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打擊清洗黑錢 及恐怖分子融資活動

Combating Money Laundering and Terrorist Financing

客戶查證 備存記錄
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舉報可疑交易
Report Suspicious Transaction

2866 3366

聯合財富情報組
Joint Financial Intelligence Unit
jfiu@police.gov.hk



打擊清洗黑錢及恐怖分子融資活動 Combating Money Laundering and Terrorist Financing

香港一直致力打擊清洗黑錢及恐怖分子融資活動。80年代末國際通過首條公約，規定把清洗黑錢在本地法律中定為刑事罪行。當時，保安局轄下的禁毒處負起整體政策統籌之責，聯同相關政府決策局和部門及金融監管機構，在香港落實打擊清洗黑錢政策及推行有關措施，其後更把範圍擴展至反恐融資。

基於國際間清洗黑錢及恐怖分子融資活動的形勢不斷改變，而金融機構採取的相關預防措施亦成為打擊清洗黑錢及恐怖分子融資活動不可或缺的一環，當局於二〇〇八年十月一日起把打擊清洗黑錢/反恐融資事宜的整體政策統籌工作，轉交財經事務及庫務局負責。禁毒處則繼續確保指定非金融企業及行業（即會計師、賭場、地產代理、律師、貴重金屬及寶石交易商、信託及公司服務供應商）採取各項打擊清洗黑錢及反恐融資的措施符合既定國際標準。

經多年努力，香港已建立穩健和完備的打擊清洗黑錢及反恐融資制度，達至打擊清洗黑錢及反恐融資國際標準的跨政府組織——打擊清洗黑錢財務行動特別組織（特別組織）——所公布的國際標準。當局還不斷在立法、執法及教育方面採取多項措施，鞏固有關制度。

Hong Kong is committed to fighting against money laundering and terrorist financing. The first international convention requiring criminalisation of money laundering in national legislation was adopted in late 1980s. The Narcotics Division (ND) of the Security Bureau took up the responsibility for the overall co-ordination for the policies and the implementation of anti-money laundering (AML) back then and, at a later stage, counter financing of terrorism (CFT) measures in Hong Kong, in collaboration with relevant government bureaux and departments and financial regulators.

In response to the changing landscape of international money laundering and financing of terrorism, under which preventive measures adopted by financial institutions have become essential components, the overall policy co-ordinating role for AML/CFT matters was transferred to the Financial Services and the Treasury Bureau (FSTB) on October 1, 2008. The ND continues to promote compliance with AML and CFT standards among Designated Non-Financial Businesses and Professions (DNFBPs) namely: accountants, casinos, estate agents, lawyers, precious metals and precious stones dealers, and trust and company service providers.

Over the years, Hong Kong has built up a robust and comprehensive AML and CFT regime consistent with the international standards as promulgated by the Financial Action Task Force on Money Laundering (FATF), an inter-governmental body which sets international AML and CFT standards. The regime has continuously been strengthened by various measures and initiatives implemented on the legislative, enforcement and education fronts.



禁毒處製作兩款海報，以指定非金融企業及行業的從業員為對象，宣傳打擊清洗黑錢及恐怖分子融資活動的重要性。
The ND produces two posters targeting practitioners of DNFBPs on the importance of AML/CFT.

有效的法律架構

《販毒(追討得益)條例》(第405章)及《有組織及嚴重罪行條例》(第455章)是追查、限制和沒收販毒及其他嚴重罪行得益，以及阻止罪犯保留犯罪得益的重要工具。當局定期檢討和修訂兩條條例，以配合最新發展。

自二〇〇〇年六月起，當局根據《有組織及嚴重罪行條例》，規定匯款代理人及貨幣兌換商必須就其經營的業務向警方登記，並遵行打擊清洗黑錢措施，例如識別客戶身分，以及就20,000元或以上的交易備存記錄。有關的金額下限於二〇〇七年一月下調至8,000元。

為更有效地督導和統籌本港打擊清洗黑錢/反恐融資制度的策略性發展，使該制度與不繼提升的國際標準達成一致，政府於二〇〇八年四月成立高層次的打擊清洗黑錢及反恐融資中央統籌委員會(中央統籌委員會)，由財政司司長擔任主席，成員包括相關政府決策局、部門及金融監管機構的高層人員。

