



# **ANTI-MONEY LAUNDERING YEARBOOK, 1998**

**The Investigation Bureau, Ministry of Justice  
Republic of China**

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# Preface

Increasing awareness of money laundering and its damaging consequences has caused the Republic of China government to enthusiastically join the global trend to enact anti-money laundering legislation. First proposed by the Republic of China government and then passed by the Legislative Yuan on October 3, 1996, President Lee signed the Money Laundering Control Act into law on October 23, and it became effective on April 23, 1997.

The Money Laundering Control Act was the first independent legislation of its kind ever enacted by an Asian country. In it is provided for a Money Laundering Prevention Center (MLPC) to be operated under the auspices of the Ministry of Justice Investigation Bureau (MJIB). Formed on April 23, 1997, the Center handles Suspicious Activity Reports (SARs) from financial institutions and assumes the responsibility to set up a preventive environment.

Nowadays, criminal organizations can easily move money overseas by wire transfer, thus making money laundering an international crime that has no borders. Only if all the countries of the world work together can an effective effort be made to combat money laundering. This report is to share our experience with our counterparts in other countries in the spirit of mutual cooperation. Moreover, the MLPC realizes the importance of cross-border cooperation with other law enforcement agencies to combat this problem.

The Investigation Bureau has had a busy past year and is proud of both our efforts and our achievements. As a law enforcement agency, the Ministry of Justice Investigation Bureau is committed to step up efforts to suppress money laundering in order to secure our

society against the threat from criminal activity.

WANG, Kuang-Yu

*Wang, Kuang Yu*

Director General  
Investigation Bureau  
Ministry of Justice  
September 1999



# Content

## Preface

### Part One: Organization Overview .....1

- I. Basis for establishment .....3
- II. Function .....3

### Part Two: Overview of Job Performance .....5

- I. Study on money laundering prevention strategies .....7
- II. Handling of reports on suspicious transaction .....7
  - A.Sources and number of cases of reports suspicious of money laundering .....7
  - B.Handling process .....7
  - C.Establishing Computer database .....12
- III. Promotion and training .....12
- IV. International cooperation .....12
  - A.Exchanges in personnel training .....12
  - B.Joint investigation and exchange of intelligence.....13
  - C.Meetings and visits .....13

### Part Three: Case Analysis.....15

- I. Fraudulent loans by Tseng and accomplices .....17
- II. Embezzlement by Lee and Company .....17

## **Part Four: Past Review and Future Outlook.....20**

I.	Past Review .....	21
A.	Educational promotion has yielded results .....	21
B.	Mechanism of money laundering prevention has begun to function .....	21
C.	Increased promotion of international cooperation.....	21
II.	Future Outlook .....	22
A.	Revision of current Money Laundering Control Act to further implementation .....	22
B.	Continuation of educational promotion and intensification of cooperative relations .....	22
C.	Vitalization of capital auditing to uncover major crimes .....	23
D.	Strengthening of computer files to further advance analytic capability .....	23
E.	Maintaining financial order in case of financial crisis .....	24

## **Part Five: Essay .....25**

Study on Cutting Off Money Laundering Channels and Prevention of Major Crime .....	26
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## **Appendix.....38**

I.	Money Laundering Control Act .....	39
II.	Related Laws and Regulations .....	44

## Tables

Table 1.2	Comparative Statistics on Numbers of Suspicious Activity Reports .....	8
Table 2.2	Comparative List on the Status of Processed Suspicious Activity Reports .....	10
Fig. 1.1	Percentage of Suspicious Activity Reports Filed by Financial Institutions in 1998 .....	8
Fig. 1.2	Comparative List of Processed Suspicious Activity Reports .....	9
Fig. 2.1	Status on Percentage of Suspicious Activity Reports Filed in 1998 .....	10
Fig. 2.2	Comparative List on the Status of Processed Suspicious Activity Reports .....	11

### **Photo Caption:**

1.1, 1.2	Officers of the Royal Canadian Mounted Police in money laundering prevention workshop at the MJIB .....	13
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# Part One

## Organization Overview



## I. Basis for establishment

On October 3, 1996, the Legislative Yuan passed the first ever exclusive crime bill in Asia for the prevention of money laundering, the Money Laundering Control Act. The bill was signed into law by the President on October 23, the same year. By provisions of the said Bill, this Bill shall become effective six months after its promulgation, i.e., the Money Laundering Control Act would come into force on April 23, 1997.

