APEC

Protecting designated non-financial businesses and professions (DNFBPs) from terrorist financing

Risk Assessment Report
Update

Olivia Gray-Rodgers
Project Officer

Overview

1. Objectives of the research
2. Update on the Risk Assessment Report
   - Scope
   - Methodology and design
   - Limitations
3. Interim observations and findings
4. Forward plan
5. Opportunity for questions and feedback

Objectives

- Traditional focus of technical assistance and capacity building in counter terrorism financing has been on financial institutions or remittance arrangements.
- Little focus to date on addressing the vulnerabilities faced by DNFBPs in relation to terrorism financing.
- Funds from terrorist's licit and illicit fundraising activity needs to be laundered, effectively distributed and used by the organisation as well as kept hidden from authorities.
- DNFBPs provide opportunities to launder funds to achieve these purposes.

Foreign Affairs and Trade

Why?

Regardless of the strength and effectiveness of AML/CFT controls, criminals will continue to attempt to move illicit funds undetected and will, from time to time, succeed. They are more likely to target the DNFBP sectors if other channels become more difficult. For this reason, DNFBPs, including dealers in precious metals and stones may be more or less vulnerable depending on the effectiveness of the AML/CFT procedures applied in other sectors. A risk-based approach allows DNFBPs, including dealers, to more efficiently and effectively adjust and adapt as new money laundering and terrorist financing methods are identified (FATF 2008c: 4)

Foreign Affairs and Trade

Australian Government
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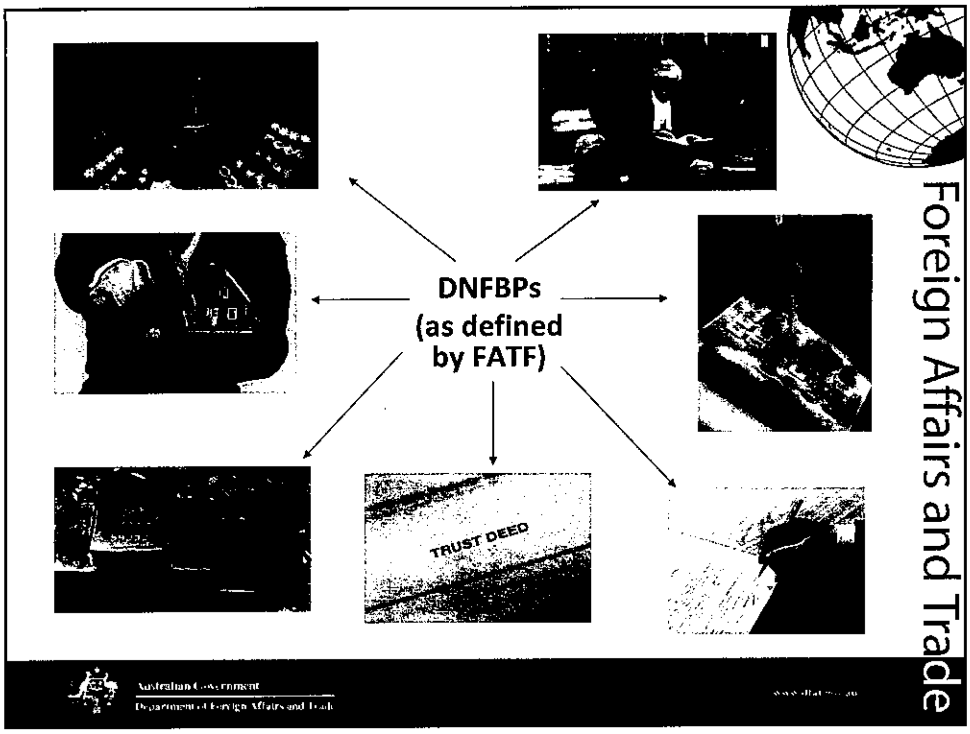
DNFBPs
(as defined
by FATF)
TRUST DEED
Foreign Affairs and Trade
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Peru, Mexico
Peru
40 CORREOS MEXICO
'Other' categories of
DNFBP
Indonesia
Foreign Affairs and Trade
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Department of Foreign Affairs and Trade

Case study

Australia – Aum Shinkrikyo property purchase

The Aum Shinkrikyo cult which conducted sarin gas attacks in the Tokyo subways in March 1995 had some of its members based in Western Australia. They **purchased a 500,000-acre sheep farm 375 miles north-west of Perth** and they **formed two companies.** One was called Clarity Investments and the other, Maha Posya Australia. In June 1993 Maha Posya was used to import electrical equipment including transformers, static converters, generators and cable, to Australia. **The purpose was to set up a false company where they would eventually undertake testing in Australia.** They used the **Maha Posya front company** to purchase the Banjawarn station for approximately $400,000 which required them to make transfers over the sum of A$10,000.

(Source: Australian Parliament House of Representatives 2008. Financial Transactions Reports Amendment (Transitional Arrangements) Bill 2008: second reading. Hansard 13 October 1-13)

Foreign Affairs and Trade

Case study

United Kingdom – Real Estate company

Mr A admitted to writing information on how to establish an extremist cell and a training course on the manufacture of explosives. He was charged with providing material support to a terrorist organisation with the aim of overthrowing the Libyan Government and replacing it with a fundamentalist Islamic state. The US Treasury alleged that five British residents of Libyan origin had links with the Libyan Islamic Fighting Group **as well as three real estate companies operated by one of the men and an aid agency.**

(Source: Agence France Presse. *Libyan man jailed over possession of terrorism manuals.* World News Connection. 17 July 2007)

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Scope

- Inform APEC economies of the potential terrorism financing threats and vulnerabilities posed to DNFBPs
- Nexus between money laundering and terrorism financing
- Unwitting vs. complicit activity:
  - Acquiring funds which require laundering or be used to finance terrorism and/or laundering funds themselves (complicit activity)
  - Provision of advice to clients or customers, assist or otherwise facilitate laundering of funds or movement of illicit money (may be complicit or unwitting)

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Methodology and design

- Publicly available information in conjunction with member-only information from progress reports

Main sources of information include:

1. Mutual Evaluation Reports (MERs)
2. Progress reports (FSRBs)
3. Typologies papers/case studies
4. Academic papers
5. Internet searches/media news reports
6. Industry based websites

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Scoping exercise

- Review of economy's overall approach to ML/TF, size of the ML/TF problem, legal framework and general approach to regulation in the DNFBP sector.
- Review of current (or lack of) regulations applied to each industry; Estimate of the size and income sources of each industry sector.
- Consideration of economy's compliance with related FATF Recommendations, eg. R.12, 16, 20, 24 and 25.
- Existing response mechanisms at the national, regional and international level.

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Limitations

- Major limitation is availability of current information.
- Many of the sectors considered may have systems of self-regulation that extend beyond the scope of existing or known regulation.
- Wide range of regulatory approaches adopted by economies and there is no 'one size fits all' approach.
- Limited TF case studies.

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Interim observations

- Legal and accounting profession potentially most vulnerable industries across the sectors although strict self-regulatory measures in place.
- Precious metals and stones industry may lack transparency and large cash transactions are common.
- Risks posed to the gambling sector include high volume turnover, limited CDD obligations and the anonymity offered by internet gambling.
- Legitimate, front and shell companies have been and continue to be exploited for ML/TF purposes.

Forward plan

November 2012

- Risk Assessment Workshop – 19-20 November, 2012 Singapore
  - Feedback from participants on the draft economy reports and to learn more about economies' own experiences.

Early 2013

- Capacity Building Workshop to be held in early 2013 (dates/location TBA)

April/May

- Finalisation of Risk Assessment Report

June 2013

- Dissemination of guidance for the DNFBP sector based on activity outcomes and existing guidance materials.

