

出國報告（出國類別：參加國際會議）

出席第 31 屆
劍橋國際經濟犯罪研討會報告

服務機關：法務部調查局

姓名職稱：王福林 局長

周加宗 經濟犯罪防制處調查官

派赴國家：英國

出國期間：102 年 8 月 31 日至 9 月 13 日

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出席「第 31 屆劍橋國際經濟犯罪研討會」報告

摘要

第 31 屆劍橋國際經濟犯罪研討會（The 31th Cambridge International Symposium on Economic Crime）於 2013 年 9 月 1 日至 9 月 8 日在英國劍橋大學耶穌學院（Jesus College, Cambridge University）舉行，法務部調查局局長王福林率經濟犯罪防制處調查官周加宗與會。

本屆會議主題為「打擊當前經濟犯罪問題：私部門的角色——是夥伴，也是問題」（Fighting Economic Crime in the Modern World, The role of the private sector-partners and problems），旨在探討當前全球面臨詐欺、吸金、貪污、洗錢、企業貪瀆、網路犯罪、組織犯罪及恐怖主義活動等廣義經濟犯罪的情勢下，政府公部門應如何看待民間私部門、私部門之角色定位為何、公私部門如何合作以面對各種經濟犯罪所造成的外部威脅與內部隱憂，以及公私部門如何共同打擊經濟犯罪與風險管理等議題。本次會議特別安排一系列的專題演講及分組研討，各國與會人員藉由經濟犯罪情勢的研析及經驗分享，論述經濟犯罪之預防及控制，並兼論國際經濟犯罪情資的交流與合作、犯罪所得追索等實務需求，均體認到經濟犯罪受全球化趨勢影響，已非任何單一國家所能面對及解決，而必須由世界共同合作，方有可能獲得解決。

壹、會議目的

英國劍橋大學教授、前英國倫敦大學高級法學研究所所長萊德博士（Dr. Barry Rider）鑑於國際經濟犯罪問題日趨嚴重，遂於 1983 年創辦「劍橋國際經濟犯罪研討會」，結合劍橋大學法學菁英與大英國協秘書處合作，於每年 9 月間召開年會，廣邀各國政府執法機關人員、專家學者及律師等法界人士參加，針對特定之經濟犯罪主題及相關議題進行報告及研討，期藉由交流、分享，達到遏止經濟犯罪、打擊貪腐及防制洗錢等目的。由於研討會之演說與研討，均係各國最關切之經濟犯罪議題，因此切合實務需要而備受矚目，每年均有來自世界各地數百位人員參加。會議期間，各國執法人員除進行研討交流外，並可藉此建立聯繫、合作管道，對日後情資交換與個案合作助益甚大。

法務部調查局自 1992 年以來，每年均獲邀參加研討會，與各國執法官員及學者專家齊聚一堂，交換經濟犯罪防制相關資訊，一方面汲取他國經驗，作為國內實務運作之參考，另一方面則增加臺灣在國際會議場合曝光的機會，尋求與外國執法機關建立聯繫管道，爭取國際合作空間。

貳、會議主題

一、會議主題

第31屆「劍橋國際經濟犯罪研討會」主題為「打擊當前經濟犯罪問題：私部門的角色——是夥伴，也是問題」（Fighting Economic Crime in the Modern World, The role of the private sector-partners and problems），旨在研討政府公部門與民間私部門如何共同打擊日益猖獗之經濟與貪污犯罪，會議內容包含專題演講、分組研討等議程，針對各國經濟犯罪現況與公私部門關係進行深入探討，同時對詐欺、吸金、貪污、洗錢、企業貪瀆、網路犯罪、組織犯罪及恐怖主義活動等型態之經濟犯罪造成各國之外部威脅與內部隱憂，規劃相關演說及研討。

二、會議議程

研討會議程包括「影響經濟穩定與安全的新舊風險」、「打擊經濟犯罪的新方法及架構」、「組織犯罪的法律與金融挑戰（過去、現在及未來）」及「公私部門合作打擊逃稅及洗錢犯罪」等15項議題專題演講，30場次集體研討及32場次分組討論，相關議程如下：

一、9月1日議程

(一)報到

(二)酒會及晚宴

二、9月2日議程

(一)開幕及引言

(二)專題演講

議題 1a：實務觀點論經濟犯罪的重要性

議題 1b：政策觀點論經濟犯罪的重要性

(三)集體研討

場次 1：公私部門夥伴關係

三、9月3日議程：

(一)專題演講

議題 2：金融安定所面臨的新危機及持續威脅

議題 3：將責任加諸於關注他人金錢的對象-在最前線的銀行

議題 4：對抗經濟犯罪的新方法及架構

(二)集體研討

場次 2：組織犯罪-昨日-法律及金融議題

場次 3：組織犯罪-今日-法律及金融挑戰

場次 4：組織犯罪-未來-法律及金融議題

場次 5：查緝逃稅及洗錢的公私夥伴關係-美國觀點

場次 6：管理與遵守-模糊的紅線

場次 7：全球市場上保護概念與創造收入的定位—何以要發明將來會被盜用的概念？

(三) 分組討論

場次 1：罪犯與銀行家-外來或內在的敵人？

場次 2：俄羅斯加入 WTO 隱含的意義

場次 3：與社會責任合作-真正的議題！

場次 4：開發中國家如何處理安全與保險詐欺

場次 5：稽查人員的角色

場次 6：企業與政治：合法的影響力何時轉變為貪腐？

場次 7：跨國公司及組織稅務稽查工作

場次 8：跨境執法及情資交換

四、9月4日議程

(一) 早餐時間集體研討

場次 8：如何辨識及管理洗錢的風險（我在黑社會臥底調查洗錢犯罪的生活）

(二) 專題演講

議題 5：詐欺與濫用—新型態及參與者

* 法務部調查局經濟犯罪防制處調查官周加宗報告：

「新型態非法吸金犯罪之研析與防制」

(Research Analysis and Prevention of New Modes of Illegal Money Spinning Crime)