By Article 8(1) of the Act: For any transaction which is suspected to be money laundering, the financial institution concerned shall identify the status of the consumer involved and keep the records and evidentiary documents of such transaction, and may inform the party or parties of the transaction and report the case to the designated agency. in pursuance of Clause 3 of the same Article, "The designated agency referred to in clause 1 above ...shall be decided by the Ministry of Finance, after consulting with the Ministry of Interior, the Ministry of Justice and the Central Bank of China. "Shortly after, of January 21, 1997, the Ministry of Finance convened a meeting of all concerned agencies to decide establishment of an agency and define the responsibility thereof. It was then decided that the "appointed authority" should be set up inside the MJIB.

In response to this decision of setting up an agency in charge of money laundering prevention and suppression, the MJIB organized a preparatory office on January 29, 1997, as a "Money Laundering Prevention Center" to integrate related business and administrative units and ready them for operation. In the interim, scholars and experts were consulted for opinions on the organizational structure and operation norm as well as matters concerning coordination and support among related agencies from the Ministry of Finance to others. At the same time, incumbent qualified MJIB employees were selected and appointed to serve in the Center. In early March 1997, the draft of Guidelines for Establishment of a Money Laundering Prevention Center was completed and submitted to the Executive Yuan via the Ministry of Justice.

The afore-mentioned Guidelines were approved by the Executive Yuan on April 21, 1997. Meanwhile, the setup of a Money Laundering Prevention Center under the MJIB was also approved and formally went into operation on April 23, 1997.

## II. Function

Following the Guidelines for Establishment of a Money Laundering Prevention Center of the MJIB, the functions of MLPC are as follows:

- A. Study on strategy of money laundering prevention.
- B. Handling and processing of reports by financial institutions concerning suspicious

transactions that might be intended for money laundering.

- C.** Collection, analysis, disposal and utilizing money laundering information.
- D.** Providing assistance in investigation of money laundering cases conducted by other government agencies and coordination as well as liaison concerning provisions set forth in the Money Laundering Control Act.
- E.** Information exchange, exchange of personnel training and joint investigation of money laundering cases with foreign counterparts. The joint investigation involves liaison, planning, coordination and implementation.
- F.** Establishment and compilation of computer files to collect data.



## Part Two

### Overview of Job Performance





## I. Study on money laundering prevention strategies

- A. Study opinions concerning amendment to the "Money Laundering Control Act."
- B. Study feasibility of establishing "Account Data Bank at Financial Institutions."
- C. Study "Feedback System Concerning Transactions Suspicious of Money Laundering."
- D. Promotion of setting up network for international money laundering strategy and information exchange.
- E. Assistance in setting up issuance of statistics and compilation of results in money laundering prevention.

## II. Handling of reports on suspicious transactions

### A. Sources and number of cases of reports suspicious of money laundering

#### Banking institutions:

- Public banks: 9 totaling 55 cases
- Private banks: 27 totaling 283 cases
- Foreign banks: 7 totaling 29 cases

