers have not yet borne fruit. This is because the delays in the passage of the law have meant that the opportunities for assistance haven't yet arisen. The position has now changed. There is a need now for assistance in a number of areas although it is important that the donors recognise the limitations in small jurisdictions to absorb assistance and the need for it to be properly sequenced.

This level of assistance in AML and CFT has increased significantly in recent years. The international concerns about the possible use of Asian economies as a vehicle for terrorist funding and the increase in terrorist attacks in the region have seen additional funding made available.

This assistance, while highly desirable, must be coordinated. There is a real risk of unmet needs or of duplication. Donors, be they international organisations, individual countries or agencies within a donor country have not always coordinated efforts well, if at all.

The Asia Pacific Group on Money Laundering is well placed to assist in the coordination of aid relating to money laundering. This has been recognised by donors and the ADB has, for example, recognised in the terms of reference for TA 4393-MON the need for the consultants to liaise with the APG and donor agencies. The APG has been coordinating an International Donor Group for Mongolia.

A number of training and technical assistance projects have been identified in the Strategic Plan. Some have been undertaken as part of TA 4393-MON but most are well beyond the resources of this project. For example, the need to develop comprehensive legislation to allow for the confiscation of the proceeds of crime will require additional assistance. UNODC has offered training for both law enforcement personnel and prosecutors and arrangements are being put in train for this to be delivered in the first half of 2007. The new ADB TA, which is focusing on Capacity Building for Financial Sector Reforms, has capacity to assist with IT training in the financial institutions to complement the training the UNODC will provide when it installs the IT software for the FIU. This will be important to ensure the reporting entities are efficiently able to deliver reports electronically to the FIU. The ADB is exploring with the consultants engaged for that TA the opportunity to assist in other areas of the implementation of the AML/CFT system in Mongolia.

Donors should coordinate through the APG the provision of assistance to meet these needs. The Strategic Plan will provide a basis for coordination of donor programs by identifying the needs of Mongolia and allowing donors to identify particular projects they may be able to fund.

Suggested Milestones

A number of key milestones need to be met. These include:

Serial	Activity	Due date	Consequences if deadline not met
1.	Monitor and document progress on the time-bound plan	Ongoing and continual	Essential if FATF/IMF/WB and other international criticism is to be prevented. Failure to meet ADB Loan conditionality. Progress on development of AML/CFT regime will be unsatisfactory
2.	Establish Coordination Committee Establish a regular meeting timetable, rules and procedures.	Immediate	Lack of coordination of activities with financial sector

Serial	Activity	Due date	Consequences if deadline not met
3.	Liaison by FIU with UNODC on installation of the new FIU software. (Coordination with reporting entities to be done as part of ADB funded turnkey solution)	Times lines to be determined by ADB AOTA: MON 34135-03	No IT system
4.	Design electronic formats to allow for delivery of required reports to FIU	Times lines to be determined by ADB AOTA: MON 34135-03	No effective capture and analysis of data
5.	Facilitate the timely mobilization and effective coordination of government and external resources in support of the implementation of the time-bound plan	Ongoing	ADB Loan Conditions not met Maximises donor assistance Prevents duplication of training and technical assistance
6.	Facilitate communication of the Government's progress in implementing an effective anti-money laundering regime to the wider anti-money laundering community. The APG Mutual Evaluation will be the primary means by which this is achieved. Involves: · active membership of APG · conduct of APG Evaluation · application for Egmont membership	Ongoing but with major activity in final quarter of 2006	Essential if FATF/IMF/WB criticism is to be prevented Essential if Egmont membership is to be granted
7.	Adoption by Bank of Mongolia of the offer of UNODC assistance in provision of IT system.	30 September 2006	Will delay progress on IT system

Serial	Activity	Due date	Consequences if deadline not met
	Information Technology assistance to identify additional capacity needs for an effective IT capacity.	Note: To be dealt with by ADB AOTA: MON 34135-03	Limits effective use of financial intelligence.
8.	Deliver draft time bound plan for approval and acceptance	07-September 2006	Progress will be delayed
9.	Accept time bound plan	14-September 2006	Essential framework for progress will be lacking
10.	Identification of vulnerabilities in the law and practice so that these can be addressed subsequently by the Khural and Government.	15 September 2006	Mongolian authorities unable to revise draft law Law will remain deficient International criticism of law especially through Mutual Evaluation process
11.	Appointment of Director of FIU	30 September 2006	Progress of establishing FIU will be delayed Preparation for APG Mutual Evaluation will be delayed
12.	Adoption by Bank of Mongolia of the staffing structure of the FIU and the responsibilities of individual positions. A commitment by the Government to resources for the FIU over, say, 3 years.	30 September 2006	FIU will not be able to function effectively.
13.	Develop the composition, structure, rules and working procedure of the proposed Cooperation Council.	30 September 2006	Continued failure to adequately coordinate activities with government agencies
14.	Draft Rules and Guidelines to facilitate the implementation and operation of the AML Law to be developed and implemented.	30 September 2006	AML regime will not be effectively implemented and operated efficiently.

Serial	Activity	Due date	Consequences if deadline not met
15.	Design draft forms and notices for use by reporting entities and FIU. One drafted these forme should be provided to reporting entities for comment before finalisation.	30 September 2006	Consultation with reporting entities will be delayed. Reporting entities and others can claim that they cannot meet their obligations. System will be seen as not 'business friendly' Reporting system cannot work
16.	Draft Rules to be finalised	31 October 2006	Essential if AML Law is to be implemented.
17.	Preparation of Mongolia's Mutual Evaluation response to APG questionnaire. Note: Evaluation will be conducted under more rigorous IMF/FATF Methodology	8 October 2006	Evaluation cannot proceed effectively, if at all.
18.	Identify physical location of FIU, establish office administratively including installation of furniture and equipment.	15 October 2006	Essential requirement for FIU to operate
19.	Adoption of rules under AML and related laws	15 October 2006	
20.	Reaching key staffing levels for the FIU (to include any secondments or attachments from agencies such as Police)	15 October 2006 30 June 2007 31 December 2007	Inability to develop FIU infrastructure, operational capacity and failure to perform statutory role
21.	Design and implement a strategy for strengthening and maintaining support for the implementation of an effective anti-money laundering regime. This involves adoption of the milestones	31 October 2006	AML regime will be weakened