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Contacts:

Olivia Gray-Rodgers | Project Officer
AUSTRAC/DFAT
Olivia.Gray-Rodgers@austrac.gov.au

Kim Ralston | Executive Officer
International Legal Branch | Sanctions and Transnational Crime Section
Kim.Ralston@dfat.gov.au

Inherent Risks of Terrorist Financing for DNFBPs

Philippines Setting

Background

- Area: 7,100 islands
- Main islands: Luzon
  Visayas
  Mindanao
- Religious Affiliation:
  Christians – 94%
  Muslims - 5%
  Others - 1%

- Population, May 2010: 92.34 M

LEGISLATION RELATED TO TERRORIST FINANCING

- R.A. No. 10168 "The Terrorism Financing Prevention and Suppression Act of 2012" – took effect on 05 July 2012.
- Salient features of the Act:

- Makes terrorist financing (TF) a predicate offense to money laundering.
- Criminalized the financing of terrorism.
- Allows the executive freezing of property or funds related to the financing of terrorism.
- Allows the forfeiture of property of funds related to the financing of terrorism.

ACCOUNTANTS

Industry Risks

- Services offered: accounting, bookkeeping, external audit, business fraud audit, internal audit outsourcing, tax business process review, business formation, registration and incorporation
- Channels used: face to face, through internet or over the phone.
- Average of 115 workers per establishment for the accounting, bookkeeping and auditing activities, tax consultancy industry (2010 statistics)
- Clients of auditing/accounting firms are typically domestic/foreign listed and unlisted corporations, partnerships, associations and charities, individuals or sole proprietorships.
- Accountants, in the discharge of some of their functions, may make arrangements to assist transfer of funds overseas.
- Who regulates: Professional Regulatory Board of Accountancy (BOA) supervises, control and regulates the practice of accountancy pursuant to RA No. 9298.

ACCOUNTANTS

Preventative Measures

- **Accountants not covered by AMLA, as amended. No obligation to submit reports to the FIU.**
- **No compliance officers to oversee AML/CTF matters. No compliance programs in place.**
- **Board or senior management undergo 'fit and proper testing' to run the business as a matter of policy of the respective firms.**
- **Audit staff required to pass exams administered by the firm and undergo series of interviews.**
- **The PRC has a Standard Department which is supposed to conduct random audits or regulatory supervision**
- **No requirement to secure KYC docs nor to monitor transactions and conduct further CDD on discrepancies.**
- **Accountants keep records of transactions in accordance with international standards.**

ACCOUNTANTS

Impact on the economy:

- 2010 total revenue of the accounting, bookkeeping and auditing activities, tax consultancy industry : P4,628,811,000.00 (USD115,720,000.00).
- Average no. of workers per establishment: 115

LAWYERS, NOTARIES

Industry Risks

- Services/products: Legal retainer, legal advice, legal representation, processing of legal documents/requirements for certain cases, notarial services.
- Max. price: Up to millions of pesos.
- Channel used: Face to face
- Percentage of cash used to make payments: 80% cash. Payments are seldom made in installments.
- Average no. of staff: 10 staff
- Typical customers: 50% are business owners/corporations; 30% overseas Filipino workers; 30% walk-in clients.
- Lawyers/notaries can transfer funds overseas upon instruction of the clients.
- Regulator: Supreme Court of the Philippines. The IBP also complements the regulatory authority of the Supreme Court.
- This industry can be separated into small, medium and large size law firms.

LAWYERS, NOTARIES

Preventative Measures

- No compliance officers to oversee AML/CTF obligations. No AML/CTF compliance programs in place. Not covered by AMLA, as amended.
- Individual firms have their own 'fit and proper' standards.
- Staff are recruited depending on the particular law firm's own standards.
- KYC/CDD docs.: Generally, no requirement. But depending on the nature of their engagement, lawyers require them.
- No periodic regulatory supervision from the government (except for annual financial audit for tax purposes).
- Lawyers/notaries monitor the transactions of their clients depending on the firm's internal rules.
- Not required to submit reports to the FIU.

CASINOS

Industry Risks

- Products: All kinds of casino games, on-line gambling
- Customers: individuals (including PEPs, gov't. employees)
- Casinos may make arrangements for int'l fund transfers
- Regulator: PAGCOR and CEZA (both GOCCs)
- Size: Mostly big casinos

Preventative Measures

- Casinos are not covered institutions under the AMLA, as amended.
- No compliance officers/no compliance programs/no CDD requirements
- Staff do not receive training in AML/CTF
- No obligation to file CTRs/STRs
- Audit of casinos: financial audit for tax purposes.

Impact on the Economy

- Gross income 2011: P36.65B (USD916.25M). As of end of Sept. 2012: gross income: P31.16B (USD779M).

REAL ESTATE, PRECIOUS METALS/STONES/TRUSTS & CSP/MOTOR VEHICLE DEALERS

Industry Risks

Products/services: sale, lease, development of real estate; manufacture, import, export, retail of precious stones; provide trust services as may be authorized by the BSP; sale of brand new/used vehicles.

Max. amount: Up to millions of pesos.

Channels used: Mostly face to face.

Regulators: PRC /Board of Real Estate Service; DTI (for precious metals & stones & motor vehicles); BSP (for trust entities).

Preventative Measures

- These industries are not covered institutions hence, no CDD, no compliance officers/no compliance programs required.
- No periodic audit by the government, except for tax purposes.

Impact on the Economy

- Proportion of real estate income (P320M) to GDP (P2.621M) : 12.2079%

THANK YOU.

Philippine FIU

Inherent risks of terrorist financing for DNFBPs in Peru

Financial Intelligence Unit - Peru
Superintendence of Banking, Insurance and Private Pension Funds

November, 2012

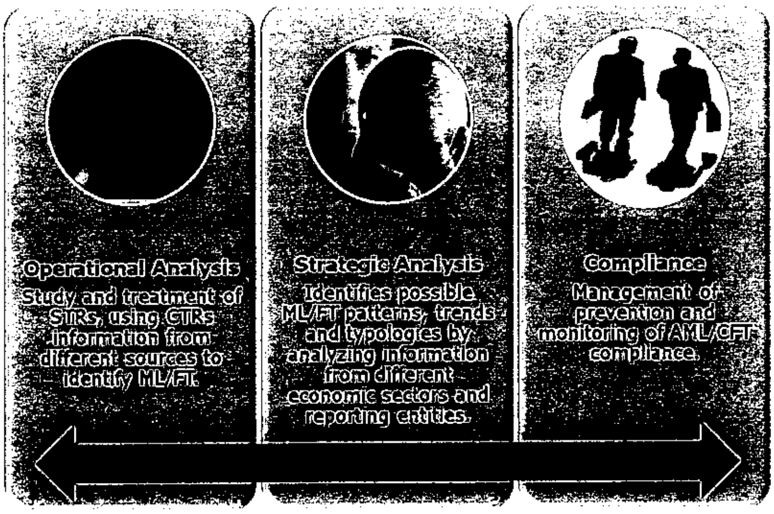
Overview of Peruvian AML/CFT Regulation

2002	• AML Law, FIU-Peru's powers.
2006	• Supreme Decree 018-2006, regulates the AML Law.
2007	• AML/CFT Regulation for the reporting entities that are supervised by the Financial Supervision Authority (SBS). • The FIU is incorporated into the SBS.
2008	• Regulations of Comprehensive Risk Management for the Reporting Entities that are supervised by the SBS. • AML/CFT Regulation for the Reporting Entities that are supervised directly by the FIU - DNFPBs.
2009	• AML/CFT Regulation for Casinos and Jackpot Machine Halls
2012	• Grants the FIU the powers to regulate the AML/CFT system for all reporting entities. • AML/CFT Regulation for Notaries

Supervisors and Reporting Entities

	Financial system, insurance companies, private pension funds administrators, fiduciaries
SMV	Stock brokers, funds administrators, trust services, portfolio managers
	Casinos, jackpot machine halls, travel agencies, hotels, restaurants
	Mail and courier services
	Mining companies
	Arms dealers, explosives
	Lotteries
APCI	Nonprofit organizations
SUNAT	Custom brokers
	Laboratories and manufacturers of chemical inputs used to produce drugs and explosives
	Money and currency exchange, real estate, vehicle traders, precious metals and stones, jewellers, auctioneers,loan and credit unions, notaries, etc.