Cooperative banks: 9 totaling 21 cases

Farming & fishing associations: 6 totaling 15 cases

Insurance companies: 5 totaling 5 cases

Directorate General of Postal Remittances & Savings Banks: 16

Other financial institutions: 3 totaling 3 cases

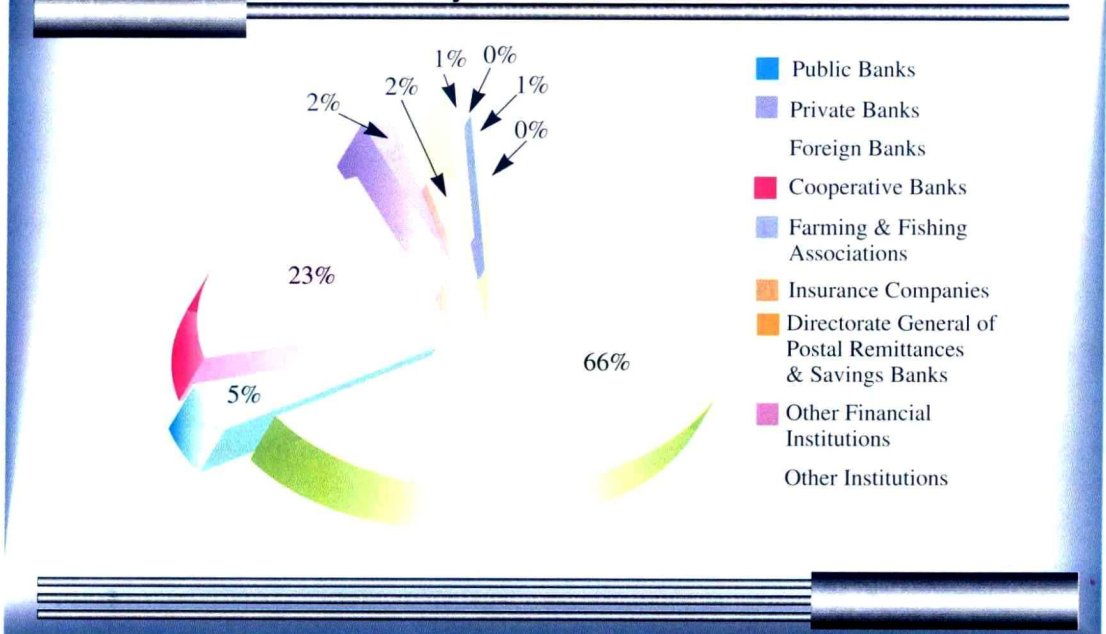
Other institutions: 791 cases

In all, there were 1,218 cases of suspected money laundering reported for the whole year. (For details, see Tables 1.1, 1.2 and Figure 1.2)

### B. Handling process

Of the 1,218 cases mentioned above, after analysis and investigation, there were by the end of 1998, 234 cases then referred to the MJIB for action; 18 were referred to the police authority for reference and action while 8 cases were referred to concerned foreign countries as foreign nationals were involved. In addition, another 66 cases were referred to the MJIB's field offices for further investigation. 682 cases were either suspended or closed due to lack of evidence or inadequate information. By the year's end, there were 210 cases carried over requiring further analysis. For details, see Tables 2.1, 2.2 and Figure 2.2).