二〇一〇年十一月，財經事務及庫務局向立法會提交《打擊洗錢及恐怖分子資金籌集(金融機構)條例草案》。條例草案旨在改善本港金融業的打擊清洗黑錢制度，使制度與現行的國際標準更趨一致。主要建議包括：要求指明金融機構向客戶進行盡職審查及備存記錄等法定規定；指定並賦權有關當局監督指明金融機構遵從法定規定；以及就金錢服務經營者設立發牌制度。

EFFECTIVE LEGAL FRAMEWORK

The Drug Trafficking (Recovery of Proceeds) Ordinance (DTROPO) (Chapter 405) and the Organized and Serious Crimes Ordinance (OSCO) (Chapter 455) are the main tools to trace, restrain and confiscate proceeds of drug trafficking as well as other serious offences and to stop criminals from retaining their illicit profits. Both ordinances are regularly reviewed and amended to keep pace with developments.

Since June 2000, a registration scheme was introduced under OSCO whereby remittance agents and money changers were required to register their businesses with the Police and to follow AML measures such as customer identification and transaction record keeping for transactions of \$20,000 or above. The threshold was lowered to \$8,000 in January 2007.

To better steer and co-ordinate the strategic development of Hong Kong's AML/CFT regime in line with rising international standards, the Government set up a high-level Central Co-ordinating Committee on Anti-money Laundering and Counter Financing of Terrorism (CCC) in April 2008 under the chairmanship of the Financial Secretary. The CCC comprises senior officials of relevant government bureaux, departments and financial regulators.

In November 2010, the FSTB introduced the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill into the Legislative Council. The Bill seeks to improve Hong Kong's AML regime of the financial sectors to better align with the prevailing international standards. Major proposals include: imposing statutory customer due diligence and record-keeping requirements on specified financial institutions; designating and empowering relevant authorities to supervise compliance with the statutory requirements by the specified financial institutions; and putting in place a licensing regime for money service operators.

為使規管指定非金融企業及行業的規管架構更好符合與特別組織的規定，禁毒處擬透過立法，為指定非金融企業及行業訂立客戶盡職審查及備存記錄等規定。

嚴厲執法

鑑於清洗黑錢及恐怖分子融資活動的手法不斷改變，本港執法機關採取靈活策略，令執法人員即使面對情況轉變，亦能迅速作出調整。當局又採取情報主導的方式主動調查，竭力打擊有關問題。

在二〇〇七至二〇一〇年，成功檢控涉及清洗黑錢的個案，共有 869 宗。

自《販毒（追討得益）條例》及《有組織及嚴重罪行條例》於一九八九年及一九九四年實施以來，被沒收並已交付政府的資產總值 7.11 億元。截至二〇一〇年十二月，遭限制的資產達 60.2 億元，正有待向法庭申請沒收。

根據《販毒（追討得益）條例》、《有組織及嚴重罪行條例》及《聯合國（反恐怖主義措施）條例》，任何人均有法律責任作出可疑交易報告。可疑交易報告亦成為打擊清洗黑錢和恐怖分子融資活動的主要情報來源之一。警方及海關於一九八九年成立聯合財富情報組，接收並分析可疑交易報告。聯合財富情報組向警方及海關發放情報，讓它們對清洗黑錢及恐怖分子融資活動等罪行展開跟進調查，並提出檢控。

To bring the regulatory framework for DNFBPs in line with the FATF requirements, the ND will seek to establish a regulatory regime through legislation for the DNFBPs in respect of customer due diligence and record-keeping requirements.

VIGOROUS LAW ENFORCEMENT

In view of the ever-changing money laundering and terrorist financing trends, law enforcement agencies in Hong Kong adopt a dynamic strategy which allows them to adjust swiftly to deal with changing circumstances. Proactive intelligence-led and vigorous investigations have been carried out to combat the problems.

From 2007 to 2010, there were a total of 869 successful prosecutions of money laundering.

Since the introduction of DTROPO in 1989 and OSCO in 1994, assets valued at \$711 million have been confiscated and paid to the Government. By December 2010, assets amounting to \$6.02 billion were restrained pending confiscation proceedings.

Reporting suspicious transactions has been made a legal obligation for everyone under DTROPO, OSCO and the United Nations (Anti-Terrorism Measures) Ordinance (UNATMO). It also forms one of the primary sources of intelligence for AML/CFT purposes. The Police and the Customs and Excise Department (C&ED) jointly operate the Joint Financial Intelligence Unit (JFIU), which was set up in 1989, to receive and analyse suspicious transaction reports (STRs). JFIU would then disseminate financial intelligence to the Police and the C&ED for follow-up investigations and prosecution of money laundering and terrorist financing offences.