Serial	Activity	Due date	Consequences if deadline not met
22.	Functional establishment of the Financial Intelligence Unit (FIU) Note; Technically the FIU now exists	31 October 2006	Necessary precondition to implementation of AML Law
23.	Withdraw the existing Recommendations in relation to suspicious transactions issued by the Bank of Mongolia to reflect requirements of the AML Law	31 October 2006	Potential for confusion in reporting entities and lower levels of reporting of suspicious transactions
24.	Ratify and implement relevant international instruments on money laundering or related to money laundering eg Transnational Crime Convention (Palermo)	31 October 2006	Failure will inhibit Mongolia responses to money laundering. Prevent effective money laundering investigations. Will receive criticism in APG Mutual Evaluation
25.	APG Mutual Evaluation Team arrives	04 December 2006	No report for APG Annual Meeting Potential embarrassment for Mongolia
26.	Arrange study tour to one of Australia/New Zealand/Malaysia to be held in late January-February 2007	15 December 2006	Study tour will not proceed as planned
27.	Development of three year training and technical assistance program by International Donor Group	31 December 2006 May need to be amended in light of ME findings	System will be largely ineffective without training activities undertaken by donors

Serial	Activity	Due date	Consequences if deadline not met
28.	<p>Develop a plan for the complete FIU IT system including:</p> <ul style="list-style-type: none"> · Description of the system · What is to be done · What is to be purchased · Cost estimates · Timeline · TOR for management <p>to be developed in consultation with the UNODC</p>	31 December 2006	<p>No electronic processing of STRs, CTRs and IFTIs. Reduced capacity to analyse reports.</p> <p>FIU Database development delayed.</p>
29.	<p>Assist FIU to develop and run training on new forms and changes to the law concerning:</p> <ul style="list-style-type: none"> · suspicious transaction reporting; · cash transaction reporting arrangements; · international funds transfer information reporting · compliance procedures 	31 December 2006	<p>Poor understanding of the law.</p> <p>Reporting entities will make avoidable errors and develop undesirable compliance and reporting practices and attitudes</p>
30.	<p>Develop Key Performance Indicators (KPI) for FIU to measure progress and provide basis for review of resources</p>	31 December 2006	<p>FIU will not meet its obligations and external criticism of Mongolian AML/CFT response</p>
31.	<p>Conduct study tour of one of Australia, New Zealand or Malaysia</p> <p>Need to have practical experience of AML system before study tour is held.</p>	28 February 2007	<p>Will limit FIU capacity to develop Mongolia's regime with the benefit of the most comparable system operating in the region. Delay development of essential cross agency relationships</p>

Serial	Activity	Due date	Consequences if deadline not met
32.	<p>Develop and implement a program of issuing guidelines and information to reporting entities. (Regular newsletter or information bulletin to be issued monthly. First edition by Dec.)</p> <p>New guidelines to be issued within 30 days of any changes to the law).</p>	31 March 2007	Likely low level of compliance by reporting entities
33.	Review KPI for FIU in the light of the Mutual Evaluation Report prepared by the APG. (Within 60 days of report).	30 April 2007	Use of inappropriate measures may lead to inadequate resources or unjustified criticism.
34.	<p>Develop and present financial investigators course specialising in investigation of money laundering and 'money trails'</p> <p>UNODC have offered to develop and deliver subject to funding</p>	30 June 2007	Lack of financial investigation skills with reference to money laundering investigations
35.	Obtain sponsoring FIU and gain acceptance as a member of Egmont group	30 June 2007 (2007 Egmont meeting)	No access to international FIU information exchange capacity
36.	FIU to develop both (1) a strategy and (2) a timetable to keep the reporting entities informed of new methods and trends which are identified and to reinforce the obligations of the reporting entities to also bring issue to the attention of the FIU	30 June 2007	<p>No mechanism for disclosure of new typologies.</p> <p>Reporting entities unaware of new issues and therefore less likely to respond.</p>
37.	Develop and adopt a compliance program with specific objectives for the end of 2007, 2008 and 2009	30 June 2007	Compliance levels will not be satisfactory without regular audit and compliance education program

Serial	Activity	Due date	Consequences if deadline not met
38.	<p>Develop and implement training module for investigators covering issues such as</p> <ul style="list-style-type: none"> ▪ what is money laundering ▪ investigating money laundering ▪ Current typologies (methodologies) ▪ Planning an investigation ▪ Managing an investigation ▪ Conducting a net worth analysis ▪ Forensic accounting issues ▪ Interview techniques ▪ Intelligence analysis ▪ Use of covert methods such as electronic surveillance and undercover operations (subject the availability of such avenues) ▪ Asset tracing ▪ Preparation of prosecution briefs of evidence. <p>UNODC has offered to develop and conduct this training</p>	<p>30 June 2007</p> <p>Develop in first half of 2007 with a view to delivery in mid year.</p>	<p>Poor levels of investigation.</p> <p>Little prospect of effective prosecutions.</p>
39.	<p>Develop and implement a training module for compliance officers and those with responsibilities for training bank and other informant entity staff to address issues such as:</p> <ul style="list-style-type: none"> ▪ suspicious transaction reporting ▪ cash transaction reporting ▪ international funds transfer information reporting ▪ know your customer obligations ▪ compliance with directives on money laundering ▪ terrorist financing issues 	<p>30 June 2007</p>	<p>Poor levels of compliance.</p> <p>Criticism by FATF/IMF/WB.</p> <p>Potential to be found to have inadequate implementation of AML Law.</p>
40.	<p>Develop procedural manuals for prosecutors conducting cases under AML Law, Criminal Law and Criminal Procedure Law</p>	<p>31 July 2007</p>	<p>Poor and inconsistent quality of work leading to failures and the development of bad working practices and attitudes.</p>