議題 6：公私部門如何協力防制重大經濟犯罪

議題 7：遵守法令的侷限

(二) 集體研討

場次 9：職業道德—對抗經濟犯罪時的角色

場次 10：補償保險

場次 11：調查結果-裁罰程序

場次 12：延遲告發的協議

場次 13：藍線-應該付費由私部門填補空缺？

場次 14：裁量空間-重大金融犯罪起訴的分析

場次 15：金融機構疑遭詐騙捲入犯罪活動之議題

場次 16：案例研究—他國的「小」詐欺案？

(三)分組討論

場次 9：伊蘭斯市場如何保護投資者對抗詐欺

場次 10：願意配合的銀行：假象、錯覺或阻礙

場次 11：私部門在打擊人口販運犯罪所扮演的角色

場次 12：21 世紀虛擬貨幣及洗錢趨勢

場次 13：美國聯邦海外反貪污法之執法

場次 14：打擊貪污的實務議題

場次 15：企業及內部人員違法的處置

場次 16：經濟犯罪的稽核：你問對問題了嗎？

五、9月5日議程

(一)專題演講

議題 8：調查、檢舉及目擊者的保護

議題 9：資料的保護及分享-防制金融犯罪及不法

議題 10：反貪污-管理與稽核

(二)集體研討

場次 17：何以重大詐欺及洗錢案件難以起訴-何以如此重要？

場次 18：私部門於執法發展及訓練的角色定位

場次 19：組織犯罪的刑罰

場次 20：2020-無現金社會的詐欺-Z 世代所代表的挑戰

場次 21：賄賂及貪污的調查

場次 22：金融機構如何設計及執行有效的程序以減少並控制金融犯罪

場次 23：國際合作實務

(三)分組討論

場次 17：信用評等機構如何扮演公正的角色

場次 18：Shari' ah 委員會倡導及指導的責任

場次 19：高風險地區的人身安全

場次 20：檢舉告密 (Whistle Blowing)

場次 21：刑事律師組織促進會工作坊

場次 22：隱私與洗錢防制的掙扎

場次 23：網路情資-對貪污是加分或扣分？

場次 24：多面向的方法-當你發掘大問題時該做什麼？

六、9月6日議程

(一)專題演講

議題 11：私部門在執法及經濟保護的角色

議題 12：個資的竊取-你與誰交涉？

議題 13：揭發的濫用-媒體與公益團體的角色

(二)集體研討

場次 24：如何分享資料以打擊經濟犯罪？

場次 25：金融服務產業的信託-萬靈丹？

場次 26：隱私規範與打擊金融犯罪的衝突

場次 27：資料分享的道德挑戰

場次 28：毒品戰爭-「銀行不能坐牢」背後的趨動力

場次 29：綜合面向及組織性的打擊犯罪模式-加拿大、伊朗、英國及澳洲的
案例

(三)分組討論

場次 25：貪污犯罪戰略上的意涵

場次 26：開放潛在巨量資料以對抗經濟犯罪

場次 27：民事法律在金融系統市場濫用的功能

場次 28：打擊犯罪的永續方法：義大利觀點

場次 29：監控國際貿易會否造成無辜者的風險？

場次 30：最佳的經營與管理

場次 31：交易的錯誤評價

場次 32：公務詐欺

七、9月7日議程

(一)專題演講

議題 14：情資與犯罪組織

議題 15：非傳統執法及私部門角色的未來

(二)集體研討

場次 30：保護無辜者及取得平衡

(三)閉幕及引言

參、會議紀實

本屆研討會與會貴賓計有一千餘人，分別來自 100 個國家及地區，與會的演講者超過 360 位，其中包括我國法務部次長吳陳鏞、斯里蘭卡工業政策與投資促進部長 Mr. G L Peiris、以色列最高法院法官 Mr. Youam Danziger、日本法務省刑事廳廳長 Mr. Nobuo Inada、瑞典經濟犯罪局局長 Ms. Eva Frojelin 等高級官員、各國從業律師、法官、學者及執法官員等，我國則由法務部次長吳陳鏞、調查局局長王福林、國際事務處處長汪忠一、調查專員段繼開及經濟犯罪防制處調查官周加宗等人代表參加。

法務部次長吳陳鏞、調查局局長王福林等一行於 9 月 1 日（星期日）下午辦理報到手續，大會主席 Mr. Saul Froomkin（傅倫金先生）及共同主席 Professor Barry Rider（萊德教授），特於當天下午 6 時許、正式開幕酒會之前，假耶穌學

院舉行小酒會，表示歡迎之意，並介紹重要與會貴賓。

傅倫金先生及萊德博士特別致詞感謝調查局歷年來對劍橋國際經濟犯罪研討會之支持，並強調雙方歷久彌新的濃厚情誼，另感謝法務部對研討會之重視，前部長曾勇夫曾親自率隊與會，本屆研討會係由次長率員參加。主席傅倫金先生特別佩戴法務部頒贈之法務獎章出席酒會，以示尊重與感謝，次長吳陳環則代表簡短致詞，表達歷屆研討會均能透過議題設計，協助各國探討國際經濟犯罪狀況並提供解決之道，對此深致敬意。法務部調查局局長王福林則舉杯預祝大會圓滿成功，雙方互贈紀念品及合影留念。