**Fig. 1.1 Percentage of Suspicious Activity Reports Filed by Financial Institutions in 1998**

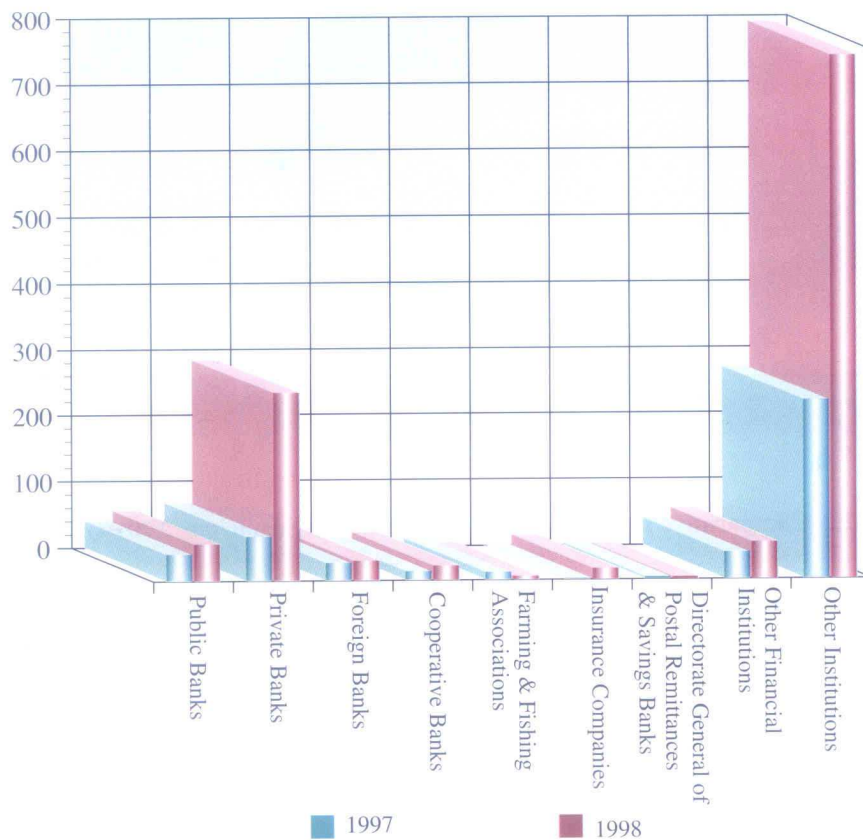


**Table 1.2 Comparative Statistics on Number SARs**

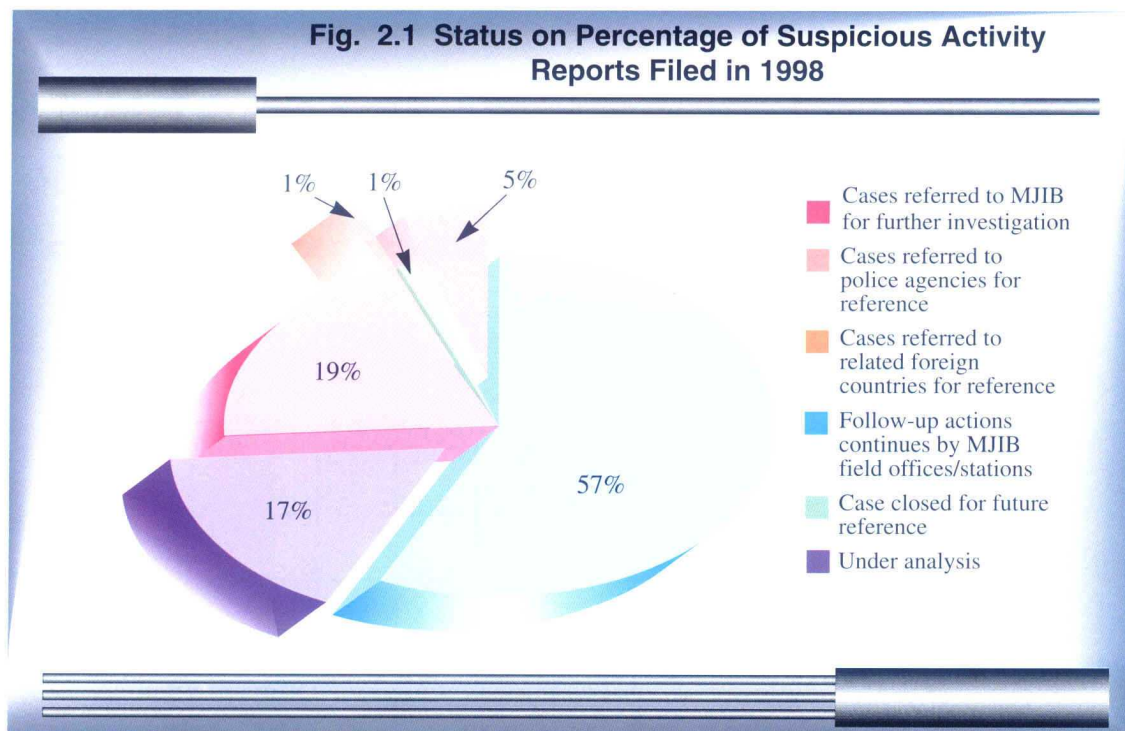
Unit: In cases

Financial Institutions		Year	1997	1998
Banks	Public Banks		40	55
	Private Banks		66	283
	Foreign Banks		26	29
Cooperative Banks			13	21
Farming & Fishing Associations			7	15
Insurance Cos.			11	5
Directorate Gen of Postal Remittance & Savings Banks			1	16
Other Financial Institutions			3	3
Other Institutions			269	791
Cases			436	1218