Serial	Activity	Due date	Consequences if deadline not met
41.	Develop and implement prosecutors' training course UNODC has offered to develop and conduct this training	30-September 2007	Even if system is producing cases, no successful prosecutions and so a major performance measure cannot be met
42.	Conduct review of AML law and recommend amendments based on experience and international standards	30 September 2007	AML Law will be less effective and international criticism will continue
43.	Ratify and implement international instruments relation to terrorism and terrorist financing (Have signed and reported per 1373)	31 October 2007 Ongoing	Failure will inhibit Mongolia responses to terrorism and terrorist financing. Will receive criticism in APG Mutual Evaluation
44.	Arrange provision of judicial education for judges involved in money laundering cases.	31-Dec-07	Poor level of judicial understanding. Increased likelihood of successful appeals. Lack of understanding by judges of nature and extent of money laundering.
45.	Review of the structure of FIU and the numbers, levels and skills of the staff	31 June 08	FIU will not be able to meet role if resources are inadequate. External review likely to assist case for additional resources.
46.	Review of the AML Law and its operation. This is an ongoing requirement but a major review should also be programmed. Given likely shortcomings with the AML Law this will be a matter of importance to avoid problems with donors and	30 September 2008 Continuing	Necessary to ensure Law, structures, staffing and procedures are as effective as possible

Serial	Activity	Due date	Consequences if deadline not met
	correspondent financial institutions		
47.	IT System THESE NEED TO BE REASSESSED IN LIGHT OF ADB DECISIONS ON UNODC IT SOFTWARE		
48.	Able to collect STRs, CTRs and IFTIs electronically. Database of reports available Analysis capacity Access to FIU Database provided to Authorized Organizations subject to effective controls being in place. Able to electronically receive information contained on Government Organisation Databases Remote access to FIU Database provided to Authorized Organizations subject to effective controls being in place.	Times lines to be determined by ADB AOTA: MON 34135-03 in consultation with adoption of the proposed UNODC software system	Lack of data for FIU analysis. Potential for incomplete data picture Restricted to paper-based reporting which is more resource intensive

Conclusion

It must be recognized that the capacity of the Bank of Mongolia and other government agencies to achieve these milestones will depend on a combination of factors that are clearly outside the control of ITC and, to some significant extent, also outside the control of the Government of Mongolia and its institutions. This is because they will rely on donor activity.

However, despite these difficulties we believe that very significant progress can be made provided there is strong commitment to achieving an effective anti-money laundering regime by all of the institutions involved in Mongolia. What is required is the provision of adequate resources, effective legislation, skilled investigators, access to available

intelligence and the necessary financial records and other evidence, dedicated prosecution capacity and courts trained in the handling of complex money laundering cases.

VIII. Proposed AML Study Tour to Australia

We had a number of discussions with the Bank of Mongolia and the ADB over the timing and venue for the study tour which is to be funded under the TA project. Our firm view, with which the ADB and the Bank of Mongolia agreed, was that the study tour would be most beneficial if it occurred after the staff involved had already had some practical experience of the operation of the AML system in Mongolia. We therefore suggested it should not take place until early 2007. While this extends the period of the TA well beyond the time originally intended it will produce a more beneficial outcome.

Arrangements are being made for the visit to Australia (Sydney and Canberra) in February 2007. It is expected that the visiting team of 6 officials will be able to meet with the major Australian Government agencies involved in the AML system including AUSTRAC, Australian Federal Police (AFP), Australian Crime Commission (ACC), Australian Customs Service (ACS), Director of Public Prosecutions (DPP), a major private bank, Australian Securities and Investment Commission (ASIC) and the Attorney-General's Department.

Ideally the team will consist of the Director of the FIU, other FIU staff, a staff member of the Financial Regulatory Commission (which is responsible for the supervision of non bank financial entities), a police investigator who will be involved in AML cases and a prosecutor who will also be responsible for AML cases.

ATTACHMENTS

ATTACHMENT 1

COMMENTS ON THE AML LAW

As part of the first in-country visit to Mongolia we reviewed the then draft law and provided suggested changes along with background information to support the recommended changes. These can be found at pages 35-43 of the Inception Report.

Subsequent to the delivery of the Inception Report we received an official English language version of the then amended draft law that incorporated some of the recommended changes. Working with the amended draft law we developed an annotated copy incorporating our recommended changes.

A further revised draft was considered by the Cabinet and the draft law was introduced into the State Great Hural in late 2005. We were advised by the Bank of Mongolia that, in respect of a number of the changes we recommended, a decision has been made to 'wait and see' how the law operates in practice, and that, if amendments are required to address problems that arise, this will be done. We noted in the Mid Term Report that this approach had been adopted by a number of countries, indeed in most countries legislation has evolved over time to meet changing international standards. However, we also note that the increasing focus by the international financial sector on the efficacy of AML/CFT regimes as part of decision making for correspondent banking relationships means that national AML/CFT regimes may determine the capacity of local banks to obtain correspondent relationships, particularly with US and European banks.

As we advised in the Mid Term Report, we believed that a number of the recommended changes that had not been included in the draft law would cause practical problems for the effective establishment of an anti-money laundering regime. Unfortunately these problems were not addressed in the parliamentary consideration of the draft law. Indeed the final version of the AML Law has created a number of additional problems. These are detailed below. Broadly speaking these fall into two categories: matters of international practice where the failure to include the provision will attract criticism and matters of detail or practical operation which will simply make it harder to operate an effective system.

Definitions

Money Laundering

The AML Law contains a definition of money laundering in Article 3 but the AML Law does not create a money laundering offence. This is found in Article 163 of the Criminal Code. The offence described in Article 163 is too narrow in that it does not incorporate the capacity to infer the necessary mental element from the surrounding circumstances as is required by recommendations 1 and 2 of the FATF Forty Recommendations or relevant international conventions such as the UN Convention Against Corruption.