圖 1：小酒會合影。

（左 1：萊德博士、左 2：調查局局長王福林、左 4：法務部次長吳陳環、右 3：傅倫金博士、右 2：調查局國際事務處處長汪忠一）

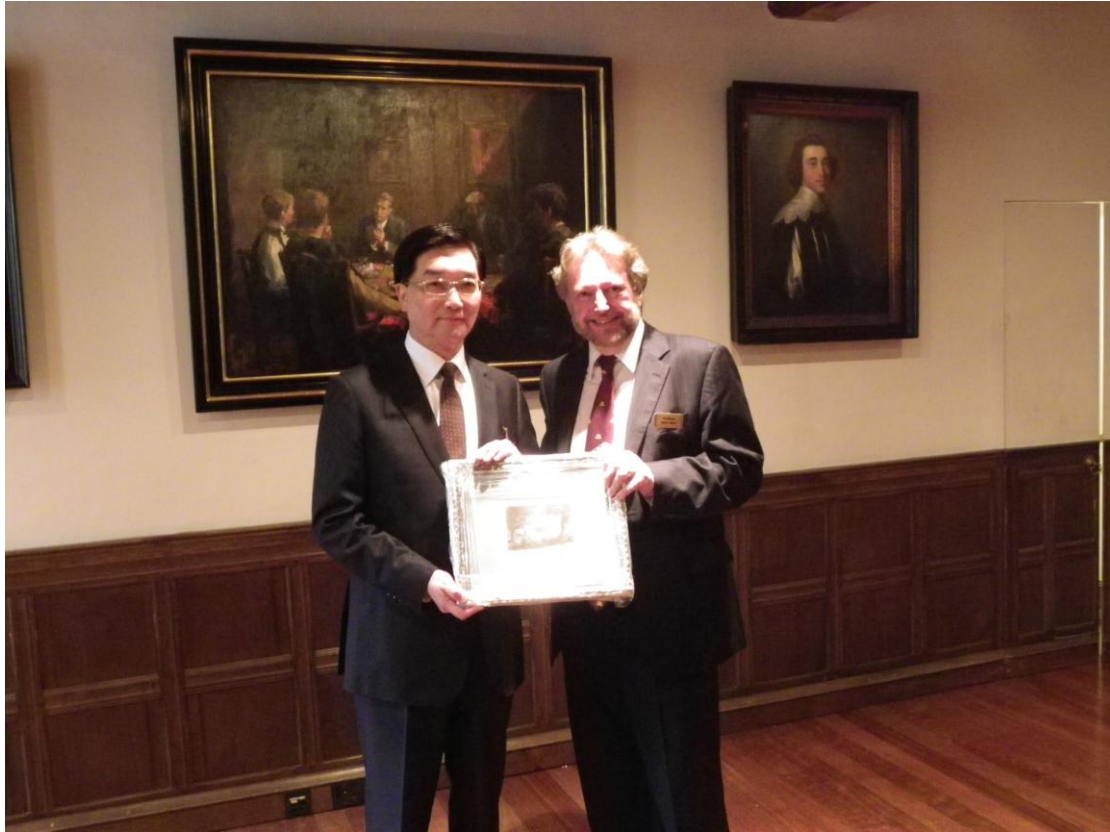


圖 2：調查局局長王福林與萊德博士互贈紀念品。

9月1日晚間6時30分，大會在劍橋大學耶穌學院廣場舉行開幕酒會，各國代表自由交誼，萊德博士致詞感謝來賓與會，對於已舉辦30屆的研討會而言，與會的來賓既是朋友也是家人，期盼研討會能在大家的支持下繼續辦理，俾對國際經濟犯罪之防制有所助益。晚間7時45分，大會在劍橋大學耶穌學院大廳舉行開幕晚宴，由與會來賓發表簡短演說。



圖 3：研討會現場。

9月2日上午8時，研討會議程於劍橋大學耶穌學院廣場正式展開，與會來賓分就本屆主題「打擊當前經濟犯罪問題：私部門的角色一是夥伴，也是問題」發表演說，法務部次長吳陳鑽亦獲邀在開幕式擔任主講人，發表專題演講，除介紹我國經濟犯罪防制組織架構、犯罪現況及防制作為外，特別強調法務部及所屬調查局是中華民國政府的主要執法機關，在反恐、肅貪、經濟犯罪、組織犯罪、洗錢犯罪防制及推動國際合作方面均有良好成果，並期盼與會各國代表能與我國合作，共同打擊跨境之經濟犯罪。演說結束後，獲得與會來賓熱烈掌聲。



圖 4：法務部次長吳陳鑽於研討會開幕式發表演說。

本屆劍橋國際經濟犯罪研討會依循慣例，學術研討論文及實務案例報告並重，每日自上午 8 時起，由與會之政府官員及學者、專家針對相關議題發表專題演講或學術論文，並可針對不同專業領域自行選擇參加不同場次之集體研討及分組討論。

法務部調查局經濟犯罪防制處調查官周加宗於 9 月 4 日上午以「新型態非法吸金犯罪之研析與防制」為題（中英文報告內容詳如附件）提出報告，針對近 5 年非法吸金案件，分析其成因、犯罪手法、態樣、現況與趨勢，以及影響層面等，並以日喬德○○克公司涉嫌跨境非法吸金案為例，說明我國打擊重大經濟犯罪之決心及經驗，並突顯國際合作的重要性，以呼應本屆研討會主題。9 月 4 日報告完畢後，在本次後續的議程空檔、酒會及晚宴中，多有與會人士詢問臺灣經濟犯罪現況，互動熱烈，顯示該篇報告業已引起注意，獲致寶貴的交流成效。



圖 5：臺灣之夜酒會，駐英代表沈呂巡及調查局局長王福林依循傳統致送舞獅紅包。

每日議程結束後，於晚間 6 時 30 分許，大會於廣場舉行酒會，供應小點心及雞尾酒等飲料，供與會人士交誼之用。

特別值得一提的是，本屆大會將 9 月 2 日晚間的酒會定名為「臺灣之夜」，藉此感謝我國政府及民間企業對研討會的支持與贊助，除安排傳統舞獅活動外，並邀請我國駐英國代表沈呂巡致詞。沈代表預祝大會成功，並向來賓介紹次長吳陳鑽、局長王福林等人。沈代表博學多聞，且對臺灣經濟發展的歷史著有研究，故舉李國鼎先生以劍橋大學獎學金留學英倫一年後，以所學回國為臺灣規劃經濟藍圖、進而創造舉世聞名的經濟奇蹟的故事開場，論及臺灣貿易出口至英國的品項已由過去的茶葉，升級為 LED 及太陽能板，說明臺灣與英國經貿關係之密切，語畢獲熱烈回響，與會人員咸認係一場小而美的演說（beautiful speech）。