**Fig. 1.2 Comparative Statistics on Number of Suspicious Activity Reports**



**Fig. 2.1 Status on Percentage of Suspicious Activity Reports Filed in 1998**



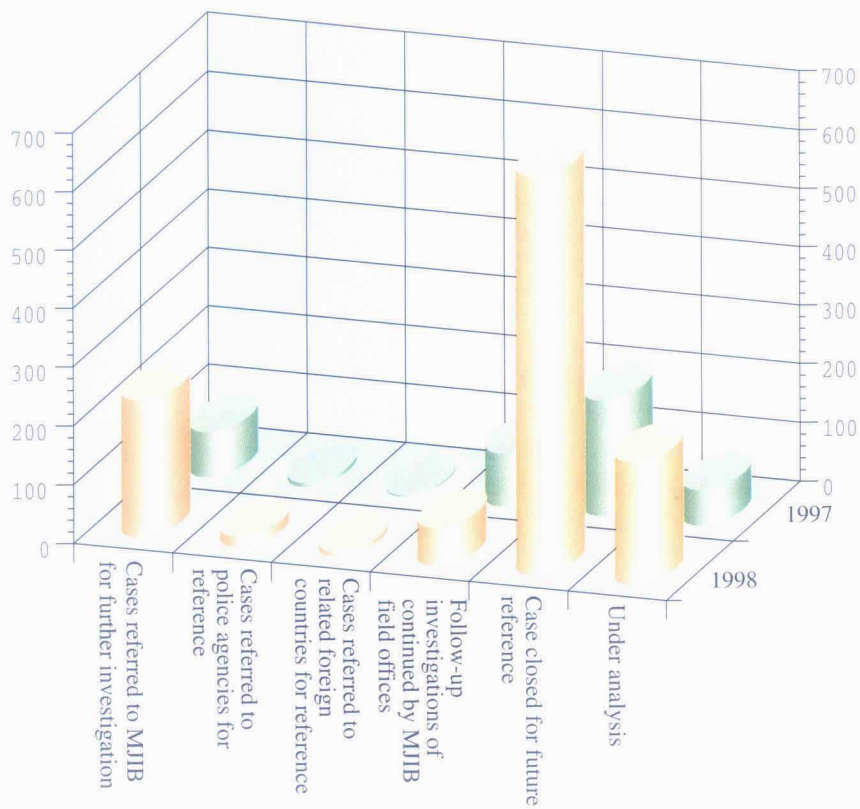
**Table 2.2 Comparative List on the Status of Processed Suspicious Activity Reports**

Unit: In cases

Status of Processing \ Year	Year	
	1997	1998
Cases referred to MJIB for further investigation	77	233
Cases referred to police agencies for reference	7	18
Cases referred to related foreign countries for reference	4	8
Follow-up investigations of continued by MJIB field offices	90	66
Closed for future reference	196	682
Under analysis	61	211
Cases	435	1218



**Fig. 2.2 Comparative list on the Status of Processed (SARS)**



### **C.Establishing computer database**

Cases handled by the Center are filed in the computer system after having been verified, induced, compared and analyzed. All in all, there are 1,683 pieces of information filed in the computer system.

## **III. Promotion and training**

- A.** Since the Money Laundering Control Act went into effect, the Center has dispatched its agents to lecture on money laundering at various financial institutions in order to familiarize local financial institutions with the provisions of Articles 7 any transactions above NT\$1.5 million are required, to be reported to the Center after having verified the client's name and recording the transaction, and of Articles 8 about any suspicious transaction must be reported to the Center.