聯合財富情報組於二〇〇六年十一月引入可疑交易報告管理系統（包括電子舉報，以及自動化可疑交易報告處理分析兩部分），系統運作大大提升了該組的分析和個案管理能力。在二〇〇七至二〇一〇年，該組共收到66,047宗可疑交易舉報（包括338宗來自指定非金融企業及行業）。

聯合財富情報組十分重視可疑交易報告的質量，亦致力與金融業和指定非金融企業及行業建立策略伙伴關係。該組又參與多項推廣工作，致力提高業界對有關問題的意識。此外，又領導可疑交易報告工作小組，提供平台讓來自私營機構的代表，討論與可疑交易報告有關的事宜。

國際合作

清洗黑錢大多涉及跨國活動，因此國際合作對打擊清洗黑錢活動，至關重要。香港自一九九〇年起加入特別組織，一直是組織的活躍成員。香港亦是一九九七年成立的亞洲/太平洋反清洗黑錢組織（亞太組織）的創始成員。多年以來，香港通過立法或由各行業監管機構發出指引，已實行特別組織制訂的《40項建議》及《9項特別建議》內大部分建議。有關建議是衡量全球各司法管轄區，其打擊清洗黑錢和恐怖分子融資活動措施是否足夠的國際基準。

The analytical and case management capability of JFIU has increased significantly since the implementation of the Suspicious Transaction Report and Management System (STREAMS) in November 2006, which consists of an e-reporting and an automated STRs processing and analysis system. From 2007 to 2010, 66,047 STRs (including 338 from DNFBPs) were received by JFIU.

JFIU attaches great importance to the quality and quantity of STRs and forges a strategic partnership with the financial sector and DNFBPs. It also participates in extensive outreach programmes to raise the awareness amongst the sectors. JFIU also chairs the STR Working Groups, which provide platforms for representatives from private sectors to discuss issues relating to STRs.

INTERNATIONAL CO-OPERATION

Given the transnational nature of money laundering activities, international co-operation is essential and crucial in the fight against money laundering. Hong Kong has been an active member of the FATF since 1990 and is a founding member of the Asia/Pacific Group on Money Laundering (APG) established in 1997. Over the years, Hong Kong has implemented most of the FATF's Forty Recommendations and Nine Special Recommendations - the international benchmark against which jurisdictions worldwide are assessed in respect of their efforts in AML/CFT - either by legislation or through guidelines issued by the regulators of the respective industries.

二〇〇七年十一月，特別組織及亞太組織就香港進行相互評核，評估本港打擊清洗黑錢/反恐融資制度的成效，以及是否與特別組織所訂標準相符。評核報告於二〇〇八年七月發表，肯定了香港打擊清洗黑錢/反恐融資制度的優點，特別是本港擁有健全的法律架構，清洗黑錢罪行入罪率令人滿意；執法工作強而有力；銀行、證券及保險業的監管制度穩健有效；能迅速地與國際社會在多方面合作；積極有效地向私營機構進行宣傳推廣，提升他們對打擊清洗黑錢及反恐融資的意識。報告並稱許本港的財富情報組，肯定該組辦事積極，成效卓著。

報告同時建議我們為改善本港打擊清洗黑錢/反恐融資制度而應着眼地方，包括有需要推行規管匯款代理人及貨幣兌換商和指定非金融企業及行業的制度；將客戶盡職審查及備存記錄規定的主要元素，納入就金融業制訂的法例及規則中；以及填補本港法律條文中不足之處，使香港能完全履行《聯合國制止向恐怖分子提供資助的國際公約》。

In November 2007, the FATF and APG conducted a joint Mutual Evaluation on Hong Kong to assess the effectiveness of our AML/CFT systems and compliance of the FATF standards. The Mutual Evaluation report published in July 2008 recognised the strengths of Hong Kong's AML/CFT regime, in particular our good legal structure with a satisfactory conviction rate for money laundering offences, strong law enforcement efforts, robust and effective supervisory regime over the banking, securities and insurance sectors, prompt provision of a wide range of international co-operation, and proactive and effective outreach to the private sector in raising their awareness. The report also commended the JFIU, Hong Kong's financial intelligence unit, as proactive and effective.