圖 6：駐英代表沈呂巡於「臺灣之夜」酒會發表演說。

晚宴則於每日晚間 7 時 45 分在耶穌學院大廳舉行，不論餐桌、餐具的擺設或用餐的程序及禮儀等，均遵循英國官式傳統禮俗進行，餐後並請重要來賓發表演講，至晚間 11 時左右才結束。9 月 2 日晚宴，循例於晚間 7 時 45 分許舉行，調查局局長王福林特別獲邀代表與會來賓向大會舉杯及致意。每日晚宴結束後，與會來賓移師耶穌學院內的酒吧，繼續討論及交誼，直至深夜才盡興而歸，此係研討會成立以來一貫的特色。劍橋大學學院內所設酒吧，自古以來即為教授與學生們聯誼交流、討論甚至辯論的場所，是傳統及學術研討不可或缺的一環。

研討會於饒富英國傳統建築之美及洋溢學術研究氣息的耶穌學院舉行，使與會人員從演說及研討中汲取豐富及實用的經驗與知識外，更對劍橋大學留下深刻且美好的印象。

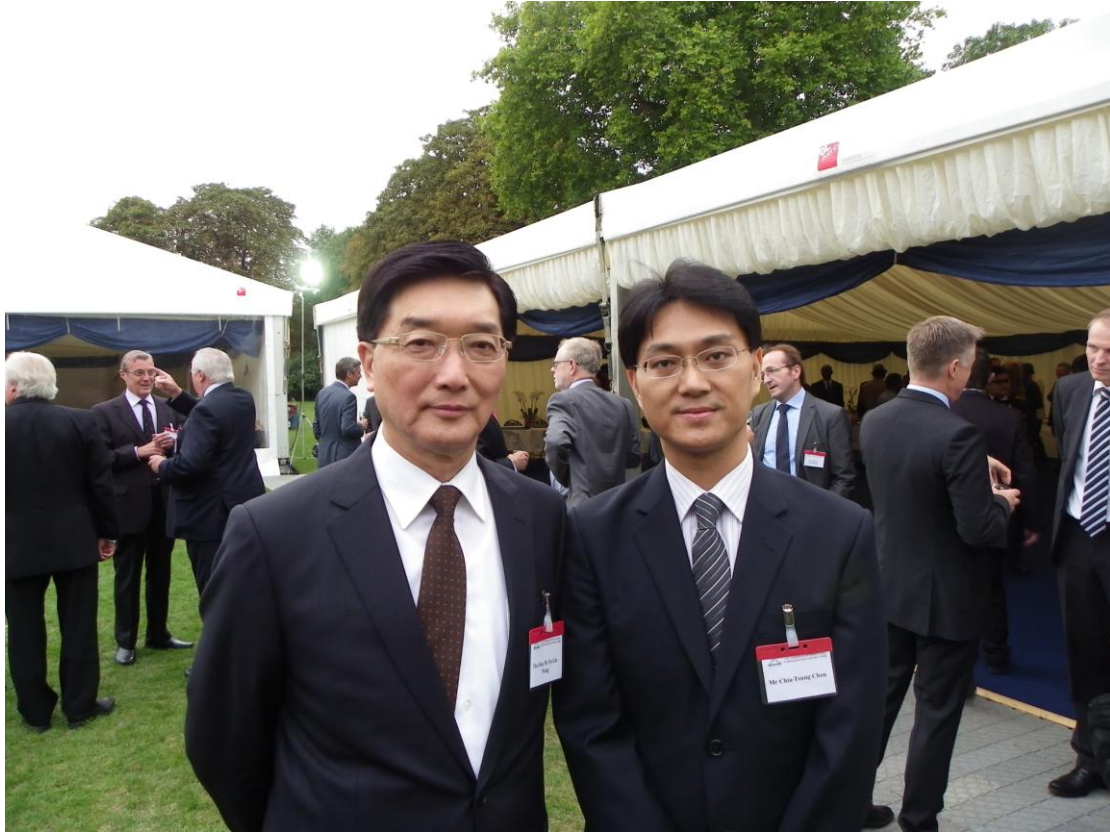


圖 7：調查局局長王福林與調查官周加宗於雞尾酒會現場合影。

肆、感想與建議

在本次會議中，與會人員廣泛研討有關經濟犯罪、洗錢、貪腐及組織犯罪等相關議題，其中有關非法吸金與詐欺、經濟與貪腐犯罪偵查、公私部門協力、私部門角色定位、網路虛擬貨幣與洗錢趨勢、國際情資交流與合作，以及犯罪所得查扣等問題，均切合實務需要。綜觀當今犯罪型態及趨勢，單一國家實難以全面應付經濟犯罪產生的問題，因此各國必須積極面對，共同尋求解決之道方有可為。我國執法機關應朝下列方向持續努力邁進：

一、積極參加國際組織及會議，擴大國際合作基礎

近年來經濟犯罪行為已朝向國際化發展，國內多起重大經濟犯罪案件，均以設立國外紙上公司及掏空公司資金匯往國外等手法進行，亦有不法分子利用衍生性金融商品以推銷海外基金名義，誑騙社會大眾，並將收款帳戶設於境外，事後

再以國外營運不佳為藉口，逕自歇業或倒閉，且由於海外帳戶資金流向查證困難，相關詐欺刑責難以舉證，致使受害民眾申訴無門，此亦突顯尋求國際奧援，進行國際司法互助合作之重要性。以往我國受限於外交政策與兩岸關係，難以與其他國家簽訂司法互助協定或備忘錄，一旦遇到境外查證或資金清查，常無法突破瓶頸而影響案件偵查。如今隨著時空因素變遷，以牟取非法經濟利益為目的之跨國性犯罪快速增加，已對區域安全及國際經濟秩序造成嚴重威脅，如何推動國際合作，共同解決問題，已成為全球的共識。

有鑑於此，國際性的犯罪防制組織或網絡開始採取積極手段來遏止犯罪的蔓延，如近年各國偵辦跨國詐欺、非法吸金及洗錢等案件，即有「艾格蒙聯盟」、「國際刑警」等組織主動提供資料，協助進行調查。因此，法務部調查局除應積極派員參加如英國劍橋國際經濟犯罪研討會、國際反貪局聯合會研討會、國際反毒會議等國際性會議外，應積極爭取機會，參與其他以打擊犯罪為宗旨的國際組織及會議，以汲取其他國家辦案經驗，提升執法人員知能，建立聯繫管道，進而提升整體犯罪偵查之能量。