FIU activities in the field of AML/CFT



Nature of DPNFBPs - Risks

- Lack of authorization or licensing.
- Unknown number.
- Informal market.
- Weak Local Government & Corruption.
- Influence of Drug Trafficking.
- Lack of "historical memory" and the existence of Terror Groups.

Nature of DPNFBPs - Authorization

- Most are unregulated and have few requirements for government authorization to operate.
  - Municipal Operating Licenses
    - Car Dealers, Dealers in precious metals and stones (Jewlers), Dealers in Art and Antiques
- Authorization or licensing is conferred by associations (self regulated)
  - Regional Associations (Colegios)
    - Notaries, Lawyers, Accountants
- Government Authorization is not very thorough and in need of overhaul with a view towards AML-CFT.
  - Casinos and Jackpot Machine halls, Realtors. Dealers in precious metals and stones (Miners)

Nature of DPNFBPs - Size

- The total number of DPNFBPS is not known.
  - Dealers in precious metals
  - Dealers in precious stones
  - Real estate
  - Motor Vehicle Dealers
  - Dealers in Art and Antiques
- Dangers:
  - There is no way of knowing the size of the universe.
  - Very hard to make them aware of AML CFT.
  - Lack of a National AML CFT presence.
- The FIU Peru estimates that DPNFBPS number in excess of 30,000

Nature of DPNFBPs - Informality

- Some sectors operate in the informal or "semi formal market".
  - Dealers in precious metals
  - Dealers in precious stones
  - Real estate
  - Dealers in Art and Antiques
- Do not have a Tax registry and do not pay taxes.
- Have portrayed themselves inaccurately with the tax authority.
  - Micro Companies = Less taxes paid.
- Dangers:
  - No interest in formalizing.
    - Fear of back taxes or fines.
  - Easily swayed to continue operating informally by criminal elements.
  - Accessible to receive ill gotten gains or turn a blind eye to unusual activity.

Nature of DPNFBPs - Weak Local Government & Corruption

- Lack of proper regulation in local governments
  - Each local government is autonomous and has its own regulations
- High turnover in local government leaves them vulnerable to exploitation by criminal elements
- Peru has a high index of corruption.
- Dangers:
  - A potential strength is turned into a weakness.
  - Lack of accountability.
  - Low trust in authorities.
  - "Join the crowd" becomes more and more common.

Nature of DPNFBPs – Drug Trafficking

- Peru is a major Coca Producer.
- Most Coca produced in Peru is exported to Europe.
- Drug Trafficking cartels are receiving the protection of left wing guerrillas.
- The money paid for this protection is directly financing terror activities.
- The increased production of Drugs has generated an increase in resources for Terror groups.

Terror Groups in Peru

- Two major domestic terrorist groups have plagued Peru over the past 20 years:
  - Sendero Luminoso or "Shining Path" (SL) and
  - The Revolutionary Movement Túpac Amaru (MRTA).
- The Peruvian Truth and Reconciliation Commission reported that an estimated 69,280 persons were killed in Peru from 1980 to 2000.
  - Most of the victims were farmers (56%), most attacks occurred in rural settings (79%).
- Terrorism now survives in Peru in the form of drug trafficking networks that maintain leftist leanings.
- Terror Groups have used NGOs to misrepresent themselves abroad and receive funding and support.

Terror Groups in Peru

- The Shining Path has reinvented itself as an illicit drug enterprise, rebuilding on the profits of Peru's thriving cocaine trade. According to analysts, SL is mostly involved in:
  - Protecting drug smugglers,
  - Extorting taxes from farmers,
  - Operating its own cocaine laboratories and
  - Kidnappings
  - Donations received through "misrepresentation"
- Estimates of the number of his group's members who remain active range from about a 400 500 members.
- The black market cocaine trade is helping to rebuild the strength of the Shining Path, through increased wealth, as well as with connections and support from transnational criminal networks.

Latest Developments

Legislative Decree N°1106 of April 2012 establishes important issues to strengthen the AML/CFT in Peru.

◇The inclusion of the Peruvian Lawyers Association and the Peru Accountants Association as supervisory agencies in AML/CFT.

◇It grants the FIU-Perú powers to regulate the AML/CFT system for all reporting entities.

◇Creation of a National Registry of Currency Exchange and Pawn Brokers / shops

◇Gives the FIU Peru the ability to freeze bank accounts.

◇Establishes that Public Notaries AML/CFT prevention system is under FIU-Perú supervision.

Thanks!

MONEY LAUNDERING & TERORIST FINANCING RISKS FOR DNFBPs IN INDONESIA: REGULATIONS AND CHALLENGES

Singapore, 19-20 November 2012

Introduction

- Bill no. 8 of 2010 pertaining prevention and eradicating of money laundering, replaced bill no.15 of 2002 pertaining money laundering
- The late bill provides concrete progress in improving AML/CTF regime in Indonesia by:
  - expanding the number of agencies permitted to conduct money laundering investigations;
  - increasing the ability of the independent Financial Intelligence Unit (PPATK/INTRAC) to examine suspicious financial transactions;
  - expanding institutions authorized to obtain results of PPATK analysis or examination of transactions;
  - creating a streamlined mechanism to seize and freeze criminal assets;
  - **expanding the entities which must file reports to PPATK (include DNFBPs); and**
  - increasing some criminal penalties for money laundering offenses.

Reporting Parties
Stipulates by Bill No. 8 Year 2010

Providers of financial services:
1. bank
2. financing company;
3. insurance company and insurance brokerage company
4. pension fund financial institution
5. securities company;
6. investment manager
7. custodian;
8. trustee;
9. postal services as provider of fund transfer services (*jasa giro*)
10. foreign currency trader (money changer)
11. provider of instruments of payment using cards
12. provider of *e-money* and/or *e-wallet*;
13. cooperatives doing business in savings and loans;
14. pawnshops;
15. companies doing business in commodity futures trading; or
16. providers of money remittance

Providers of goods and/or other services:
1. **property companies/property agents;**
2. **car dealers;**
3. **dealers of precious stones and jewelry/precious metals;**
4. **art and antique dealers; or**
5. **auction houses.**

DNFB's obigations:

- Obligation to implement CDD measures for DNFBPs
  - ✓ Article 18 paragraph (2) of the new AML bill requires the Reporting Party to implement customer due diligence principles.
- Reporting obligation for DNFBPs:
  - ✓ submit a transaction report beyond Rp 500 million (approximately equivalent to $ 50,000,-) as arranged in Article 27 Paragraph (1). The Transaction Report shall be submitted at the latest within 14 (fourteen) work days from the date of a transaction is made (Article 27 Paragraph (2).
  - ✓ Report suspicious financial transactions upon request by PPATK.