The report also recommended areas where we should focus on to enhance our AML/CFT regime, including the need to implement a regulatory regime for remittance agents and money changers as well as for DNFBPs, to incorporate key elements of the customer due diligence and record keeping requirements into law or regulations for the financial sector, and to close certain gaps in our legal provisions to fully implement the United Nations Terrorist Financing Convention in Hong Kong.

自二〇〇七/〇八年度進行相互評核以來，當局一直因應上述特別組織的意見，在多方面繼續努力，進一步完善本港打擊清洗黑錢/反恐融資制度。《聯合國(反恐怖主義措施)條例》尚未實施的條文(包括條例第6條)，在制定所需法院規則及實務守則後，於二〇一一年一月一日施行。條例全面實施，增強了本港打擊恐怖分子融資活動的能力。禁毒處已針對不同的非金融行業加強推廣與培訓，提高他們對打擊清洗黑錢/反恐融資規定的認識。當局又與專業團體/規管機構合作，向指定非金融企業及行業從業員發出適用於個別行業的指引，協助他們遵從打擊清洗黑錢/反恐融資的規定。在檢控和執法方面，警務處的財富調查組及聯合財富情報組均獲分配額外資源，以加強在財富調查和分析財富情報方面的執法能力。

在打擊清洗黑錢活動方面，香港與海外司法管轄區合作無間，一直有就雙邊相互法律協助協定進行商討，有關協定訂有追查和沒收資產的條文。香港可以就清洗黑錢及恐怖分子融資活動等罪行，根據《刑事事宜相互法律協助條例》(第525章)向其他司法管轄區提供相互法律協助，並根據《逃犯條例》(第503章)移交逃犯。目前，香港已與27個國家簽訂刑事事宜相互法律協助協定，以及與18個國家簽訂移交逃犯協定。另一方面，根據《販毒(追討得益)條例》及《刑事事宜相互法律協助條例》，香港可執行由海外指定司法管轄區法庭所發出的外地沒收令，以阻止罪犯保留販毒得益。

Since the Mutual Evaluation in 2007/08, the Administration has been working on various fronts to further enhance our AML/CFT regime in the light of FATF's comments above. The uncommenced provisions of the UNATMO, including section 6 of the Ordinance, will come into operation on January 1, 2011, after the making of the necessary court rules and code of practice. The full commencement of the Ordinance enhanced Hong Kong's measures in counter terrorist financing. The ND has intensified focused outreach and capacity building to raise the awareness of the non-financial sectors on AML/CFT requirements. In collaboration with professional/regulatory bodies, sector-specific advisory guidelines were issued to assist DNFBPs practitioners in AML/CFT compliance. On prosecution and enforcement, additional resources were allocated to the Financial Investigation Division of the Hong Kong Police Force and the JFIU to enhance the enforcement capability in financial investigation and analysis of financial intelligence.

Hong Kong co-operates closely with foreign jurisdictions in combating money laundering and maintains a programme of negotiations for bilateral mutual legal assistance agreements which include provisions for asset tracing and seizure. Hong Kong has the ability to provide mutual legal assistance to other jurisdictions under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525) (MLAO), and to surrender fugitive offenders under the Fugitive Offenders Ordinance (Cap 503) in respect of money laundering and terrorist financing offences. At present, Hong Kong has signed Mutual Legal Assistance in Criminal Matters Agreements with 27 countries and Surrender of Fugitive Offenders Agreements with 18 countries. On the other hand, the DTROPO and the MLAO enable Hong Kong to enforce external confiscation orders issued by overseas courts of designated jurisdictions preventing the drug proceeds from benefiting the criminals.

聯合財富情報組亦是埃格蒙聯盟 (Egmont Group) 的成員之一。埃格蒙聯盟於一九九九年創立，成員來自世界各地的財富情報組織。該聯盟提供渠道，使各財富情報組織加強對所屬國家打擊清洗黑錢措施的支援，尤以在交換資料、培訓和分享專業知識為主。

公眾教育與能力提升

要打擊清洗黑錢，市民大眾必須同心協力，與政府及執法部門攜手合作。政府、監管機構及專業團體定期為各個在打擊清洗黑錢/反恐融資方面有重要位置的行業，舉辦培訓及教育課程，以增強他們對清洗黑錢的最新趨勢，以及清洗黑錢和犯罪手法的認識。

禁毒處透過培訓和教育等方式，推動指定非金融企業及行業參與打擊清洗黑錢/反恐融資活動。禁毒處與聯合財富情報組及各有關行業的專業團體，舉辦度身訂造課程。二〇一〇年，有超過2,500名業內人士出席了為指定非金融企業及行業舉辦的一系列講座，部分行業的出席者可藉此取得持續專業進修學分。此外，禁毒處又在二〇〇九年年中推出一套互動教材，包括實務指引及唯讀光碟，分發給指定非金融企業及行業的從業員。

禁毒處舉辦一系列打擊清洗黑錢講座，為指定非金融企業及行業的從業員提供培訓。

The ND organises a series of anti-money laundering seminars to provide training to practitioners of DNFBPs.