二、參與國際會議，充分準備提升效果

法務部調查局已連續獲邀參加英國劍橋國際經濟犯罪研討會超過 20 年，本局於每年參與會議時均積極爭取報告、與談或引言之機會，藉此向與會來賓展現我國打擊各類犯罪之成果與配合國際共同打擊犯罪之決心，而終能獲致與會各國之認同，進而拓展實質的合作關係。

在當前全球化的國際經濟情勢下，如何面對變化多端的經濟犯罪型態與手法，均為各國關切的焦點，對於國際新興犯罪型態與趨勢以及執法實務等議題，亦獲與會人員特別之重視，本屆研討會，本局所提之「新型態非法吸金犯罪之研析與防制」報告，係由犯罪調查實務角度切入，蒐集近 5 年偵辦之非法吸金案件，研析犯罪成因、手法、態樣、現況與趨勢，以及影響層面等，並佐以跨境非法吸金案例，內容充實，此外，本局與會人員均有多年犯罪調查實務經驗，除經濟犯罪案件外，對於貪污、洗錢、毒品等案件均有涉獵，故能在議程空檔中，透過與

他國代表廣泛且深入交換意見以及分享辦案經驗之機會，獲得寶貴的交流意見，進而建立聯繫管道，並於會後持續以電子郵件維繫情誼及交流情資。

三、導引私部門加入執法行列，公私部門協力打擊犯罪

傳統犯罪防制之概念，僅強調政府公部門如何因應及其效果，忽略民間私部門實為打擊犯罪之一項利器，面對日新月異的科技，犯罪手法不斷推陳出新，衍生出諸多的變形，實已非僅靠政府公部門執法單位即可收防制之效；尤其各類衍生性金融商品迅速的發展與擴張，已對全球經濟造成連動性的影響，詐欺犯罪型態亦不斷推陳出新，此外，犯罪者的洗錢行為亦趨向境外化、國際化，復加以網際網路的推波助瀾，虛擬貨幣及其他支付工具的興起，致使追查洗錢行為及查扣犯罪不法所得益形困難，就犯罪防制角度而言，殊值各國立法及執法單位關注及共同努力。

是故，各國於近年來已陸續將民間私部門納入犯罪防制體系的一環，並且是處於犯罪防制最前線的關鍵地位，如金融機構於洗錢防制所扮演的角色，包括認識客戶（KYC 原則）、通報大額通貨交易及疑似洗錢情資等，另外鼓勵不法企業或犯罪組織內部之揭發者、會計與稽核人員等檢舉告密者（Whistle Blower），皆為私部門可協力打擊犯罪之著例。

然對於私部門之參與，亦非可全然樂觀視之，由於私部門並不具備執法之地位及專業，法令與道德、利益間之衝突，將使私部門於參與第一線犯罪防制工作時，面臨挑戰，甚至引發犯罪。因此，政府要將私部門納入犯罪防制體系的同時，必須先瞭解如何善用及規範私部門的力量，否則私部門將搖身一變成為協助犯罪的助力甚至引發新的犯罪。是故，各國已陸續增列要求私部門人員須接受若干相關法令與專業訓練並通過考試等規定，另透過執法或行政機關，提供私部門人員相關法令與專業的訓練，如防制洗錢、詐欺等等，整合公私部門之資源與力量共同打擊犯罪。

四、健全保護檢舉人法令，規範私部門責任與義務

「Whistle Blower」（吹哨者，即檢舉人），是天使或魔鬼？世界通訊

(WorldCom) 的庫柏、FBI 的羅莉及安隆 (Enron) 的華金斯，因揭發企業及政府弊端，獲選時代雜誌 2002 年度人物，他們不僅讓安隆能源公司及世界通訊公司做假帳的會計醜聞公諸於世，也揭發美國聯邦調查局坐失避免 911 恐怖攻擊機會之內幕。

吹哨者，A whistleblower，一詞源自英國警察吹哨子示警的行為，被英、美等國立法引用，成為內部人員基於公益而挺身揭弊的代名詞，所謂吹哨者，係指政府機構、民間企業或團體內部，為維護公共利益，揭露組織不法行為的僱員，而吹哨者保護條款，則可避免企業內部員工因恐遭報復而怯於提供線索協助。

近來我國黑心商品案件頻傳，黑心食品事件層出不窮，已嚴重打擊民眾消費信心，如何善用檢舉人制度揭發此類型犯罪，應是值得努力的方向，如力○貿易公司之員工，發現公司竄改西點原料有效期限，向媒體爆料並臥底配合調查，順利查獲力○貿易公司大賣過期 9 年的黑心巧克力案件，負責人遭依詐欺等罪嫌起訴並求刑，成為內部檢舉人揭弊成功的案件，但公司疑因猜出揭弊者身分，最後仍將該名員工資遣。美國在 1989 年聯邦政府頒布「告密者保護法」(Whistleblower Protection Act)，明定若政府機關對揭弊的公務員報復，即屬違法，國外對揭弊者權益的保障，通常依犯罪態樣及立法目的而略有不同，例如保障揭弊者的工作權、人身安全或減免刑責等，而我國貪污治罪條例、毒品危害防制條例、組織犯罪防制條例及公平交易法，也有保障檢舉人的規定，但仍然缺乏完整保護機制，值得通盤檢討。

五、落實企業內部作業規範及稽核制度

2001 年 10 月美國爆發安隆 (Enron) 公司作假帳案，2003 年 6 月國內發生博○案，有媒體將之形容為臺灣版的安隆案，因兩案頗多類似之點，另國內近年來所發生多起重大銀行或企業掏空公司資產案件，都是財團掏空銀行發生財務危機，最後由政府及全民來貼補損失，深究此類型經濟犯罪案件發生原因，大部分是人謀不臧、企業缺乏內控機制所致。