INTRAC as Regulatoring and Monitoring Institution

- As a regulator for DNDB, INTRAC has enacted a provision regarding CDD Procedure guidelines for DNFBP, addressing cooperation with new reporting parties regulator and association, as follow :
  - ✓ Head of PPATK Decree no: PER-10/1.02.2/PPATK/10/2011 concerning The Implementation of Customer Due Diligence Principles for Vendors of Goods and/or Other Services; and
  - ✓ Head of PPATK Decree no: PER-12/1.02.2/PPATK/10/2011 concerning Procedure of Transaction Report for Vendors of Goods and/or Other Services.

Regulatoring and Monitoring Institution

- INTRAC will be a body that regulates/supervises/monitors the full range of DNFBPs for AML/CFT purposes.
  - Stipulated provisions regarding know your customer principles and its monitoring (Article 18 (6));
  - Imposed administrative sanctions (Article 30 (2));
  - carried out monitoring of the compliance of reporting obligations (Article 31 (2))

Missused of DNFBPs in Practice

- Purchasing a vehicle / property as part of the integration phase in the case of money laundering stemming from a variety of criminal acts, including robbery by actors associated with terrorist activity;
- Profession (tax consultant/ notary) is used as a third party/ intermediary in giving a kickback from the company to tax officers relating to the handling of taxes;
- Dealership in an attempt to cover such a huge drug deal;
- Purchase of property which are paid by the third party to cover money laundering;
- Buying a house with no change of ownership;
- Investment in a dealership to be a means of money laundering;
- Purchasing of property by spliting estate agents and using multiple accounts;
- Integration phase was also found with overseas property purchases.
- Etc.

Other Issues of DNFBPs

✓ Some DNFBs do not have SROs;

✓ Some DNFBs do not have an integrated system that deals with licensing and supervision.

Professions

- PPATK is authorised to request and to obtain the information regarding the professions.
  - Article 41 (1) of the new AML Law stipulates in performing its function of prevention and eradication of money laundering crimes, PPATK shall be authorized to request for and obtain data and information from government institutions and/or private institutions that possess an authority to manage data and information, including from government institutions and/or private institutions that obtain reports from certain professions.

Casinos

Gambling is ilegal in Indonesia

- Article 303 paragraph (1) of the Criminal Code, which reads: "(1) Punishable by imprisonment of four years or a maximum fine of ten million dollars: the first one who used the opportunity to gamble, which was held in violation of the provisions
- While in the ITE bill, regulation of gambling in a cyber world stipulates under Article 27, which reads: "Any person intentionally and without right to distribute, transmit, or create inaccessibility of information or electronic documents that have a charge of gambling."
- Criminal Threats from the above passage that is mentioned in Article 45 UU ITE ie imprisonment of 6 (six) years and / or a maximum fine of Rp 1 billion. In relation to the question you asked, it was explained that the maximum penalty that can be received by your brother is 6 (six) years in prison and / or a maximum fine of Rp 1 billion.

Implementation & Chalenges

- The implementation preventive measure for DNFBPs effectively applied since March 20, 2012.
- Currently, the implementation of CDD and reporting has been initiated by the large DNFB.

No	DNFB	Number	Online Report	Manual Report	Total Reports
1	Real Estate Agents	184	473	1365	1838
2	Motor Vehicle Dealers	9	0	74	74
3	Dealers in precious metals and stones	3	32	21	53
4	Art and Antiquities Dealers	1	0	0	0
5	Auction Houses	6	0	35	35
	TOTAL	203	505	1495	2000

The potential number of DNFBs in Indonesia (Source: LAPI)

No	DNFB	Number	Tipe
1	Real Estate Agents	5141	Residential housing developer, Condominium and apartment developer, Office building developer, Shopping centre developer ,Industrial estate developer, Property broker agency (real estate agent)
2	Motor Vehicle Dealers	2677	MVDs provide both products and services: products include passenger, 4WD, luxury and commercial cars, and services include insurance products, loans and/or finance and leasing.
3	Dealers in precious metals and stones	15.000	Retail
4	Art and Antiquities Dealers	810	Retail
5	Auction Houses	6	-
	TOTAL	23.634	

Other challenges

- The role of the association is still not up on some DNFB as non binding rules and membership associations, this certainly will complicate efforts DNFB consolidation in an effort to be part of AML regime in Indonesia;
- Habit transactions is "cash based" for Indonesian- the Indonesian Government is currently comprised of the Ministry of Finance, BI, INTRAC is conducting a review of restrictions on cash transactions;
- Readiness resource DNFB in performing a variety of new obligations, as well as balancing of DNFB orientation, during which only oriented aspects of the business

- Thank You

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Australian Transaction Reports and Analysis Centre

Risk Assessment of DNFBP

Technical Advisor AUSTRAC

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New FATF recommendation

Recommendation 1 – Assessing risk and applying the risk based approach

Inter alia… "Countries should require their financial institutions and DNFBPs to identify, assess and take effective action to mitigate risk".

2

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What is Risk?

Noun: exposure to the chance of injury or loss; a hazard or dangerous chance: *to run risks*. *(Source: Macquarie Dictionary)*

3

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What is Risk?

In risk management terms risk is determined by the likelihood an event will happen and the consequences if it does.

4

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Residual vs Inherent Risk

Inherent Risk – *Is **consideration** of a risk with **no** mitigation factors or treatments applied to it*

Residual Risk – *The **remaining** level of risk **after giving** consideration to existing risk controls*

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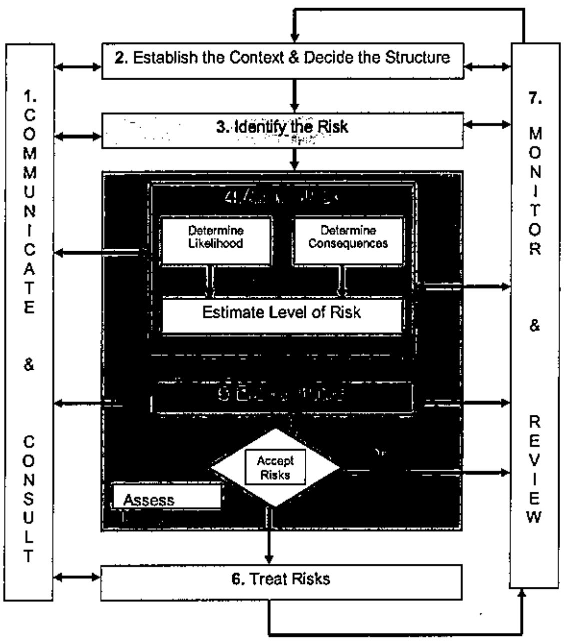
Risk Management

The Process

Source: ISO 31000

www.iso.org



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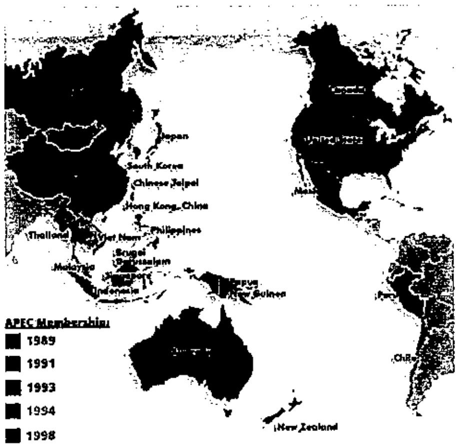
Step 2: Establishing the Context



Know your DNFBPs

Where are they located?

What outside factors affect these businesses?

What internal factors affect these businesses?

