



- 2.3.2** Both money laundering and terrorist financing are criminal offences under the Laws of Hong Kong. According to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405) and the Organized and Serious Crimes Ordinance (Cap.455), a person commits the offence of money laundering if he deals with any property, including money, which **he knows or has reasonable grounds to believe** to be proceeds of crime. Under the United Nations (Anti-Terrorism Measures) Ordinance (Cap.575), a person commits the offence of terrorist financing if he provides or collects funds **knowing or with the intention** that the funds will be used for terrorism.
- 2.3.3** Taking an indifferent attitude or turning a blind eye to a transaction you know or have reasonable grounds to believe that crime proceeds/terrorist funds are involved, may result in your conviction for the above offences.

2.4 What Do You Need to Do?

- 2.4.1** Anti-money laundering and counter-terrorist financing is everyone's responsibility. However, some sectors will have a greater risk of coming across crime proceeds or terrorist property than others, e.g. practitioners in our financial market, remittance agents, money changers, money lenders, estate agents, trust and company service providers, jewellers, accountants, lawyers, etc.

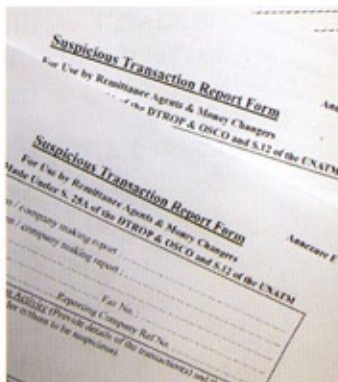
2.4.2 When you come across any property, which you **know or suspect** to be drug or crime proceeds or terrorist property, you should make a suspicious transaction report (STR) to the Joint Financial Intelligence Unit (JFIU).

2.4.3 Whilst there is no prescribed manner of reporting, it is advisable to make STRs in writing. A standard form has been designed to assist individuals in making STRs. The form can be downloaded from the JFIU website (www.jfiu.gov.hk). An STR should include the following information:

- Personal particulars and contact details of the individuals or entities involved in the suspicious activity;
- Details of the suspicious activity;
- The suspicious activity indicators observed; and
- Any explanation provided by the subject of the STR when questioned about the transaction or activity (if any).

2.4.4 Failing to report knowledge or suspicion of crime proceeds or terrorist property is a criminal offence. If you go on to deal with such property **knowing or having reasonable grounds to believe** that the property is crime proceeds, then you may have committed the offence of money laundering.

2.4.5 It should be noted that the crime from which the proceeds were derived does not need to have taken place in Hong Kong, e.g. if you come across certain property in Hong Kong, which you know or suspect is proceeds of drug trafficking in an overseas country, you should also report your knowledge or suspicion to the JFIU. Again, failure to report knowledge or suspicion of such property and dealing with such property are criminal offences.



- 2.4.6** To prevent your sector from exploitation by money launderers and terrorist financiers, and protect yourself from unwittingly committing the money laundering and terrorist financing related offences described above, apart from reporting suspicious transactions, it is advisable that you should always conduct **Customer Due Diligence (CDD)** and **maintain proper records of transactions**.
- 2.4.7** Besides reporting suspicious transactions, CDD and record keeping are two of the “core” money laundering and terrorist financing countermeasures adopted by the international community and have been implemented in the banking, securities and futures, and insurance sectors in Hong Kong in compliance with the anti-money laundering guidelines issued by the respective sector regulators.
- 2.4.8** CDD means “Know Your Customers and their transactions” in general terms, i.e.:
- (a) know who you are actually dealing with;
 - (b) know the beneficiaries of the transactions;
 - (c) know the purposes and nature of the transactions; and
 - (d) know the sources of the funds involved.
- 2.4.9** The ways of gathering this information may vary from business to business. For some businesses, the relevant information about the clients and the transactions may have been required by applicable laws or established practices. For others, members of the trade may need to do their own checks. In most cases, asking the customers for the information skillfully would do, e.g. by tactfully posing questions in the midst of promoting products or services that may be of interest to the customers.

- 2.4.10** Persons engaged in legitimate business activity, generally, will have no objection to, or hesitation in answering such questions. Persons involved in illegal activity, however, are more likely to be evasive, to refuse to answer or to provide a fabricated answer. The manner in which a customer answers such questions may be an indication of the suspicious nature of the transaction or activity.
- 2.4.11** The JFIU has developed an “SAFE” approach to assist you in identifying suspicious transactions and business activities.



- S**creen the customer and transaction for suspicious activity indicators;
- A**sk the customer appropriate questions to clarify suspicious circumstances;
- F**ind out whether the transaction commensurates with what is expected from the customer by reviewing the information already known about the customer; and
- E**valuate all the above information and decide whether the transaction relating to the customer is genuinely suspicious.

In case of doubt, the JFIU is happy to advise (Tel no.: 2866 3366, Fax no.: 2529 4013, Email: jfiu@police.gov.hk).

2.4.12 As for record keeping, many businesses may have the practice of keeping records of customers and transactions in accordance with applicable legal requirements, e.g. taxation, etc. Record keeping is important in anti-money laundering investigation which allows for swift reconstruction of individual transactions and provides evidence for prosecution of criminal activities including money laundering.

2.4.13 Though CDD, record keeping and suspicious transaction reporting have been practiced in our banking, securities and insurance sectors for years, they are certainly new to your sectors and may present challenges to you. Apart from possible resource implications, management commitment, capacity building and culture change in your sectors and amongst your customers may be required. It may take some time to incorporate these three measures in your daily practice. Most important of all is to start practicing them now:

- (a) Customer Due Diligence
- (b) Record Keeping
- (c) Suspicious Transaction Reporting

