

Don't turn a blind eye to
money laundering

Report suspicious
transactions now!



1 What are money laundering and terrorist financing?

Criminals of all kinds must launder the money flowing from their criminal activities to conceal the sources of such proceeds from being target of investigation and seizures. They make their ill-gotten wealth look clean by moving it around, and legitimizing it in the world's financial systems. Under the legislations in Hong Kong, illicit proceeds mainly come from criminal activities such as drug trafficking, smuggling, illegal gambling or bookmaking, blackmail, extortion, loan sharking, tax evasion, prostitution, corruption, trafficking in human beings, robbery or theft, kidnapping, selling of infringing or obscene optical disc, and pirated goods, financial fraud and deception, and insider trading and market manipulation.

The financing of terrorism is the financial support, in any form, of terrorism or those who encourage, plan or engage in terrorism.

2 What are the effects of money laundering to Hong Kong?

As one of the major financial centres in the world, it is very important for Hong Kong to maintain an effective anti-money laundering regime which helps to further reinforce the integrity and stability of our financial system. Money laundering can have devastating consequences to the whole community. Not only does it allow the criminals to perpetrate their illicit activities, it can also undermine the financial system, causing adverse consequences to the government as well as the community at large.

Attacking criminals where it hurts by preventing them from profiting from their crimes is an effective deterrent. Combating money laundering is therefore of paramount importance in suppressing and deterring serious and organized crimes.



3 What is “Financial Action Task Force on Money Laundering” and its work? What is its relationship with Hong Kong?

The Financial Action Task Force on Money Laundering (FATF) is an inter-governmental body formed in 1989. It sets international standards, and develops and promotes policies to combat money laundering and terrorist financing. It currently has 33 members: 31 countries/territories and two international organizations; and more than 20 observers. A list of all members and observers can be found on the FATF website at www.fatf-gafi.org.

Hong Kong has been a member of FATF since 1990 and actively involved in its anti-money laundering (AML) and countering terrorist financing (CFT) activities.

4 What is the latest international standard against AML and CFT activities?

The original FATF Forty Recommendations were drawn up in 1990 as an initiative to combat the misuse of financial systems by persons laundering drug money. In 1996, the Recommendations were revised for the first time. In October 2001, the FATF expanded its mandate to deal with the issue of the financing of terrorism, and took the important step of creating the Eight Special Recommendations on Terrorist Financing. In response to the evolving money laundering typologies, the FATF adopted and issued the latest version of Forty Recommendations and the Special Recommendation IX (SR IX) in June 2003 and October 2004 respectively. The new set of FATF Forty Recommendations and Nine Special Recommendations have been recognized by the International Monetary Fund and the World Bank as the international standards for assessing governments' efforts in combating money laundering and the financing of terrorism.



5 Do the existing legislations in Hong Kong comply with the latest international standards against AML and CFT? What legislative amendments are required in order to comply with the latest international standards?

Over the years, Hong Kong has built up a robust and comprehensive AML regime through legislation, law enforcement, liaison with the financial sectors and issuance of guidelines, publicity and education, and international cooperation. The following three pieces of legislation are our main weapons to combat money laundering and terrorist financing: -

Legislation

Drug Trafficking (Recovery of Proceeds) Ordinance (DTROP) (Cap. 405)

Related Provisions

To provide for the tracing, confiscation and recovery of proceeds derived from drug trafficking and require disclosure of suspected property which represents proceeds of drug trafficking.

Organized and Serious Crimes Ordinance (OSCO) (Cap. 455)

To extend coverage of money laundering offence to include proceeds of other indictable offences and require disclosure of suspected property which represents proceeds of indictable offences. [Please refer to answer (1) for examples of indictable offences.]

United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)

To introduce a requirement on disclosure of suspected terrorist property.

Nevertheless, a series of legislative amendments are required to implement the new set of Forty Recommendations. Amongst these, it is stipulated in the new set that the basic obligations such as **customer due diligence**, **record-keeping** and **suspicious transaction reporting (STR)** should be set out in law or regulation. While the **STR obligation** has already been set out in the above legislations, there is a need to write the obligations relating to **customer due diligence** and **record-keeping** into the relevant legislations.

SR IX, which has been published recently, calls on countries to stop cross-border movement of currency and monetary instruments related to money laundering and terrorist financing. It also asks countries to confiscate funds so intercepted. Legislative amendments are also required to implement the SR IX.

6 Which professions and trades will be affected as a result of the legislative amendments?

FATF has extended the remit of the Forty Recommendations to cover the following six categories of designated non-financial businesses and professions (DNFBPs): -

- casinos (Hong Kong currently does not have casinos);
- real estate agents;
- dealers in precious metals and dealers in precious stones;
- trust and company service providers;
- lawyers*; and
- accountants*.

Under the new set, they are required to perform the role of “gatekeeper” against money laundering activities. The six categories of “gatekeeper” as well as the financial institutions will be required to comply with the basic obligations of **customer due diligence, record-keeping and suspicious transaction reporting**.

Notwithstanding the fact that two of the above three basic requirements are currently not stipulated in legislation, financial regulators including the Hong Kong Monetary Authority, the Securities and Futures Commission and the Office of the Commissioner of Insurance have already issued guidelines to financial institutions. Through these guidelines, banking, securities, and insurance institutions are reminded to implement AML measures including verification of customer’s identity, keeping record on accounts and transactions for at least six years, reporting suspicious transactions and providing AML training to staff. The guidelines are reviewed periodically to meet operational changes and latest international standards.

* when they prepare for or carry out transactions for their client concerning specified activities.

7 What are the possible consequences if Hong Kong does not comply with the latest international AML and CFT standards?

To ensure that all members will comply with the latest international AML and CFT standards, the FATF has launched the third round of “Mutual Evaluation” of members in early 2005. If Hong Kong does not implement the new set of Forty Recommendations and SR IX, we will run the risk of being assessed as non-compliant by the FATF. This would have adverse effects on Hong Kong’s reputation and status as an international financial centre.



8 What will government do to implement the new set of Forty Recommendations and SR IX?

While no time frame has been set by the FATF on full implementation by members, we plan to adopt legislative amendments as soon as possible since the Mutual Evaluation exercise has already started and Hong Kong will be subject to evaluation very soon. Apart from consulting the financial institutions and the related DNFBPs, we are also seeking legal advice on the legislative amendments required. The related proposal will be presented to Legislative Council Panel on Security once it is ready. We hope the bill will be introduced as soon as possible.

For details of the Forty Recommendations and Nine Special Recommendations, please refer to the Narcotics Division website at www.nd.gov.hk. The Narcotics Division welcomes views on the information provided in the leaflet. Members of the community may forward their views to the Narcotics Division by e-mail to viewsaminfo@sb.gov.hk or mail to Narcotics Division, Security Bureau, 30/F, High Block, Queensway Government Offices, 66 Queensway, Hong Kong.

Report suspicious transactions

Joint Financial Intelligence Unit

 **2866 3366**

 **jfiu@police.gov.hk**