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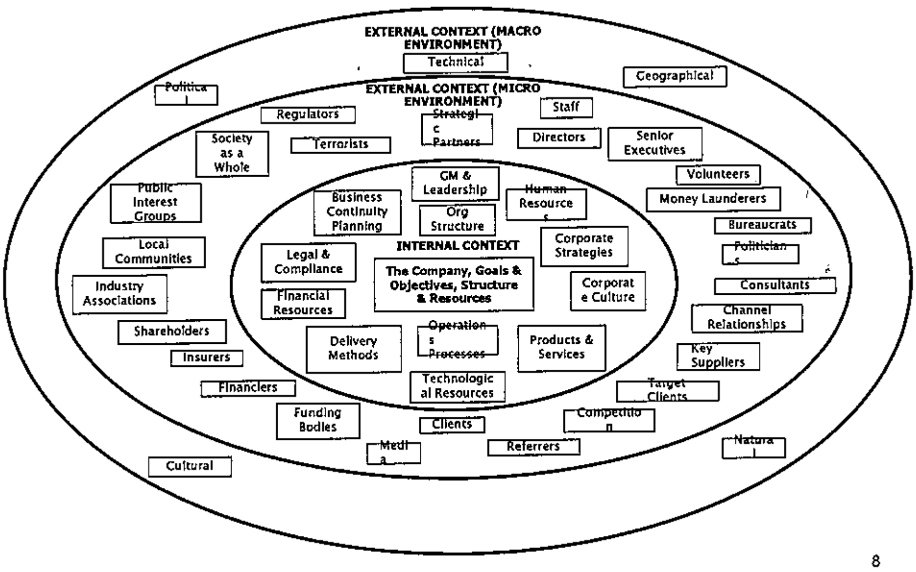
Establishing the Context



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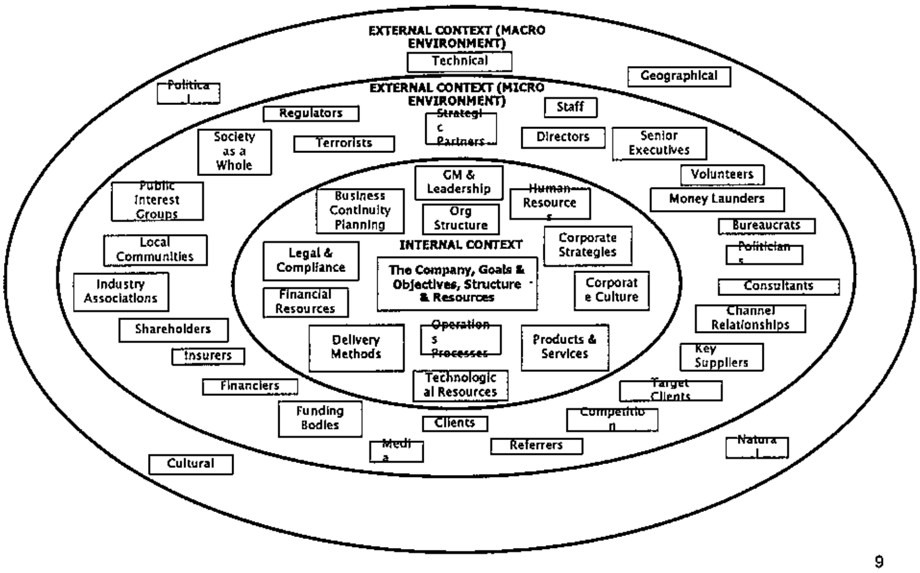
Establishing the Context



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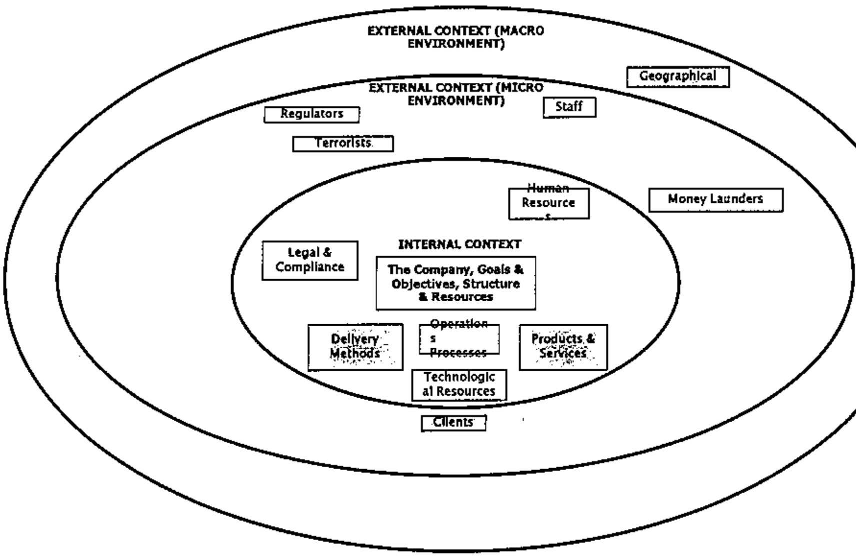
Establishing the Context – AML/CTF



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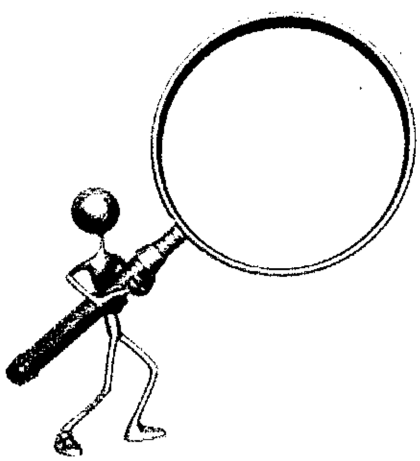
Step 3: Identifying risk- how?



Methods include:

- Stakeholder consultation
- Expert advice
- Historical data
- Team brainstorming
- Typologies
- Media reports

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Some words of wisdom

The information you have is not what you want

The information you want is not the information you need

The information you need is not the information you can obtain

The information you can obtain costs more than you want to pay.

When information is lacking we have to fall back

12


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Risk Categories


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Collection
The initial collection of funds either from clean money or from criminal activity.
Terrorism Financing
Use
Money is used for a terrorist act or is used to support the organisation.
Transmission
Consists of a series of transactions designed to conceal the origin of the funds.
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Risk Rating Using the Heat Map

Likelihood	Minor	Low	Medium	High
Almost Certain	Medium	Medium	High	[redacted]
Likely	Low	Medium	High	[redacted]
Possible	Low	Medium	Medium	High
Unlikely	Low	Low	Low	Medium

Impact

15

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International Requirements

[redacted]

↓

[redacted]

↓

[redacted]

↓

[redacted]

16

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Risk verses Reward

-1. Very minimal set back
-2. Minor set back
-3. Public set back
-4. Major defeat
-5. Devastating loss

1. Minor improvement
2. Minor benefit
3. Strong benefits
4. Dramatic improvements
5. Paradigm shifting improvement - industry leader

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Risk Categories

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The 5 Risk Categories

1. Products and Services
2. Delivery Methods
3. Foreign Jurisdictions
4. Customer Types
5. Business Structure and Practices

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Risks 1- Products

Lower Risk

Where customer information is known and verified, the product does not allow rapid movement of monies to or from the product and amounts are low

- Life insurance – where premiums is below USD1000 or a single premium is below USD $2500
- Insurance policies for pension schemes with no early surrender option
- Pension, superannuation schemes that provide for retirement benefits to employees with deductions from salaries

Higher Risk

Where business relationships are conducted in remotely, where there are anonymous transactions, non face-to-face transactions, use of third parties and rapid movement of funds.

- Internet banking
- Private banking
- Credit Cards
- Wire transfer services
- Equities

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Exercise 1- Products

Make lists of the products and services currently known for each of the DNFBPs under consideration.