Terrorist Financing

The definition in Article 3 falls short of the comprehensive coverage required by the FATF standards and the relevant UN obligations (for example UN Security Council Resolution 1373).

Predicate Offences

The AML Law refers inferentially to predicate offences. It does this by defining money laundering to relate to assets obtained by illegal means and then defining this concept to apply to 'less grave, grave and exceptionally grave offences' under the Criminal Code. While this is comprehensive and covers all 'serious offences' – the test applied by FATF – it does not contain the list of offence types now advocated by FATF. This will attract adverse comment although the coverage is, in fact, wider than many AML laws.

There will however be problems arising from the use of 'asset' which is undefined and gives rise to doubts as to whether this term includes all property and funds.

Reporting Entities

The AML Law also defines reporting entities in Article 3. These are the financial institutions which have obligations to report various transactions, identify customers and maintain customer records. The list is limited to banks and non bank financial institutions such as insurance companies, securities market entities, casinos, foreign exchange dealers and pawnbrokers. It does not include the designated non financial professions and businesses now covered by the FATF Recommendations, nor does it include many of the financial institutions defined in the FATF Glossary. However, it should be noted that while using different terms the functions of many of the institutions referred to in the Glossary are covered. For example the Glossary refers to 'brokerage firms' while the AML law uses the term 'licensed securities market entities'.

Definition of authorized organizations

Authorized organizations have the power to request information from informant entities, and to receive information and documentation from the FIU when transactions are suspended because of possible criminality. These are wide powers that are needed only by a small number of agencies. To minimise the potential for abuse these organizations and the procedures involved should be specified.

Non inclusion of non-profit organizations

Given concerns about the misuse of charities in the financing of terrorism the omission of non-profit organisations from the scope of the AML Law creates a risk that a number of organizations that should be subject to the AML Law are not. This was partly dealt with in the earlier draft but was omitted from the final law.

International Settlement Transaction

This term is used in Article 5 but is not defined. We have been consistently advised by the Bank of Mongolia that this term refers to all foreign transfers. It will therefore capture all international funds transfers but this is not immediately clear. It will important that this interpretation is emphasised in the provision of information to the reporting entities.

Article 7 requires that only those international settlement transactions that meet the definition of a cash transaction need to be reported to the FIU. This is inconsistent with the view of the Bank of Mongolia.

Reporting Threshold

The AML Law contains a requirement for the reporting of cash transactions of 20 million MNT or more (or the equivalent in foreign currency). While the FATF 49 recommendations do not require cash reporting at all the ADB, the IMF and a number of key donors, such as the United States, all take the view this is an essential element of an effective AML system and that the thresholds must be set at realistic limits. In the Mongolian context, given the nature of the economy and the number of transactions involved, the figure should be no higher than 5 Million MNT. However, if international practice were followed this would support a limit of 10 Million MNT but no higher.

Shell Banks

Also in this category is the failure to specifically ban dealing with shell banks. This is a key recommendation of the FATF.

The absence of this provision may result in the access of Mongolian financial institutions to the financial systems of a number of other countries especially the USA, being restricted.

Verification of Customer Information

Names of Company Directors

While the AML Law requires details on company management to be obtained there is no reference to directors. Lack of this provision will affect the ability of the FIU and law enforcement agencies to trace the controlling persons behind companies who have been reported as a party to a suspicious transaction.

Examination or verification?

Article 5 of the AML Law refers to the 'Examination of information on customers' but it is unclear whether this extends to verifying the information so obtained. We understand that the use of the word examination is the best translation of the Mongolian word used and that it does not extend to 'verification'. Article 5 should be amended to require not only the collection of information but, where required by the international standards, the verification of that information.

Who is a citizen?

Article 5.2.1 refers to identification information about 'citizens'. We understand that this is an accurate translation and that the word used is not 'individual'. However, we have also been told that the concept used in the law refers to the citizen of any country, not just to Mongolian citizens. The result is that while the effect of the law is to cover all customers, including those who are not Mongolian citizens, it will be read by those who only see the English translation as being more limited in scope.

Transactions of Special Monitoring

Article 6 requires 'special monitoring' of certain specified kinds of transactions. But it does not clearly indicate the purpose of such 'monitoring'. While such transactions give rise to the need to obtain additional information or explanation (see Article 6.2) these provisions are not related to the need to report suspicious transactions covered by Article 7.

Politically Exposed Persons (PEPs)

Article 6 requires special monitoring of transactions conducted by public officials or political party leaders from countries on a list that do not have 'a financial monitoring mechanism to combat money laundering and terrorist financing'. The problem with this approach is that it does not accord with the international definition of a PEP. In addition, no list presently exists and it is by no means clear on what basis such a list can be prepared by the Governor as required by Article 3.2.

Reporting on Suspicious Transactions

Article 7 creates serious problems. It only requires that three kinds of transactions have to be reported:

- (iv) Cash transactions of 20 million togrogs or more;
- (v) Cash transactions of smaller amounts but which total 20 million togrogs or more AND which are believed to be structured to prevent reporting; and
- (vi) International settlement transactions that are also cash transactions.

It DOES NOT require the reporting of suspicious transactions identified under Article 5.1.6. This will attract significant criticism.

Suspension of Transaction

A three day period of suspension is far too short to allow the FIU to take the required action, especially the collection of information from foreign organizations. There needs to be provision for the extension of the period through approval either by the Courts or the Procurator. The grounds on which the approval can be sought also need to be specified.

In Mongolia the police have the power under the Criminal Procedure Law (section 134) to freeze accounts or to seize property or assets which are the subject of an investigation. While these provisions do not meet all of the requirements usually found in legislation to deal comprehensively with the proceeds of crime they do provide a limited capacity to deal with these issues.

A new comprehensive law to deal with the location, freezing and confiscation of the proceeds of crime is needed.