藉由企業內部建立可行的作業規範與內控機制，樹立正確的企業道德準則及

風險管理等方法，並嚴懲犯罪行爲者，始能有效防堵犯罪行爲發生，再輔以民間私部門配合政府公部門執法機關的偵辦，方能全面遏止經濟犯罪。

目前在國內、外銀行或具一定規模的企業內，均設有法務部門或法令遵循部門（legal and Compliance Department），目的即是在確保企業經營的業務符合公司內部及當地法律的要求及規定，另國外特別重視「法令遵循部門之直屬性」，在企業內設立法令遵循委員會，並直屬董事會或獨立之審計委員會，其目的除了確保法令遵循委員會獨立運作外，並在保證任何人不因執行監控法令遵循作爲而受到任何報復。又以博O案爲例，據媒體報導本案爆發前，公司即有多名重要職員包括財務經理、稽核主管及發言人在短暫期間內陸續離職，類此在公司弊案引爆前，高級主管掛冠求去之實例，無分國內、外，常屢見不鮮，顯見在弊端發生前，必有一定的癥候，而公司內部職員是最可能預先知道的人。如企業內部能有效導入並落實法令遵循機制，相關財務、會計或稽核人員與主管依法令遵循規定，善盡善良管理人注意義務，配合「告密者保護條款」，內部人在不受報復之保證前提下，方能勇於向法令遵循部門反應可疑情況，許多重大舞弊行爲，即可提早發現、適時制止，公司股東的損害將可降至最低，亦可減少對社會經濟負面的衝擊，如此，才能真正落實並健全公司內部控制，避免企業舞弊案件一再重演。

Research Analysis and Prevention of New Modes of Illegal Money Spinning Crime

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Research Analysis and Prevention of New Modes of Illegal Money Spinning Crime

I. Preface

Since the global financial tsunami occurred with the bankruptcy of Lehman Brothers Holdings in 2008, unfavorable negative factors have appeared one after another such as the European debt crisis, the slowdown of the perspectives in USA and Mainland China, etc. Jointly these have impacts on the economic growth in Taiwan, causing investors to lose confidences in normal investment channels, and therefore providing a chance for illegal groups to attract capitals with high interest gains.

“Illegal money spinning” refers to “Ponzi Schemes”, usually called “Pyramid schemes” in Taiwan, These attract investors with high remuneration rates successfully enticing them to join in an investment plan. An investor is required to pay an amount to serve as the cost for participation, and the investment amounts of latter investors serve as the interest gains of the early participants. Along with the increase in the number of investors, the interest to be paid is increases sharply. Eventually, the capital of the following investors can hardly match the interest expense, and the entire group then can collapse accordingly. The latter investors suffer the most serious financial loss, and such an act can drastically harm the financial order.

II. Cause and Impact Level of Illegal Money Spinning Crime

1. Causes of Illegal Money Spinning Crime

(1) Human Greed

An illegal money spinning group catches the greedy mentality of investors, and traps investors with the attractive terms of “high profit, low risk”. After the investment of investors in the initial stage, the initial investors may gain their interest on schedule. Investors having tasted the sweetness gradually increase their trust in an illegal money

spinning group, not only inputting in larger and larger amounts of money but also inducing relatives and friends to jointly invest. Hence, the circle of victims also gradually expands.

(2) Poor Economy and Investment Environment

Recently, the global financial market has performed poorly and the investment remuneration ratio is rather low, causing investors to lose confidences in the market. On the other hand, various nations have reduced their interest rates for bank deposits. Facing the low interest rate epoch, investors have actively sought for higher profits. As an illegal money spinning group offers a high profit which obviously fails to conform to the market interest rate, investors naturally are attracted by this technique. Therefore, they forget those sayings such as, “there is no free lunch” and “wherever there is profit, there is a risk”. Hence, as long as an illegal group can design and offer an investment target claiming no risk and high profit, the general public normally lacks a warning sense, and very soon falls into the trap of an illegal group in pursuit of the gains from money spinning.

(3) Public Failure to Realize the Legal Regulations

Almost all victims of an illegal money spinning case do not realize the illegal money spinning act of an underground investment agency basically has violated the regulations of Article-1 of The Banking Act of the Republic of China: “Using borrowed money, accepting investments, making the depositor a shareholder or using other classifications in order to accept deposits or obtain capital from the general public by agreeing to pay or paying a bonus, interest, share dividend interest or other reward in an excessive amount, shall be deemed the act of Accepting Deposits.” Rather they simply deem it a joint capital collection by an investment agency to engage in investment so as to gain high profit, without knowing that an illegal money spinning group normally does not perform any investment, as the “profit”

comes from the capital of investors.

(4) White-collar and High Intellectual Crime

The general public does not know much about corporate operation and financial theories, and new investment and the derivatives in markets have appeared continuously. Also, most members of an illegal money spinning group possess high education and knowledge levels, and they can employ legal and financial knowledge to package the money spinning behaviors into various investment plans. These plans can cover such fields as medication, biotechnology, high technology, finance, precious metal, overseas investment, mining excavation, and alternative energy, etc. They then calculate a set of complicated profitability programs, to skillfully cover the illegal aspect, in order to maintain the operation of an illegal money spinning group.

2. Impact of Illegal Money Spinning Crime

(1) Attack on Investor Confidence

In recent years, the Bureau has investigated several illegal money spinning cases under many categories, such as high technology, biotechnology, etc. These schemes seriously attack the investment intent of investors with available funds who are in keen needs of investment channels. This causes a shadow to be cast on the government's vision of emphasizing the bridge between the securities market and the international community. In addition, currently with floating capital and successively dropping interest rates, there are multiple related challenges. How to lead the floating capital into a correct channels, to upgrade the recessed economy, to stimulate demand by government sectors with public strategies, are crucial. More important, however, is to create a reasonable and safe investment environment to attract investors.

(2) Disturbance of Financial Order

Illegal money spinning generally employs “high profit” as a means to attract investors to invest their idle capital in a private sector or enterprise which is not under the supervision and management of the government. This causes a loss of control in idle capital in a society, with an impact on the preparation and planning of government economic policies. “High profit” also forms an unjustified competition with banking institutes, seriously damaging the national financial order.