- Lawyers – financial arrangements
- Accountants – financial arrangements
- Casinos
- Real estate agents
- Dealers in precious metals
- Dealers in precious stones
- Motor vehicle dealers

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Risks 2- Channels

With financial institution

- In person- lower risk?
- Phone orders- medium risk
- ATMs - medium
- Internet- high risk

Through brokers or third parties

- Electronic transfers
- Lack of oversight/controls on products
- Lack of training
- Sales incentives

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Exercise 2- Channels

Using the list of high risk products already identified list what channels would be used to buy these services.

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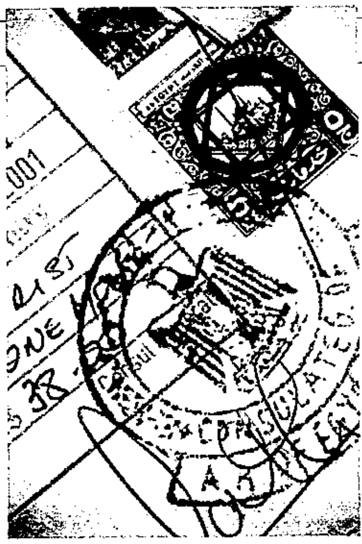
Risk 3- Jurisdiction



- Products sold domestically- **lower risk**
- Products sold or payments made across borders- **higher risk**
  - **Prohibited jurisdictions** - on sanction lists
  - **High Risk** - eg Countries subject to ICRG Review, high levels of corruption, centres for narcotics production/importations, terrorist operational
  - **Medium** – Countries/geographic areas where customers privacy is so protected that it aides establishment of shell companies, poor AML/CTF measures in place
  - **Low**- eg FATF members

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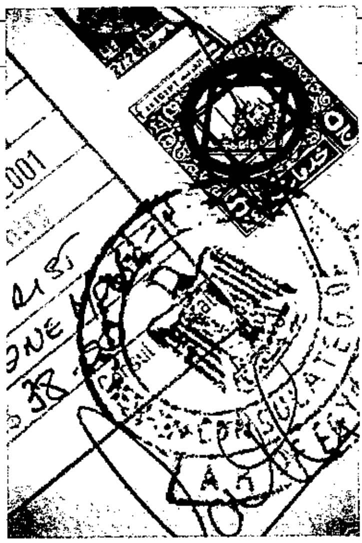
Exercise 3- Jurisdiction



- On the risk register assess the APEC countries for their inherent risk for TF.
- Discuss you findings in your groups
- Present back to the larger groups

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Industry Risk Assessment - DNFBP

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Terms

1. **Industry Sector**
   - Grouping of business/industry types
   - Examples:
     - Casinos
     - Precious Metals
     - Motor Vehicle Dealers
2. **Cohort**
   - Subgroups of entities with similar profile within Industry Sectors
   - Examples:
     - Small Casinos, Large Casinos
     - Bullion Dealers, Retail Jewellers

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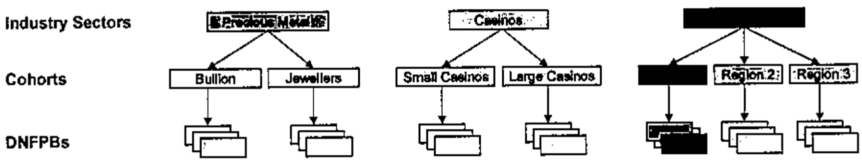
Directing Our Attention



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Risk Assessments

1. **Inherent Risk = Risk of compromise based on the attributes of the business:**
   - Types of customers
   - Types of services offered
   - Method of conducting transactions
   - etc
2. **Internal Control = Measures taken to address risk**
3. **Residual Risk = Inherent Risk – Internal Control**
4. **Impact = Effect on the economy if entity compromised:**
   - Volume of business
   - Reputation
   - etc
5. **Overall Risk = Residual Risk vs Impact**

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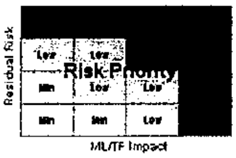
Key Components

Inherent Risk (Money Laundering Risk; Terrorist Financing Risk)	–	Internal Control	=	Residual Risk

Residual Risk	&	ML/TF Impact	→	Risk Priority



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Risk Assessment Model Modules

ML/TF Inherent Risk Modules	Internal Control Modules
Designated Service and Product Risk	Program
Customer Risk	Risk Assessment
Distribution Channel Risk	Oversight
Jurisdiction Risk	Controls
Business Structure Risk	Effectiveness
	Staff
	Statutory Reporting

Residual Risk Assessment

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Risk Prioritisation Map

Likelihood	Minor	Low	Medium	High
Almost Certain	Medium	Medium	High	[redacted]
Likely	Low	Medium	High	[redacted]
Possible	Low	Medium	Medium	High
Unlikely	Low	Low	Low	Medium

Impact

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Risk Rating Products

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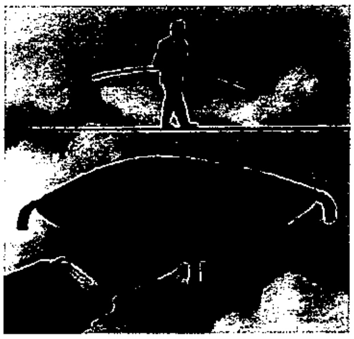
General Risk Factors

- Anonymity
- Elusiveness (untraceable transactions)
- Rapidity/Transferability
- Lack of oversight
- ML/TF by merchants, agents and intermediaries



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Anonymity - Risk

- Accounts opened in false name
- Customer due diligence/profiling – not done
- Lack of public identification infrastructure
- Lack of face-to-face relationships
- Criminals opening multiple accounts
- Can establish shell companies with few questions asked

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Elusiveness - Risk

- Criminals can 'smurf' cash into multiple accounts without being known
- Multiple transactions confuse audit trail and source of funds
- Use of nominees and third parties
- Use of complex arrangements to hide beneficial ownership

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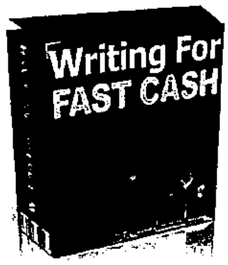
Rapidity - Risk

- Illegal or TF monies can be deposited and transferred quickly
- Transactions occur in 'real time' – difficult to stop/freeze
- Funds moved overseas very quickly



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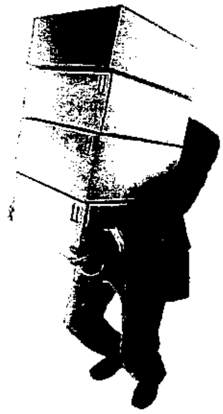
Transferability - Risk

- High value commodity easily transportable across borders
- Commodity easily sold and converted back to cash
- Readily used as a means of exchange



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Lack of AML/CTF Oversight - Risk

- Who regulates? Are they aware of AML/CTF issues?
- Breadth of ML/TF regulation- does it cover all preventative measures?
- Background checks and 'fit and proper' tests on licence holders?
- Enforceable means – are they dissuasive and proportionate?

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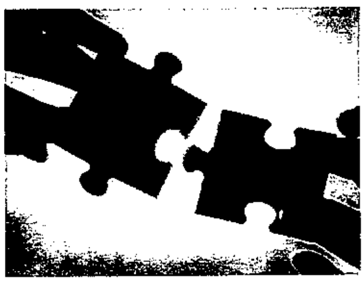
ML/TF by Merchants, Agents and Intermediaries - Risks

- CDD not fulfilled (intentional or negligent)
- May be unaware of ML/TF risks
- Who educates in AML/CTF?
- Who regulates?