Details of the lecturing are shown as follows:

At Financial Training Center: 32 sessions with 2,593 people attending.

At Financial and Fiscal Training Center: 6 sessions with 271 people attending.

At Bank of Taiwan: 2 sessions with 60 people attending.

At Land Bank of Taiwan: 3 sessions 120 people attending.

At Postal Training Institute: 16 sessions with 627 people attending.

At Credit Department of Farmers Association: One session with 308 people attending.

At Cooperative Banks Association: One session with 50 people attended.

In all, 61 sessions were held and 4,029 people had attending.

- B.** In 1998, the Center held a 5-session seminar taken place respectively in northern, central, southern and eastern Taiwan, inviting all field agents, including special agents, stationed in field offices island-wide who were assigned to the money laundering prevention task force to attend. To enhance the investigative ability of the MJIB agents in handling money laundering cases, official from Bureau of Monetary Affairs, MOF was invited to deliver a speech at the seminar on "Technique on Tracings Capital Movement."

## **IV. International cooperation**

### **A.Exchanges in personnel training**

1. In April 1998, the MJIB dispatched its agents to FinCEN in the US to learn their operating process of money laundering.

2. In September, the MJIB dispatched its agents to Australia to learn applications of NETMAP software.

In November 1998, the Royal Canadian Mounted Police dispatched its officers to Taiwan for participating in a money laundering prevention workshop at MJIB. Participants at the symposium included agents assigned to money laundering prevention task forces, field offices workshop of MJIB and representatives from Ministry of Justice as well as from local prosecutor's offices (see Photo 1.1, 1.2).

## **B. Joint investigation and exchange of intelligence**

1. At present, partners with MJIB in joint investigation and exchange of intelligence include FinCEN, the FBI, DEA, IRS and the Customs Service in the US and agencies in Japan, Canada and Russia. Major cases involved are international financial fraud, drugs, embezzlements and money laundering such as Nigeria 419 Fraud, Money Laundering for Drug Trafficking by Wu, Suspicious Bribery in Money Laundering by Lin. At the same time, cooperative channels with Australia and South Africa, etc., have been established.
2. As restricted by provisions set forth in banking law and privacy law in foreign countries, it has been difficult to obtain banking account information from foreign countries. However, under







the strenuous efforts of the MJIB, we have been able to reach a preliminary consensus with related foreign law enforcement agencies. Under equal footing and mutual benefit, any evidence needed in court presentation may be obtained through diplomatic channels after filing a written request for investigation. For information needed as reference, it can be provided through exchange of intelligence.

3. Meetings and visits:

- a. In March 1998, the MJIB sent its delegate to Tokyo, Japan, for participation in the first annual meeting of Asia/Pacific Group On Money Laundering.
- b. In June 1998, MJIB sent its delegates to Buenos Aires, Argentina, to participate the Egmont Meeting, an international money laundering prevention organization whose backbone members are financial intelligence units (FIU) of each country. MLPC is recognized as FIU of Taiwan.
- c. November 1998, US FinCEN sends its officials to visit MJIB for exchange of experience in money laundering prevention.



## Part Three

### Case Analysis



## **I. Fraudulent loans by Tseng and accomplices**

Tseng was a clerk in the credit information section of Bank X. From June 12, 1995, he had used his position to carve the seals of a Chen-Huang and a Chen without authorization. On August 25 the same year, he used Chen-Huang's name to apply for a loan. Accompanied by a fraudulent credit check report made out by Tseng, the application for a NT\$10,000,000 loan was approved by Tseng's supervisor without a hitch. Further, Tseng falsified Chen-Huang as borrower and Huang as guarantor to open up an account in the name of Chen-Huang to complete the loan application procedures. As soon as the money was appropriated, Tseng withdrew funds from the account to buy stocks, thus covering his embezzled money.