The JFIU has also been a member of the Egmont Group which is made up of Financial Intelligence Units (FIUs) from around the world since 1999. The group provides a forum for FIUs to improve support for their respective national anti-money laundering programmes, especially in the areas of information exchange, training and the sharing of expertise.

PUBLIC EDUCATION AND CAPACITY BUILDING

To combat money laundering, we need the assistance and co-operation of the community at large. The Government, regulators and professional bodies regularly conduct training and educational programmes for the respective sectors, which play an active role in AML/CFT, to raise their awareness on the latest trends and methods employed by money launderers and criminals.

The ND has adopted a capacity building and educational approach in engaging DNFBPs on AML/CFT. In collaboration with JFIU and professional bodies amongst the sectors, the ND has organised tailor-made programmes for the relevant sectors. The series of seminars organised for DNFBPs in 2010, which attracted continuous professional development credits for some sectors, were attended by over 2,500 practitioners. An interactive training kit consisting of a practical guide and a CD-ROM for DNFBPs was released in mid 2009 for distribution to practitioners of these sectors.



禁毒處製作「打擊清洗黑錢及恐怖分子融資活動」實用指南及光碟，分發給指定非金融企業及行業的從業員作訓練教材。
The ND produces a set of booklet and DVD-rom on AML/CFT for distribution to practitioners of DNFBPs as training materials.

指定非金融企業及行業的專業團體亦採取了積極措施，為所屬行業的從業員提供有關打擊清洗黑錢/反恐融資的規定及措施的實用資料和指引。香港律師會已發出一套強制執行的實務指引；香港特許秘書公會亦向其會員發出了指引；香港會計師公會則出版了《法律概覽》(Legal Bulletin)，並定期把有關課題納入其持續專業培訓計劃中；至於地產代理監管局，亦發出了強制執業通告，並把打擊清洗黑錢及恐怖分子融資活動，列作為新入行人士和持牌人舉辦的培訓課程核心項目。禁毒處又聯同多個商會，特別為貴重金屬及寶石交易商發出指引。

清洗黑錢和恐怖分子融資兩個問題互相牽連，要建立和維持周全有效的制度及履行國際責任，政府、金融監管機構及私營機構必須群策群力，竭力打擊該等非法活動，確保有關制度達致國際標準。政府亦致力與國際組織及其他政府保持緊密的多邊和雙邊合作，積極參與全球打擊該等非法活動。為籌備立法，禁毒處會繼續與指定非金融企業及行業磋商，以制訂最適合香港而又符合國際標準的打擊清洗黑錢/反恐融資規管架構。

Professional bodies in DNFBPs have also taken positive steps in equipping practitioners in their respective fields with practical information and guidance on AML/CFT requirements and measures. Specifically, the Law Society of Hong Kong has issued a set of mandatory practice directions; the Hong Kong Institute of Chartered Secretaries has issued advisory guidelines to its members; the Hong Kong Institute of Certified Public Accountants has published a Legal Bulletin and covered the subject regularly in their Continuing Professional Development programmes; the Estate Agents Authority has issued mandatory practice circulars and also included AML/CFT as one of the core components in its training courses for both new entrants and licensees. In collaboration with trade associations, the ND has promulgated sector-specific guidelines for dealers in precious metals and precious stones.

The establishment and operation of a comprehensive and effective regime to tackle money laundering and terrorist financing requires concerted effort of the Government, financial regulatory bodies and the private sector. In keeping with its international obligations, Hong Kong is fully committed to combating the twin problems, and will ensure that its regime meets international standards. The Government is also committed to co-operating closely with international organisations and other governments, both on a multilateral and a bilateral basis, to play an active part in the global cause of anti-money laundering and counter financing of terrorism. To prepare for the introduction of legislation, the ND will also continue the discussions with the DNFBPs to formulate a regulatory framework on AML/CFT that works best for Hong Kong and complies with the international standards.