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Exercise:

Using the list of products you identified earlier rate each one with regard to anonymity, elusiveness, rapidity and AML/CTF oversight.

Rating:

1= low risk
2-3 = medium risk
4 = high risk

Product	Anonymity	Elusiveness	Transferability Or Rapidity	Oversight	Total
Cash					
Savings Account					
Shares					

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The FATF Recommendations on Combating Money Laundering and the Financing of Terrorism & Proliferation

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The Financial Action Task Force

- Created in 1989 as a Task Force
- Mandate to:
  - Set standards to combat Money laundering and the Financing of Terrorism & WMD Proliferation;
  - Assess compliance with the FATF standards;
  - Identify & respond to threats to the integrity of the international financial system.
- New FATF Recommendations – February 2012
- Next round of peer-review assessments to begin in January 2014, focusing on effectiveness.

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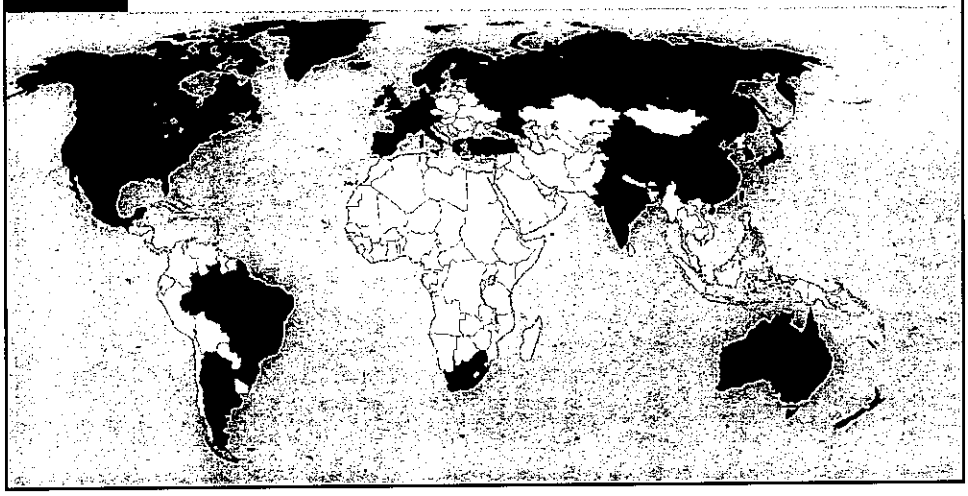
FATF Members

- 34 Member Jurisdictions
- 2 Regional organisations
- 22 Observer organisations



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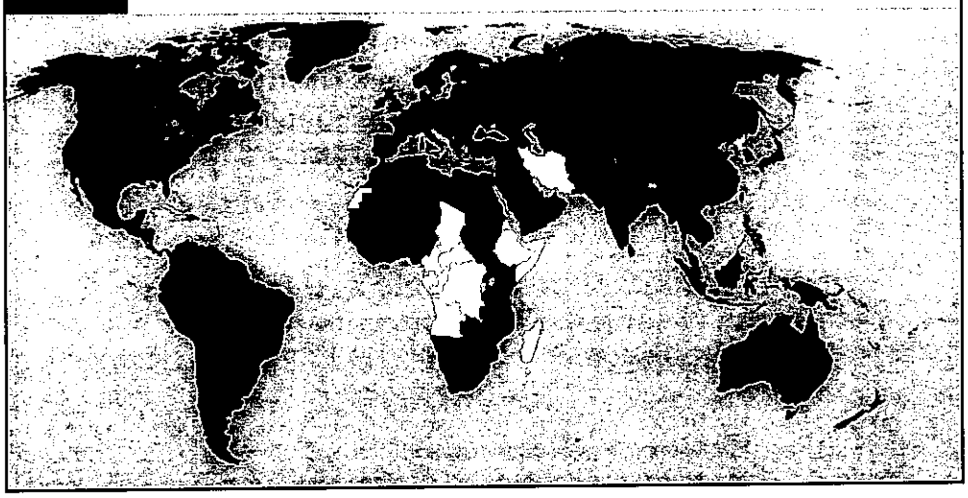
FATF Global Network

- Eight FATF-Style Regional Bodies
- Total membership: 187 Countries



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The FATF Standards

- *Adopted in February 2012*

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The FATF Standards

- Set out minimum requirements for measures that countries should implement in the fight against ML/TF
- Effective implementation of the FATF Recommendations provides an effective framework to combat ML/TF
- Consistent implementation by all countries
- Countries are best placed to judge the risks of ML/TF that affect them and mitigate those risks

Key themes of the FATF Standards

- Policies and Co-ordination
- Money Laundering and Confiscation
- Financing of Terrorism and Proliferation
- Preventive Measures
- Legal Persons and Arrangements
- Powers of Competent Authorities
- International Co-operation

Key themes of the FATF Standard

- Policies and Co-ordination
  - Risk Assessment & Risk-based approach added in 2012
  - National Co-operation and Co-ordination
- Money Laundering and Confiscation
  - Criminalise money-laundering
  - Confiscation of criminal proceeds
  - 2012 Recommendations require predicate offences to include Tax Crimes

Key themes of the FATF Standard

- Financing of Terrorism and Proliferation
  - Criminalise terrorist financing
  - Implement targeted financial sanctions (i.e. administrative, not just criminal, asset freezing)
  - Oversight of non-profit organisations
  - 2012 Recommendations add targeted financial sanctions against the financing of proliferation

Key themes of the FATF Standard

- Preventive Measures (by financial institutions and DNFBPs)
  - Customer Due Diligence
  - Additional measures for specific customers and activities
  - Suspicious Transaction Reporting
  - 2012 Recommendations add new requirements for domestic Politically Exposed Persons
  - similar requirements apply to DNFBPs

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Key themes of the FATF Standard

- Legal Persons and Arrangements
  - Transparency of beneficial ownership of companies (includes: registration of all companies, making beneficial ownership information available to competent authorities)
  - Transparency of beneficial ownership of trusts (includes: trustees obliged to obtain and hold beneficial ownership information, e.g. the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries)
  - 2012 Recommendations strengthen transparency requirements and place new controls on e.g. bearer shares

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Key themes of the FATF Standard

- Powers of Competent Authorities
  - Regulation and supervision of financial institutions
  - Powers and responsibilities of law enforcement (e.g. conduct parallel financial investigations, use of special investigative techniques)
  - Financial Intelligence Unit (more emphasis on functions and analysis)

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Key themes of the FATF Standard

- International Co-operation
  - Mutual Legal Assistance & Extradition
  - Freezing and Confiscation of Assets
  - 2012 Recommendations remove obstacles and strengthen practical requirements for cooperation

    (includes: rendering assistance in relation to non-conviction based confiscation in specific circumstances; recognition that "informal cooperation" should be based on functions, and facilitate indirect cooperation)

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FATF 4th Round Assessments

- *Progress Update*

FATF 4th Round Assessments

- Technical assessment for R.1 & R.2 (and all other FATF Recommendations)

- Effectiveness: Immediate Outcome 1
  - Money laundering and terrorist financing are understood and actions coordinated domestically to combat money laundering and the financing of terrorism [and proliferation]

- Effectiveness:
  - IO.3 (Supervisory and Monitoring of FIs & DNFBPs)
  - IO.4 (FIs and DNFBPs adequately apply preventive measures)
  - [IO.5 (STR reporting by FIs and DNFBPs)]

FATF 4th Round Assessments

- Assessment of Risk by Assessors
  - Focus on rigour of the risk assessment process and procedures
  - Review the internal consistency of the country's risk assessment (i.e. whether conclusions are reasonable given the information and analysis used)
  - (Where relevant and appropriate) Other credible sources of information on the country's risk