Absence of Power to Issue Regulations

There is no regulation making power in the AML Law. This is a serious deficiency. A power to issue Regulations under the Law should be granted to the Governor of Mongol Bank, as his powers to issue Regulations under other Laws may not be sufficient. Rules and guidelines under the AML Law will be insufficient to develop and implement procedures to allow the AML Law to operate effectively and to overcome notable weaknesses in the AML Law.

Penalty Provisions

The absence of clear offence provisions in relation to breaches of the AML Law is a serious omission. The AML Law relies on the application of administrative penalties in relation to breaches of some but not all of the key provisions. Article 21 uses a technique which is common in Mongolian laws by leaving it to the Criminal Procedure Code and the Criminal Code to identify criminal conduct. Article 21 refers to violations of the AML Law 'which do not constitute a criminal offence' as being subject to, administrative penalties. This leaves the issues of what breaches would amount to criminal offences unclear.

The current capacity to impose administrative penalties in limited circumstances should be extended to breaches of the following provisions

Article 4 – Required activities for reporting entities

Article 5 – Examination of customer information

Article 6 – Transaction of special monitoring

Article 7 – Reporting on suspicious transactions

Article 8 – Retaining information and documentation on customers

Article 9 – Information on suspicious transactions

Article 11 – Suspension of transactions

Article 13 – Confidentiality of reports

Article 14 – Internal monitoring programs

Article 15 – Transportation of money across the borders of Mongolia

ATTACHMENT 2

REVISED DRAFT (ENGLISH) OF AML LAW Unofficial translation

LAW OF MONGOLIA

8 July 2006

Ulaanbaatar City

ON COMBATING MONEY LAUNDERING AND TERRORISM FINANCING

CHAPTER ONE

General provisions

Article 4. Purpose of the Law

- 4.1. The purpose of this Law is to combat and prevent money laundering and terrorism financing.

Article 5. Legislation

- 5.1. The law on combating money laundering and terrorism financing shall consist of the Constitution of Mongolia, the Criminal Code, this Law and other legal acts adopted in conformity with these laws.
- 5.2. If an international treaty to which Mongolia is a party is inconsistent with this Law then the provisions of the international treaty shall prevail.

Article 6. Definitions of terms

- 6.1. The meaning of the following terms used in this Law shall be as follows:
 - 6.1.1. “**money laundering**” means to conduct a transaction that involves assets, knowing that they were obtained by illegal means, in order to legalize the right to possess, use or dispose of these assets and to conceal the sources of these assets.
 - 6.1.2. “**terrorism financing**” means to accumulate, transfer or use assets in any form knowing that these assets are intended to be used for terrorism financing.

- 6.1.3. **“reporting entity”** refers to the natural or legal persons, described in Article 4 of this Law.
- 6.1.4. **“assets derived from illegal activities”** means assets derived from committing less grave, grave and exceptionally grave offences other than those described in Article 166 of the Criminal Code.
- 6.1.5. **“suspicious transaction”** means a transaction that involves funds with no clear source or recipient or a transaction that is conducted via a country that does not have a financial monitoring mechanism to combat money laundering and terrorism financing or a transaction that is suspected of money laundering and terrorism financing.
- 6.1.6. **“cash transaction”** means a transaction involving local and foreign currency as well as checks, bills and securities widely used in international settlement.
- 6.1.7. **“suspension of transaction”** means to suspend a transaction to enable the FIU to determine if the transaction is related to money laundering or terrorist financing.
- 6.2. The Governor of the Bank of Mongolia shall, pursuant to Provision 3.1.5 of this Law, prepare a list of countries, that do not have a financial monitoring mechanism to combat money laundering and terrorism financing,.

CHAPTER TWO

Preventive measures

Article 7. Reporting entities

- 7.1. The following natural or legal persons, (Reporting Entities), shall report to the Financial Intelligence Unit on transactions described in Article 7 of this Law.
 - 7.1.1. banks;
 - 7.1.2. non-bank financial institutions;
 - 7.1.3. insurance companies;
 - 7.1.4. licensed securities market entities ;
 - 7.1.5. natural or legal persons conducting pawnbroker activities;
 - 7.1.6. savings and credit cooperatives;
 - 7.1.7. natural or legal persons conducting foreign currency exchange activities;
 - 7.1.8. Natural or legal persons conducting gambling activities.

- 7.2. The natural or legal persons, other than those described in Article 4.1 of this Law, may report to the Financial Intelligence Unit any transactions that they suspect of money laundering or terrorism financing or any cash transactions of 20 million togrogs (or equivalent foreign currency) or above.
- 7.3. Reporting entities shall not open an anonymous or numbered account or an account in fictitious names, or make a transaction from or to such accounts, or use closed accounts.

Article 8. Examination of information on customers

- 8.1. Reporting entities shall examine customer information in the following cases:
 - 8.1.1. prior to providing a financial service;
 - 8.1.2. prior to conducting a transaction equal to or more than 20 million togrogs (or equivalent foreign currency);
 - 8.1.3. if the total sum of several inter-related transactions is 20 million togrogs (or equivalent foreign currency) or above, the individual value of any of these transactions is less than the threshold specified in Article 5.1.2, and there is a ground to suspect that the transactions are conducted with the intent to avoid the reporting requirement of Article 5.2 of this Law.
 - 8.1.4. if there is a need to verify the accuracy of previously obtained information on customers;
 - 8.1.5. prior to conducting an international settlement transaction;
 - 8.1.6. if there are other grounds to suspect that the customer or the transaction is involved with money laundering or terrorism financing;
- 8.2. Reporting entities shall obtain the following information from their customers:
 - 8.2.1. if the customer is a person his or her father's or mother's name, given name, registration number, residential address, contact phone number, and a notarized copy of citizen's identity card;
 - 8.2.2. if the customer is a legal person, name of the entity, its address, national registration and tax payer number, contact phone number, a notarized copy of its national registration certificate, and detailed information on its management;
 - 8.2.3. information on purposes and beneficiaries of transactions;
 - 8.2.4. information about people who made wire transfers.

