

TECHNICAL ASSISTANCE COMPLETION REPORT

Division: SEGF/SERD

TA No. 4550 – INO: Development of an Anti-Money Laundering Regime II			Amount Approved: \$500,000	
			Revised Amount: -	
Executing Agency: Center for Financial Transactions Reporting Analysis (PPATK)		Source of Funding: Cooperation Fund for Regional Trade and Financial Security Initiative ¹	Amount Undisbursed: \$116,945.46	Amount Utilized: \$383,054.54
TA Approval Date: 23 December 2004	TA Signing Date: 14 April 2005	Fielding of First Consultant: 22 August 2005	TA Completion Date Original: 28 February 2006 Account Closing Date Original: 28 February 2006	Actual: 31 July 2006 Actual: 28 February 2007
<p>Description: In 2001, the Financial Action Task Force on Money Laundering (FATF) added Indonesia to its list of Non-Cooperative Countries and Territories (NCCT) due to its lack of anti-money laundering (AML) measures. An AML law was subsequently adopted by the Government of Indonesia in 2002. To support the implementation of the AML law and develop the AML regime, the Asian Development Bank (ADB) provided technical assistance (TA 3849-INO)² which facilitated the establishment of the Center for Financial Transactions Reporting Analysis (PPATK) and provided initial capacity building support to the center. With these developments, the Asia/Pacific Group on Money Laundering (APG)³ and the FATF recognized Indonesia's progress in developing an AML regime, although there were areas requiring further actions, viz., the development of AML systems and compliance programs, on-site examinations, successful prosecution of money-laundering cases, and demonstration of effective mutual legal assistance. Before the conclusion of TA 3849-INO and during the 2004 annual meeting of the APG, the Government of Indonesia requested additional TA from the ADB to strengthen its AML regime. That led to the approval of ADB-TA 4550-INO which was to address the remaining steps to fully develop Indonesia's AML regime, and further enhance the capacity of the various agencies involved to effectively implement the AML laws and regulations. With an impending FATF review of NCCT, TA 4550-INO was intended to help Indonesia exit the NCCT list.</p>				
<p>Expected Impact, Outcome and Outputs: The expected impact is improved governance, deterred corruption activities and a strengthened financial system. The expected outcome was a strengthened AML regime. The four outputs/components expected of the TA were: (i) the development of AML supervision policies and procedures for non-bank financial institutions (NBFI); (ii) education for NBFIs on AML compliance; (iii) increased capacity for prosecution and adjudication of AML cases; and (iv) sustainable computer-based training (CBT) on AML.</p>				
<p>Delivery of Inputs and Conduct of Activities: TA 4550-INO was formulated in line with ADB's policy, "Enhancing ADB's Role in Combating Money Laundering and the Financing of Terrorism". The TA budget was adequate to support all field work, consultation workshops and staff training. PPATK, as the executing agency for the TA and also the implementing agency for component (iv), quickly accepted the leadership role in coordinating AML activities and proactively reviewing the legal and regulatory framework. The Capital Market Supervisory Agency (BAPEPAM) and Directorate General of Financial Institution (DGFI), which subsequently merged into a single institution BAPEPAM-LK in 2005, were the implementing agencies for components (i) and (ii). The Attorney General's Office (AGO) and Ministry of Justice and Human Rights (MOJHR) were the other implementing agencies for component (iii). The terms of reference (TOR) for the consultants were clear and two international consultants⁴ were deployed for 6 person-months each and a domestic consultant deployed for 5 months. Staff of BAPEPAM-LK reported that the AML expert for non-bank financial services, in their view, did not have the required practical expertise in non-bank financial services. As a consequence, the staff rated his performance on components (i) and (ii) as below expectation. The</p>				

¹ The Cooperation fund for Regional Trade and Financial Security Initiative is a multi donor umbrella facility that supports ADB TA to developing member countries for enhancing port security and combating money laundering and terrorist financing. The governments of Australia, Japan and the United States have contributed to the fund.

² ADB. 2002. *Technical Assistance to Indonesia for the Development of an Anti-Money Laundering Regime*. Manila.

³ The leading regional AML body that facilitates the adoption, implementation, and enforcement of internationally accepted AML standards as set out in FATF's 40 recommendations.

⁴ An international AML expert on non-bank financial services was recruited to assist BAPEPAM and DGFI with components (i) and (ii) and an international AML expert on prosecution, assisted by a domestic AML expert for prosecution and adjudication, was recruited for the delivery of components (iii) and (iv).

performance of the international and domestic AML experts on prosecution was highly rated by the staff of the EA and IAs. The international AML expert on prosecution, in addition to her own work, led the consultation and training of NBF staff on AML procedures and compliance standards.