- FATF is developing Guidance to countries on Risk Assessments

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Core Obligations for Assessment of ML/TF Risks

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Risk Based Approach (R.1)

- A new over-arching Recommendation on the RBA clearly sets out the principles and the underlying requirements
- RBA applies across all relevant FATF Recommendations
- Specific risk-based requirements in some Recommendations

Risk Based Approach

- Countries should:
  – *"Identify, assess and understand"* their ML/TF risks they face
  – Designate "an authority or mechanism to coordinate actions to assess risks"
- Financial institutions and DNFBPs are required to identify, assess and understand their ML/TF risks
- Risk assessment is the basis of any AML/CFT regime – in particular for risk mitigation, applying additional safeguards to the higher-risk areas and resource allocation

Risk Based Approach

- Basic principles of the RBA
  - Higher-risk → require enhanced measures
  - Lower-risk → possible simplified measures
  - The scope of FATF standards is risk-sensitive (possible exemptions for low-risk activities; possible extension to additional high-risk activities)
- Objectives of a risk-based approach:
  - Focus on higher risk for more effective implementation
  - More efficient allocation of resources

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National Cooperation & Cooperation (R.2)

- Regular review of national AML/CFT policies (based on risks identified)
- Cooperation and coordination mechanisms required at policy & operational levels
- In the specific context for combating the financing of proliferation, requirement to include other relevant authorities for cooperation

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Risk Assessment

- ML/TF Risk Assessments should:
  - Provide input for potential improvements to the AML/CFT regime
  - Help in prioritising and allocating AML/CFT resources
  - Feed into the AML/CFT risk assessments that must now be carried out by financial institutions and DNFBPs

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Conducting a Risk Assessment

Key Concepts for ML/TF Risk Assessment

Note: The following slides are based on ongoing work at the FATF and may be further refined.

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Key Concepts: Threat

- Definition: A person, object or activity with an intrinsic potential to pose a danger or cause damage
- Examples:
  - Criminals
  - Terrorist groups and their facilitators
  - Funds generated by criminal activity
  - Criminal acts (narcotics trafficking, fraud etc.) that generate criminal funds

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Key Concepts: Vulnerabilities

- Definition: The intrinsic property of a system or structure making it open to misuse or exploitation of ML/TF
- Examples:
  - Weaknesses in AML/CFT systems or controls
  - High use of cash (vs. electronic money systems)
  - Low awareness within the financial sector (including DNFBPs) of signs of ML/TF abuse
  - Inadequate training, resources and coordination

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Key Concepts: Consequence

- Definition: The cost or damage that ML/TF may cause and/or the significance of their effect on the financial system, the economy, the population, specific communities, the business environment, national / international interests, etc.
- Examples:
  - Security threats & losses to victims of crime
  - Increased volume of ML/TF funds through financial sector
  - Financial sector reputation
  - Corruption and bribery

Key Concepts: Risk

- Definition: Risk is a function of three components: *threat, vulnerability and consequence*

- Risk assessment would therefore involve making judgements about all three elements, and can be subdivided into a series of activities or stages: (i) risks identification, (ii) risks analysis, and (iii) risks evaluation

Conducting a Risk Assessment

Planning & Organisation of the ML/TF Risk Assessment

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Users of ML/TF Risk Assessment

- Important at the outset to have in mind the potential users (and use) of the ML/TF risk assessment:
  - Policy makers and other authorities at the national level
  - Operational agencies (law enforcement, FIUs etc.)
  - Regulators, supervisors and SRBs
  - Financial institutions & DNFBPs
  - NPOs
  - Others (general public, academia, etc.)

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Determining the Purpose & Scope

- Ultimate goal of risk assessment is to help country to combat ML/TF through an effective AML/CFT system
- Need to clearly articulate specific objective:
  - Policy development
  - Allocation of resources
  - Basis for enhanced (or simplified) AML/CFT measures
  - Development of national AML/CFT policies and activities

Other Considerations

- Need to document the process used for the assessment to enable future assessments
- Single agency (designated coordinating authority) may lead process, but all relevant agencies with AML/CFT responsibilities should be involved
- Role of private sector input / expertise
- Need for high level-political support

Nature of the Assessments

- Specific form or process is less important (no "single right way" to do it)
- May be "top-down" approach through a centrally coordinated framework or system
- However, not necessarily a single document or process at the national level; may be a series of documents / processes that are tied together
- The process(es) must help the country *know and understand* the ML/TF risks it faces.

Money Laundering & Terrorist Financing

- When scope is determined, country must decide whether to look at ML and TF separately or together
- Decision should be based on the most appropriate way to assess these risks
- Note that TF risk factors may be different from those of ML
- Any exemption decisions must be based on judgement of low ML and TF risks.

National, Supranational & Sub-National Risk Assessments

- Risk assessments may be conducted at different levels
  - National; at the country level
  - Supranational; a group of countries
  - Sub-national; at regional, sectoral or local level
- Assessments at these levels may influence / inform each other

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Comprehensiveness of Assessment

- Understanding ML/TF risks requires having as complete a picture as possible of relevant ML/TF threats and vulnerabilities along with an analysis of possible consequences
- Some risks may be difficult to collect information on and to assess
- Gaps / limitations should be recognised and considered as areas for future work

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Frequency of Assessment

- FATF requirement: "on an ongoing basis", i.e. risk assessment should be kept up-to-date
- However, no rule on frequency – determined by the country on the basis of how quickly the ML/TF risks changes
- Frequency may also be determined by:
  - Changes in international AML/CFT Standards
  - Developments in other countries
  - Issues raised by the private sector
  - Availability of new information etc.

Information and Tools Required

- Quality of assessment depends on quality of types and quality of data and information available
- Quantitative vs. Qualitative assessments:
  - Not all factors can be expressed in numerical or statistical form
  - Relevant "qualitative" material (intelligence, expert judgements, private sector input, case studies, typologies should complement "quantitative" material)
- International or cross-border information may also be relevant

Conducting a Risk Assessment

Methodology for Conducting ML/TF Risk Assessment

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General

- No single "one-size-fits-all" methodology.
- Different methodologies have been proposed by various IOs and countries, all with strengths and potential weaknesses
- In simple terms, the right process is one that allows contribution from all relevant agencies and permits the country to *know and understand* its ML/TF risks
  - Cover risks (i) identification, (ii) analysis, and (iii) evaluation

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Identification Stage

- Initially experts working on the assessment would develop a list of potential "risks"
- Potential "risks" based on an understanding of underlying ML/TF threats and vulnerabilities
- Examples of potential risks at this stage:
  - DNFBPs fail to identify STRs because of poor monitoring systems
  - Terrorists are able to move funds around the country without detection via informal / unregulated sector
- At this point, "risks" may be hypothetical
- Identification should be comprehensive but dynamic

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Analysis Stage

- Main part of the risk assessment process
- Experts would look at the causes and sources of the identified risks along with the potential consequences
- Through analysis, some risks might appear to be relatively more important than others
- Degree of analysis at this stage depend on the type of risks, the overall objective(s), and the information, data and resources available

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Evaluation Stage

- At the next stage, the relative importance of each risk has been established
- Comparison between the analysed risks would then allow determination of priorities
- Based on these priorities, the country would be able to plan a strategy and specific measures for mitigation of those risks

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In Conclusion

- FATF is currently working on guidance to assist countries in conducting ML/TF risk assessments
- Guidance not intended to be a "how-to" manual but to describe the elements that need to be present in a successful ML/TF risk assessment process at the country level
- Work should be completed in February 2013

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For more information:

www.fatf-gafi.org

contact@fatf-gafi.org