- 8.3. If a customer refuses to provide the information provided for in Article 5.2 of this Law reporting entities shall be obliged to refuse to open an account, to conduct a transaction, or to provide other financial services.
- 8.4. Reporting entities shall update, within one year, the information on all customers with whom it had established financial relationships prior to the adoption of this Law in conformity with the requirements of Article 5.2 of this Law.

Article 9. Transactions of special monitoring

- 9.1. Reporting entities shall undertake special monitoring of the following transactions:
 - 9.1.1. transactions equal to or more than 20 million togrogs (or equivalent foreign currency);
 - 9.1.2. transactions with no clear purpose;
 - 9.1.3. transactions made via countries listed pursuant to Provision 3.2 of this Law;
 - 9.1.4. transactions that have no adequate information on the entity or the individual who undertook or who had someone undertake a wire transfer;
 - 9.1.5. transactions conducted in the name of a public official or a political party leader from a country listed pursuant to Provision 3.2 of this Law.
 - 9.1.6. transactions that are different from the customer's previous transactions and that have no clear purposes;
- 9.2. Reporting entities shall undertake all possible measures, to obtain additional information or an explanation of the transactions described in Article 6.1 of this Law.

Article 10. Reporting on suspicious transactions

- 10.1. Reporting entities shall report to the Financial Intelligence Unit on cash transactions pursuant to Articles 5.1.2, 5.1.3 and 5.1.5 of this Law.
- 10.2. The relevant information together with its documentation shall be submitted to the Financial Intelligence Unit in the prescribed form within 7 working days after conducting a transaction described in Provision 7.1 of this Law or within 24 hours if there is a ground to suspect that the transaction involved has the intent of money laundering or terrorism financing.
- 10.3. Reporting entities shall deliver the information to the Financial Intelligence Unit by fax, in electronic form or in writing and it must be confirmed immediately by fax or in writing if the information was delivered by phone.
- 10.4. If the authorised organisations make a written request to a reporting entity, it shall provide information to them on specific transactions and their participants in

accordance with the procedure jointly adopted by the Governor of the Bank of Mongolia and the Prosecutor – General on providing information.

Article 11. Retaining the information and documentation on customers

- 11.1. Reporting entities shall retain, for not less than 5 years, information and documentation on customers' transactions and closed accounts.

Article 12. Information on suspicious transactions

- 12.1. The following information on suspicious transactions shall be submitted to the Financial Intelligence Unit:
- 12.1.1. name and address of the reporting entity and the identity of the officials who submitted the information;
 - 12.1.2. information on customers and beneficiaries;
 - 12.1.3. information on purpose, value, form, date, account number, account holder and participants of the transaction;
 - 12.1.4. brief explanation of grounds and circumstances to suspect the transaction;
 - 12.1.5. other related documents.

Article 13. Monitoring of accounts

- 13.1. If there are grounds to suspect that the account(s), mentioned in the reports from reporting entities, are being used for money laundering or terrorism financing, then the Financial Intelligence Unit may monitor the account(s).

Article 14. Suspension of transactions

- 14.1. If there are grounds to suspect that the transaction has or will be made by clients for the purpose of money laundering or terrorism financing, then the Financial Intelligence Unit may decide to suspend the transactions.
- 14.2. A decision to suspend a transaction shall be delivered to the reporting entity in writing, or, if this is not possible, by phone and the written decision shall be delivered within 24 hours.
- 14.3. The suspension of a transaction shall not exceed three working days and the Financial Intelligence Unit shall undertake the following measures during this period:
- 14.3.1. obtain necessary information from related local and foreign institutions;
 - 14.3.2. if the established facts are sufficient grounds to suspect that the given transaction had the purpose of money laundering or terrorism financing, then it shall be

reported to the authorised organisations and the related documents shall be sent to those parties for investigation;

- 14.3.3. if it is established that the given transaction(s) did not have the purpose of money laundering or terrorism financing, then the suspension decision shall be annulled and the reporting entity shall be immediately informed.

Article 15. Relieving from liabilities

- 15.1. The provision of reports by reporting entities to the Financial Intelligence Unit and authorised organisations, in accordance with provisions of this Law, shall not be considered as a breach of banking and professional confidentiality.
- 15.2. Notwithstanding that the transaction to which a report by a reporting entity relates was established not to have the purpose of money laundering or terrorism financing, it is forbidden to impose administrative and criminal charges against the reporting entity.
- 15.3. Neither the Financial Intelligence Unit nor a reporting entity is liable for any damages arising from the suspension of a specific transaction, in accordance with Article 11 of this Law.
- 15.4. If damages are inflicted on a person or legal entity due to unlawful actions undertaken by a reporting entity or the FIU , and in violation of this Law, then the damages issue shall be settled according to the Civil Code.

Article 16. Confidentiality of reports

- 16.1. Reporting entities and the Financial Intelligence Unit are prohibited from disclosing information on clients' transactions to any other person other than as provided for in Article 7.4 of this Law.
- 16.2. The Director and Inspectors of the Financial Intelligence Unit shall not disclose at any time confidential information related to transactions.

Article 17. Internal monitoring of reporting entities

- 17.1. Reporting entities shall develop and implement an internal monitoring program to combat money laundering and terrorism financing. The program shall contain the following:
- 17.1.1. Procedures on detecting suspicious transactions, security and confidentiality of information, reporting and transfer of documents to the Financial Intelligence Unit and other authorised organisations;

- 17.1.2. Procedures for the appointment and discharge of officers who will supervise and monitor the implementation of laws to combat money laundering and terrorism financing (including procedures made under Article 14.1.1), specifying the powers and obligations of such staff.
- 17.1.3. Requirements for providing professional training for the staff provided for in Article 14.1.2 of this Law.
- 17.2. The program provided for in Article 14.1 of this Law shall be submitted for registration to the Financial Intelligence Unit.
- 17.3. Model procedures for the purposes of Article 14.1.1 of this Law shall be approved by the Governor of Bank of Mongolia.