As a clerk, Tseng was transferred to the loan section of the bank on May 6, 1996. Again using his position, Tseng manipulated to dole out fraudulent loans as a matter of daily routine. From July 12, 1996 to December 12, 1997, Tseng falsified a series of loan applications covering Chen, Tsai, Tsai-Tseng, Tsai-Huang and Tseng. At the same time, he used, without authorization, seals of the bank's assistant manager, vice president and their computer passwords to approve the loans, causing the bank to erroneously remit funds into accounts that Tseng had opened. In a total of 98 fraudulent applications for loans, Tseng netted NT\$272,700,000.

Part of the above-mentioned embezzled money Tseng obtained was used to pay back some of the fraudulent loans so that the crime would not be exposed. Then to cover up, hide, and launder the rest of the embezzled money. Tseng (in conspiracy with Ho) instructed Ho to withdraw cash from the account he had opened and transfer funds from the account to another account named by Tseng for obtaining certificates of deposit, stocks and illegal lottery tickets called "liu ho tsai."

Tseng, Ho, et al. were finally arraigned on charges of habitual fraud per Article 340 of the Criminal Code and money laundering per Article 9(1) of the Money Laundering Control Act after evidence was collected and the investigation completed. Tseng was sentenced by the district court to 6 years and 10 months in prison and a fine of NT\$90 million; Ho was sentenced to a NT\$80 million fine.

## **II. Embezzlement by Lee and Company**

Lee once worked for the Taipei County Tax Collection Bureau. In 1987, he resigned from the job. In an attempt to illegally profiteer, he bought an unknown quantity of ID's and photocopies from 1994 onwards. Further, Lee colluded with Chou and seven other tax collection agents of Taipei County and Taichung City to obtain a number of ID photocopies of already registered company officers for the purpose of overall joint intent of committing crimes. Wu, one of the collaborators, was entrusted with the job to make counterfeit seals of the registered company officers mentioned above. With the bought ID photocopies and seals, the gang filed applications with Taiwan Provincial

Department of Construction for xxHua Industrial Co., Ltd. and 94 others. Next, with the government issued corporate licenses of the 95 fictitious companies, seals of the company officers and false documents of premises use provided by other collaborators, the gang submitted false applications for information updates on profit-making business uniform licenses with the Taipei County Joint Operation Center and the Department of Construction, Taichung City. The applications were handled and reviewed by collaborators Chou and seven others. The eight tax officials knew perfectly well that the companies set up by Lee were fictitious; either the photocopies of the company officers persons were counterfeit the addresses on the application were non-existent, there were no business activities at the addresses registered, or nobody was at the addresses registered. Nonetheless, for the intent of profiteering, no on-the-spot check was conducted and the applications were duly approved by making false comments in the review column, obviously in violation of the standing operating procedures as stipulated by the tax collection office. Consequently, Lee was able to set up 95 fictitious firms, providing false uniform invoices to help others evade tax and thereby profit in the process. From 1994 to 1996, the illegal gains had totaled NT\$500 million while accomplice tax collection agents Chou and seven others each had shared a 5% portion of the total amount shown on the uniform invoices or from NT\$1 to 3 million apiece.

Furthermore, Lee had instructed Wu to cross-issue uniform invoices among the 95 fictitious firms to produce false sales tax reports, thus creating an image of a true business operation. The operation went further to obtain bogus invoices (there were no actual transactions) to use as false tax deductions, as Wei owned several bonded factories that allowed for tax-exempt transfers of goods.. Next was to counterfeit the control serial number of Wei and others and the seals of the bonded factories for purchase of uniform invoices. With all the faked documents ready on hand, they filed respectively with the Tax Collection Bureau of Taipei County and Taichung City for the 5% rebate of value added tax. Accordingly, accomplice tax collection agents Chou and seven others made untrue remarks in the tax rebate book and approved the requests although they knew perfectly well there was no basis for a tax rebate, thereby causing the Tax Collection Bureau of Taipei County and Taichung City to commit an error by either remitting the tax rebate to an appointed bank account or issuing a Treasury check to Lee's wife Cheng. In total, the gang had fraudulently obtained tax rebates amounting to NT\$168,490,000.