Evaluation of Outputs and Achievement of Outcome: The consultants successfully met the terms of reference of the TA and delivered their respective final reports at the conclusion of their assignments. A summary of key outputs is as follows:

(i) development of AML supervision policies and procedures for non-bank financial institutions (NBFI); The expert's final report included a copy of the AML manual covering standard operating procedures, audit procedures, international case studies in the form of examples and indicators of potential money laundering activities, and a draft decree for those supervisory agencies performing compliance audits. The report contained summaries of periodic meetings with staff of BAPEPAM, DGFI, and PPATK to discuss the draft manual and to answer questions, comments or suggestions, and a review of audit procedures peculiar to each staff's respective area of authority. There were several on-going donor⁵ projects in the same area at the time. The downside of so many projects was that staff of both BAPEPAM and DGFI were fully occupied and because each of the consultants wanted sufficient time to meet with agency staff, scheduling was often difficult and last-minute. In addition, the impending merger of the two agencies, along with the appointment of a new Minister of Finance mid-way through the project, meant that there was staff turnover and some staff were reluctant to make decisions on matters that they may or may not have responsibility for in the ensuing months. As a result, the draft AML manual for NBFIs was not adopted before the conclusion of the consultant's assignment.

(ii) education for NBFIs on AML compliance; In addition to the regular consultation with agency staff, two workshops/conferences were held during the course of the project where the international AML expert for NBF staff attended and provided input. The November 2005 workshop was aimed at using AML techniques to deter illegal logging operations in Indonesia. The workshop was sponsored by several environmental agencies and representatives of government agencies, including PPATK, BAPEPAM, DGFI, and the financial industry (both banking and non-banking) were in attendance. The second workshop in late January 2006, was directed specifically at the securities and capital market industry and therefore concentrated on the obligations of securities companies to comply with AML requirements.

(iii) increased capacity for prosecution and adjudication of AML cases; Staff of the PPATK, AGO and MOJHR reported that substantial progress had been made in developing capacity for prosecution and adjudication. Several workshops and seminars that involved staff within each agency and across several agencies were held to develop the Prosecution Manual which had the strong support of the central AGO and PPATK. The Manual was disseminated to the 30 provincial and 400 district offices of the AGO for comments. The workshops drew strong participation from the police officers, prosecutors and judges who attended and recommendations for further legal amendments by the international AML expert for prosecution were welcomed and followed-up on by the PPATK.

(iv) sustainable computer-based training (CBT) on AML; The material for CBT training modules was prepared by the international AML expert for prosecution and was presented to the United Nations Office for Drugs and Crime (UNODC) for review. UNODC subsequently obtained funds for the development of CBT modules on prosecution, adjudication and asset forfeiture for regional and international applications. Given this subsequent development and the availability of funding through UNODC, it was decided with the Government that the ADB contribution of content was appropriate and that production of the modules would be the responsibility of UNODC. Hardware for the CBT center at PPATK had been procured under the TA and handed over to PPATK.

Overall Assessment and Rating: Overall the TA was successful as it contributed to the removal of Indonesia from the NCCT list of the FATF in February 2005. The formulation of the TA scope and design was coordinated closely with other donor activities, and AML donor coordination was well centralized through PPATK with regular meetings in Jakarta. The various training workshops utilized case studies and discussion methods and drew strong participation from the police officers, prosecutors and judges who attended. As a result, there is now a better understanding of the AML legal framework and a general appreciation of the need for coordination between the various regulatory agencies. Based on referrals of suspicious transactions report (STRs) and other related information from the PPATK, there has been 1 successful prosecution involving terrorism, 19 successful prosecutions involving bank fraud and/or corruption, and 1 successful prosecution for money laundering.

Major Lessons: Weaknesses in implementing the legal and regulatory framework have been noted and the proposals of the consultants to address those weaknesses are being considered. One relates to the authority to sanction non-compliance on AML reporting and the other relates to weaknesses/delays in the investigation process. Without the authority to sanction, PPATK continues to rely on the supervisory role of banks (Bank Indonesia) and NBFIs (BAPEPAM) for compliance enforcement. Availability of staff from BAPEPAM and DGFI to discuss the draft AML manual for NBFIs would have accelerated its adoption but the non-availability of staff due to constant changes

⁵ Includes Australian Agency for International Development (AusAID), Japan International Cooperation Agency (JICA), World Bank, USAID, International Monetary Fund (IMF), and the Asia-Europe Meeting (ASEM).

before and after the merger of the two agencies, coupled with weak internal donor coordination, did not contribute favorably to the overall outcome. Since PPATK's establishment in 2003, the number of STRs received has surpassed 4,400 of which 419 were passed on to the Police for investigation. Only 10 cases have been submitted to the AGO for prosecution. While AGO is now better equipped to perform the prosecution role, the Ministry of Police's investigative capacity needs to be strengthened. There are other donors presently assisting the Ministry of Police.

Recommendations and Follow-Up Actions: Following the recommendations of the consultants, work has commenced to amend the AML law No.25 of 2003 to provide PPATK with specific powers to investigate suspicious transactions, sanction report providers for non-compliance, include professional bodies on the list of compulsory reporting institutions and take prompt action to counter the financing of terrorism. ADB will continue to coordinate closely with other donors undertaking AML related activities so that future AML interventions may be considered under broader programs/projects in the sector.

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