Article 18. Transportation of money across the borders of Mongolia

- 18.1. Travellers carrying between 5 and 20 million togrogs (or its equivalent in foreign currency in cash), across the Mongolian border shall declare truly the amount of cash in customs forms.
- 18.2. If a person crosses the Mongolian border carrying more than 20 million togrogs in cash (or the equivalent in foreign currency) he or she shall make a declaration to the authorized representative of the Financial Intelligence Unit in the prescribed form.
- 18.3. A person who evades or objects to making a declaration or makes a false declaration under Articles 15.1 or 15.2 of this Law shall be liable as provided for in the Law.
- 18.4. Declaration forms for the purposes of Article 15.2 shall be approved by the Governor of the Bank of Mongolia.

CHAPTER THREE

Financial Intelligence Unit

Article 19. Financial Intelligence Unit

- 19.1. The Financial Intelligence Unit, whose functions will be to implement laws to combat money laundering and terrorism financing, shall be established within the Bank of Mongolia.
- 19.2. The strategic plan and structure of the Financial Intelligence Unit shall be approved by the Governor of the Bank of Mongolia.
- 19.3. The Director of the Financial Intelligence Unit shall be appointed by the Governor of the Bank of Mongolia upon consultation with the Minister of Finance.

19.4. The Director and Inspectors of the Financial Intelligence Unit shall meet the following requirements:

19.4.1. have served in banking, financial or legal professions for not less than three years;

19.4.2. have no overdue debts or liabilities;

19.4.3. have no criminal record

Article 20. Functions of the Financial Intelligence Unit

20.1. The Financial Intelligence Unit shall have the following functions, in addition to those provided for in Articles 10, and 11 of this Law:

20.1.1. receive, collect and analyze information reported from reporting entities as well as information contained in data bases of authorized state organizations and similar foreign institutions;

20.1.2. compile a database of suspicious and cash transactions that have been sent to authorised organisations;

20.1.3. regularly report to the reporting entities and authorised organisations on measures taken by the FIU on the basis of reports on suspicious and cash transactions;

20.1.4. develop, provide to and ensure the implementation by reporting entities of a methodology to monitor and detect suspicious transactions and examine information related to money laundering and terrorism financing;

20.1.5. disseminate information and raise public awareness to combat and prevent money laundering and terrorism financing;

20.2. Inspectors of the Financial Intelligence Unit have the power to examine the implementation of the laws to combat money laundering and terrorism financing and to require rectification of any breaches of the Laws by reporting entities, or to transfer to the authorised organisations for investigation or to make a recommendation to cancel a special license.

20.3. Financial Intelligence Unit shall monitor how reporting entities and their officers fulfil their obligations imposed by this Law.

Article 21. Database

21.1. Financial Intelligence Unit shall have a unified database of information compiled in accordance with the provisions of this Law.

21.2. Rules on storage and use of information in the database shall be approved by the Governor of the Bank of Mongolia.

Article 22. Cooperation with similar foreign institutions

- 22.1. Financial Intelligence Unit shall, to the extent permitted by law, cooperate with foreign and international institutions which conduct similar activities and have similar confidentiality requirements imposed by law.
- 22.2. Financial Intelligence Unit may provide the required information at the request of the institutions provided for in Article 19.1 and in accordance with the respective Laws.

CHAPTER FOUR

Miscellaneous

Article 23. Cooperation Council

- 23.1. The Council, whose functions shall be to ensure the implementation of laws to combat money laundering and terrorism financing, to exchange information, to prepare recommendations on preventative measures, shall be established at the Financial Intelligence Unit. The composition and rules of this Council shall be approved by the Governor of the Bank of Mongolia.

Article 24. Liabilities to be imposed on those who breach the Law

- 24.1. If the violation of the Law to combat money laundering and terrorism financing does not constitute a criminal offence, then the Inspector of the Financial Intelligence Unit shall impose the following administrative sanctions against the guilty person:
- 24.2. Official who violates the provisions of Articles 4.3 and 5.3 of this Law shall be imposed a fine up to 250.000 togrogs , a legal entity – a fine of up to 1.000.000 togrogs;
- 24.3. Official who violates the provisions of Article 13 of this Law shall be fined for up to 500.000 togrogs, legal entity for up to 1.000.000 togrogs.

**Speaker of
the Great Khural
of Mongolia**

Ts. Nyamdorj

ATTACHMENT 3

ACTION PLAN FOR ESTABLISHMENT OF FIU OF MONGOLIA

This Draft Action Plan has been prepared by the ADB Technical Assistance team to assist the Mongol Bank in the establishment of the Financial Intelligence Unit of Mongolia, Mongolia's financial intelligence unit. The Action Plan identifies the high level activities required to set-up the FIU. Each high level activity will require discussion, analysis and decisions regarding more detailed action items needed to establish the Unit.

NB: The timelines of this plan take account of the fact that at least two Mongol Bank personnel have already been assigned duties associated with the establishment of the FIU.

Action Plan for Establishment of FIU

Item	Actions	To be completed by:	Responsible Person	Date Complete
Financial Intelligence Unit of Mongolia				
STAFFING				
Appoint the Director		As soon as possible	The Governor in consultation with the Minister of Finance	
Define FIU organization and structure	<ul style="list-style-type: none"> Meeting / internal workshop to analyze functions and determine skill sets required (training, analysis, IT, administrative support, compliance, research). Also consider workflow and supervision/management arrangements 	29/9/06 (16/10/06)	The Director	
Determine staffing numbers and levels (staffing plan)	<ul style="list-style-type: none"> Meeting of Director and appropriate officials of Mongol Bank 	20/10/06	The Director	