(3) Explosion of Social Problems

Since investors invest under the attraction of high profit claimed by the illegal money spinning group, they often solicit their relatives and friends to jointly participate, and also borrow amounts from relatives and friends for investment. Some investors consume their life-long savings. Some investors borrow money from banks. Once the pyramid system collapses, it causes “overnight hatred.” This can cause human connections to become alienated, and some investors even would commit suicide.

III. Means and Patterns of Illegal Money Spinning

1. Using a “Pyramid Scheme” System

In Taiwan, a multi-level marketing business must report to the supervising authority first prior to its operation. Yet partially illegal money spinning groups after completing legal reporting procedures, under the slogan of “being registered with the government agency, and legal operation”, attempt to mislead the public’s perception of them. An illegal money spinning group does not promote or sell products or labors, yet after a participant pays for admission, he/she should recommend others to be admitted in order to have an income. The upper-level participants can share the admission fees of the lower-level participants, one level over another level, just like a “pyramid”. The initiator is the ultimate benefiter while the lowest-level

participants would be the maximum victims.

2. Using the Name of an Overseas Investment Opportunity

During these years, the domestic public has more and more demand for overseas investment. Importantly, overseas investment has such advantages as tax evasion or tax saving. An illegal group can establish a false company overseas, or self claims it to be an affiliated enterprise to a certain renowned overseas agency. Under this name they can claim to invest in overseas high-tech securities, in residential real estate, in commercial buildings, etc. in order to solicit fund from the public. Since the domestic public has difficulty checking and verifying overseas information, they tend to be easily cheated.

3. Using an Unspecified Type of Company, the Products for Sale Also Turn out to be Diversified

Along with the progress overtime and the diversification of commercial products, illegal groups have turned from the the earlier stage pattern of using investment companies. Now, insurance companies, financial consultancy companies, futures companies, etc. are also likely vehicles. The investment manner also has turned from dividend sharing by becoming shareholders, to investments in overseas securities, bonds, foreign currency, insurance policies, real estate, and even the latest alternative energy, carbon futures trading, etc. These have also become the target of money spinning. Importantly, in the schemes publicity production and promotion, refined packaging is provided to confuse the general public, so that they fail to differentiate whether such a company is legal.

4. Using an Online Platform

An online investment management company is established with such names as foreign currency, financial investment, recreational gambling, online store, online social platform, etc. This attracts the public to purchase stock shares of an unlisted company with top development potential, and cheats by stating that the said company is soon to be listed. After listing, an

investor would become an original shareholder of a company, able to be directly distributed a dividend. For example, such websites as Facebook, Twitter, etc. as group websites have become very popular and these scheme copies their investment strategy. This category of investment-management companies establish an online social platform whose investors concurrently have the identity of an original shareholder and a member, which creates a false image of the said platform to have high utilization ratios.

The aforementioned money spinning patterns are a rather popular technique in Taiwan during these few years. However, no matter how the money spinning patterns change, there are several common features. These include: using the claim of “high profit, low risk” to attract the private idle capital, employing a “pyramid” organization (pyramid scheme mode) to attract the investors, taking advantage of social connections to expand an organization’s magnitude, and producing a new emotional belt. These all work by using latter capital as a return to former capital to maintain the survival of an organization. Yet only a little capital is applied to distributing to investors, while the majority of capital becomes the personal assets of the high-level personnel of the organization.

IV. Current Situation and Trend of Illegal Money Spinning Cases in Taiwan

The Investigation Bureau, Ministry of Justice, is the only agency in R.O.C. (Taiwan) which detects major economic crime. Since, the detection of an illegal money spinning group is an important function of the Bureau, the data for these five years are provided to analyze the illegal money spinning case tendency in Taiwan. Aided by the experience of the Bureau in investigating the “illegal money spinning case of Mituru Okura of Dream Bank Co.”, it is hoped these serve as a reference for other nations in investigating such category of cases in the future.

1. Statistics of Illegal Money Spinning Cases under Investigation and Transferred for Action

The Banking Act of the Republic of China specifies four major categories of cases as illegal absorption of funds, conducting domestic/overseas remittance business without government approval, a breach of trust of the personnel of a financial agency, and defrauding property from a financial agency. Here are the illegal money spinning cases and the cases in violation of The Banking Act of the Republic of China during the latest five years.

Table 1 : Illegal Money Spinning Cases of the Investigation Bureau, Ministry of Justice during the Last Five Years (Unit: NT \$1,000)

Item \ Year	2008	2009	2010	2011	2012
Case No.	4	8	5	10	34
No. of suspects	26	46	14	35	248
NT Amounts of the Cases	2,473,061	3,166,405	1,387,725	26,499,276	33,384,926

Table 2: Cases in Violation of the Banking Act during the Last Five Years

Year Kind	2008		2009		2010		2011		2012	
	Case	No. of suspect	Case	No. of suspect	Case	No. of suspect	Case	No. of suspect	Case	No. of suspect
Against the Banking Act of the Republic of China	58	201	51	165	40	96	53	158	84	418
Illegal money spinning	4	26	8	46	5	14	10	35	34	248
Percentage (%)	6.9%	12.9%	15.7%	27.9%	12.5%	14.6%	18.9%	22.2%	40.5%	59.3%

Table 3: NT \$ Amount of the Cases in Violation of the Banking Act in Illegal Money Spinning Cases during the Latest Five Years (Unit: NT \$1,000)

Item \ Year	2008	2009	2010	2011	2012
Against the Banking Act of the Republic of China	32,565,493	45,459,137	26,759,703	108,428,746	98,002,348
Illegal money spinning	2,473,061	3,166,405	1,387,725	26,499,276	33,384,926
Percentage (%)	7.59%	6.97%	5.19%	24.44%	34.07%

During the period from 2008 to 2010, the illegal money spinning cases investigated by the Bureau were less than 10 cases every year (Table 1); however, in 2011, it increased to 10 cases. In 2012, it further increased considerably to 34 cases, about 3 times of the number of the previous year. The money spinning amount in 2010 was NT\$1,387,720,000 while in 2011 this drastically increased to NT\$26,499,270,000, about 20 times of the amount of the previous year. In 2012, scale further increased to NT\$33,384,920,000. This phenomenon seems to reflect such factors as the poor economic performance and decrease of interest rates, which indeed have a positive connection to the illegal money spinning cases and show that idle capital in the society still needs to be in circulation. As the entire economic situation is not very ideal, illegal groups may still continuously exploit the human greed and weakness to engage in crime.