Recruit staff	<ul style="list-style-type: none"> • Prepare position descriptions for each role and follow required selection process – consider security screening of staff. 	27/10/06	The Director with assistance from Mongol Bank	
Appoint Inspectors	<ul style="list-style-type: none"> • Identify and appoint suitable personnel. • 	24/10/06	The Director	
Training	<ul style="list-style-type: none"> • Prepare training needs plan • Liaise with donors and providers for provision of training • Prepare training resources for FIU staff • Deliver training on law and on role and functions of FIU • Define other training needs for staff and prepare training plans 	1/12/06	The Director in consultation with training personnel of Mongol Bank	
BUDGET				
Develop budget for staffing and operational costs, including capital start-up costs (First year and out years)	<ul style="list-style-type: none"> • FIU management and Mongol Bank management develop budget for FIU and acquire funds through normal budget process 	1/12/06	Director in consultation with Mongol Bank	
SECURITY				

Security Plan	<ul style="list-style-type: none"> Develop security plan for physical security, information security and personnel security 	29/12/06	Designated officer	
BUSINESS PLAN & PROCEDURES				
Business Plan for FIU for 2006 to 2009	<ul style="list-style-type: none"> FIU and Mongol Bank management to discuss priorities and develop business plan for future “business as usual” after start-up 	1/12/06	Director	
Standard Operating Procedures (SOPs) for all functions and key responsibilities	<ul style="list-style-type: none"> Staff to discuss all roles and functions and decide the level of detail for SOPs. Draft SOPs for review and approval by Director of FIU 	1/12/06	Director and designated officer(s)	
OFFICE ACCOMMODATION and EQUIPMENT				
Locate suitable premises	<ul style="list-style-type: none"> FIU management to determine needs based on staffing, equipment – including computer facilities, security, training and meeting facilities and other 	20/10/06	Director	

	infrastructure			
Acquire office furniture & machines	<ul style="list-style-type: none"> FIU management to define office furniture and equipment needs; order office equipment 	20/10/06	Director and designated officer(s)	
INFORMATION TECHNOLOGY				
Determine arrangements for provision of ongoing IT services	<ul style="list-style-type: none"> Arrangements for the ongoing provision of IT services to FIU to be negotiated with Mongol Bank management or other service provider. 	29/10/06	Director and designated officer(s)	
Develop IT architecture	<ul style="list-style-type: none"> Identify and develop system requirements 	1/12/06	Designated officer and Mongol Bank IT section	
Determine office automation structure	<ul style="list-style-type: none"> In consultation with Mongol Bank IT personnel determine the appropriate system requirements 	1/12/06	Designated officer and Mongol Bank IT section	
Determine office automation hardware and software needs	<ul style="list-style-type: none"> In consultation with IT personnel of Mongol Bank decide upon workstations, file servers, 	1/12/06	Designated officer and Mongol Bank IT section	

	network, operating system and software			
Reporting entities IT requirements	<ul style="list-style-type: none"> In consultation with UNODC IT Department, Mongol Bank IT personnel and IT departments of leading banks develop electronic reporting requirements and formats 	31/1/07	Director, designated officer, Mongol Bank IT section	
Consultation with reporting entities	<ul style="list-style-type: none"> Provide draft reporting specifications to reporting entities. Discuss with IT managers and management of reporting entities Agree final format and specifications 	31/1/07	Director	
Implement electronic reporting	<ul style="list-style-type: none"> Issue specifications and guidance for electronic reporting 	28/2/07	Director	
Information processing	<p>In consultation with UNODC IT department:</p> <ul style="list-style-type: none"> Determine data storage and processing needs 	28/2/07	Designated officer and Mongol Bank IT section	

	<ul style="list-style-type: none"> • Define data validation and data quality requirements • Define specifications for data enquiry system, including types of retrieval, report types and analysis needs 			
Monitoring and Compliance	<p>In consultation with Mongol Bank IT personnel:</p> <ul style="list-style-type: none"> • Develop requirements for monitoring financial data base and generating compliance reporting • Design and develop a monitoring system based on requirements 	28/2/07	Designated officer and Mongol Bank IT section	
Other Information Management Issues				
Information Collection	<ul style="list-style-type: none"> • Examine the types of information to be collected and the specific fields of information to be collected from reporting entities • Determine collection methods- paper, electronic, phone, etc • Design reporting forms • Define handling processes, authentication, acknowledgement, data quality, data capture. 	29/12/06	Director and designated officer(s)	

	<ul style="list-style-type: none"> • Design checklists and internal forms • Define and list all reporting entities • Determine other types of data and sources of information needed by FIU 			
Analysis	<ul style="list-style-type: none"> • Define analytical processes and formulate standard procedures for automated and human analysis 	31/1/07	Director and designated officer(s)	
Report Writing	<ul style="list-style-type: none"> • Develop format for writing financial intelligence reports and other reports • Prepare templates • Agree formats with other agencies • Receive feedback from law enforcement and other agencies 	31/1/07	Director and designated officer(s)	
Dissemination	<ul style="list-style-type: none"> • Determine the content and format for dissemination of information • Define agencies to receive 	31/1/07	Director and designated officer(s)	

Other agencies	<ul style="list-style-type: none"> • Determine other agencies with interest in financial intelligence and arrange meetings to develop relationships • Develop procedures for dissemination of information to relevant State agencies • Draft MOUs for exchange of information 	28/2/07	Director	
INTERNAL RELATIONS				
Internal Working arrangements	Allocation of tasks and internal administrative arrangements	30/11/06	Director	
Reporting requirements	Determine internal reporting lines	30/11/06	Director	
INTERNATIONAL				
Policy for international relations	<ul style="list-style-type: none"> • Develop policy parameters for international contact and relationships 		Director	
International Organizations	<ul style="list-style-type: none"> • Contribute to Mongolia's participation in Asia Pacific Group on Money Laundering, 	28/2/06 (30/11/06)	Director	

	<p>including attendance at Annual Meetings</p> <ul style="list-style-type: none"> • Develop arrangements for participation in APG Typologies meetings • Develop plan for future membership of the Egmont Group of FIUs 			
International exchange of information	<ul style="list-style-type: none"> • Develop arrangements for exchange of information with foreign counterparts. • Enter into MOUs as permitted by law 	30/3/07	Director	