The number of illegal money spinning cases during 2008 and 2010 account for about less than 15% of the cases in violation of the Banking Act of the Republic of China (Tables 2 & 3). The number slowly increased in 2011 to about 19%, and in 2012 drastically to 40%. Furthermore, the number of suspect during 2008 and 2011 are all below 50 people. However, in 2012, the suspect number also drastically increased to 248 people.

The NT\$ amount of illegal money spinning case during 2008 and 2010 accounts for less than 8% of the cases in violation of the Banking Act; yet in 2011, it suddenly raised to 24.4%, while in 2012 it reached 34%. These facts verify that illegal money spinning cases have been the most serious violation of the Banking Act, and are worth further concern and investigation of the Bureau.

2. Educational Level Analysis of the Suspects

Table 4: Educational Level of the Suspects in the Cases in violation of the Banking Act during the Last Five Years

Year		Total	2008	2009	2010	2011	2012
Elementary school	Suspect No.	82	12	16	5	17	32
	Percentage	7.90%	5.97%	9.70%	5.21%	10.76%	7.66%
Junior high school	Suspect No.	73	18	8	6	18	23
	Percentage	7.03%	8.96%	4.85%	6.25%	11.39%	5.50%
Senior high school	Suspect No.	164	45	31	10	14	64
	Percentage	15.80%	22.39%	18.79%	10.42%	8.86%	15.31%
Above high school	Suspect No.	682	124	109	71	99	279
	Percentage	65.70%	61.69%	66.06%	73.96%	62.66%	66.75%
Unknown	Suspect No.	37	2	1	4	10	20
	Percentage	3.56%	1.00%	0.61%	4.17%	6.33%	4.78%
Total	Suspect No.	1038	201	165	96	158	418
	Percentage	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%

The total number of suspects during the latest five years (Table 4) is 1,038, among them suspects with the educational level above high school are 682 people, accounting for 65.70%, the highest percentage. Next are 164 suspects with senior high school education, accounting for 15.80%. In addition, during the latest five years, the suspects with the educational level above high school account for more than 60% of the suspects of every year, further verifying concerning that in these cases most suspects are white collar and high intellectual criminals. They solicit illegal gains by means of their higher social and economic positions.

V. Case Introduction – Dream Bank Co. Is Suspected of Getting Involved in Cross-Border Illegal Money Spinning

1. Suspicious Methods of Involving Victims

Mituru Okura (Japanese nationality) is the responsible person of Dream Bank Co. Hiroshi Tanitomo (Japanese nationality) and his girl friend Wang, Shu-Er (Taiwan nationality) are all the

directors of the company. From March 2010 to March 2012, they solicited memberships among unspecified people, to invest in the purchase the coin-inserting type of massage chairs (sale price per unit at NT\$98,000) and vending machines (sale price per unit at NT\$318,000). They falsely stated that they consigned these machines to BIG VISION Company of Japan (responsible person also Mituru Okura) to lease and operate them in various hotels, health centers and golf courts, etc. in Japan. From the 4th month after members' participation, the members may obtain remuneration from the lease operation at 30% of the revenue received per month. Given the difference of machines, each month a member may obtain NT\$8,000 or NT\$18,000. Obviously, this is not relative to their paid in principal.

In addition, if members recommend someone to purchase a massage chair or vending machine, they may obtain an additional sales bonus for their recommendation in amount of NT\$9,000 or NT\$13,000 respectively. If a down-line member recommends another person to be admitted, the original member may further obtain a bonus of NT\$1,800, and these may be obtained down to the 10th generation.

The total solicited members were more than four thousand people, the money spinning amount was NT\$2,543,434,000, of which more than NT\$1 billion was, during August 2010 and February 2012. This was under the guise of purchasing massage chairs and vending machines, was remitted to Japan, and was obtained by Mituru Okura. Hiroshi Tanitomo, Wang, Shu-Er and their friends shared NT\$100,000,000 illegal gain. The rest of the payments served for distributing member bonus and remuneration, without purchasing any massage chairs and vending machines.

The case was sentenced by Taipei District Court. Hiroshi Tanitomo was sentenced to imprisonment of 12 years and 4 months, and also imposed with a fine of NT\$50,000,000. Wang, Shu-Er was sentenced to imprisonment of 12 years and 4 months, and imposed with a fine of NT\$50,000,000. The main suspect Mituru Okura is now under the circular order of arrest.

2. Detection Method

(1) Initiative in Probing Clues

The Case was initiatively discovered by a field operation office of the Bureau. At first, the facts and evidence collected were considered sufficient. During the investigation period, information and clues from various field operation offices of the Bureau were successively received. The Bureau was able to timely control the situation, recognizing that Dream Bank Co. had still absorbed down-line members in various places of Taiwan including offshore areas to develop its organization and engage in money spinning by means of other accounts.

(2) Clearly Check the Money Laundering Transactions

The money spinning cases normally engage in amounts of NT\$100,000,000, with rather complicated transaction accounts which are hard to clarify. The suspects often hide their criminal gains in numerous methods that are hard to investigate. Nevertheless, the Bureau still tried its utmost in tracing the illegal gains, and retained cash of NT\$11,000,000 and froze capital of NT\$154,560,000.

VI. Conclusions

In order to eliminate the illegal money spinning operators, the Bureau actively investigating these type of illegal cases, in order to prevent crime. The “illegal money spinning types and cases” are also edited from the investigated cases, and are linked and pasted to the front page of the Internet webpage of the Bureau, to remind the public to note the illegal money spinning traps.

In addition, to accompany of the internationalization of crime and the subsequent increase of cross-border money spinning cases, and in order to compensate for the difficulty of evidence control, Taiwan has actively negotiated and signed juridical mutual support agreements with various nations, to facilitate the investigation of and tracing illegal gains.