The couple, Lee and wife Cheng, shared part of the rebates with tax collection agents. To cover up the illegal gain, they remitted US\$10 million to the United States. In addition, they transferred part of the money to Hua International Science and Technology Co., Ltd., and Wen Enterprise Management Consultants Co., Ltd., for money laundering in the stock market. Finally, the funds were sent back to Cheng's bank account at Bank X. In August the same year when Cheng went to Bank X to make a withdrawal, she was arrested by MJIB agents who were stationed there. The entire NT\$81,660,585 in the account was seized.

Tax collection agents Chou and seven others along with Lee were arraigned by the Prosecutor's Office of Panchiao District Court of Taiwan October 16, 1998, on charges of embezzlement by using an official position per Article 5(1)(2) of the Provisions Governing Crimes of Corruption Prevention.

## Part Four

### Past Review and Future Outlook





## **I. Past Review**

### **A. Educational promotion has yielded results**

In 1998, there were 61 seminars on money laundering prevention held with over 4,000 people from financial institutions attending. Apart from a strengthened interactivity with the financial industry, the main objective of the seminar was to further familiarize staffers in the financial industry on how to detect and report on suspicious cases of money laundering. As a result, reports of suspicious cases in the whole year had increased threefold while contents of the report were even more concrete. After analysis and investigation, cases referred to the prosecutor's office or related MJIB departments also increased approximately threefold. Clearly, discovery of new leads and crime fighting in 1998 had obviously yielded significant results.

### **B. Mechanism of money laundering prevention has begun to function**

In the year passed, analysis and tracing of capital flows of suspected cases reported for money laundering has helped discover few major cases big enough to affect domestic fiscal and financial order. Cases such as Hsin, Ya, etc. were all subsequently referred to related departments of the MJIB for further action. At the press time, some of them have been arraigned. In addition, exposure of KuangSan Group case at nearly the year-end had frozen NT\$2.6 billion in assets in time from being transferred overseas, thanks to the application of related provisions set forth in the Money Laundering Control Act. In all the cases cited above, the MJIB had taken the initiative to coordinate with the prosecutor's office to effectively protect the interests of society as well as the general public. In practice, this exemplifies the fact that in closing the legal loopholes and increasing investigation of major crimes, a tremendous progress has been made in money laundering prevention.

### **C. Increased promotion of international cooperation**

In addition to dispatching agents overseas for learning missions and participating in international conferences in 1998, experts from foreign money laundering regulatory agencies were also invited to visit Taiwan to either hold seminars on money laundering prevention or see for themselves the status of the ROC's anti-money laundering operation. Under the basis of this reciprocal, we have continued to exchange information with our foreign counterparts and law enforcement agencies. Egmont Group recognized MLPC as a financial Intelligence Unit (FIU) of Taiwan in the VI plenary meeting in 1997. It has helped expand our international cooperation channels as well as achieve a diplomatic breakthrough in our present state of foreign affairs.

## **II. Future Outlook**

### **A. Revision of current Money Laundering Control Act to further implementation**

Since the Money Laundering Control Act took effect on April 23, 1997, responses from all quarters indicate that the Act itself is far from being adequate. Crimes such as gambling and tax evasion for the purpose of money laundering were not deemed as serious premeditated crime under the Act. Certain enterprises such as pawnshops, travel service firms, antique shops, auto dealers and businesses related to real estate transactions frequently used by money launderers were not incorporated in the Act. Provisions in Article 8 of the Act stipulate that financial institutions may inform the interested party whenever transaction of suspected money laundering is conducted; this totally contradicts Forty Recommendation of the Financial Action Task Force (FATF) and the related contents of UN convention against Illicit Traffic in Narcotic Drugs. Also under the current Act, suspects of money laundering resulting from major crimes committed by direct lineal descendents, spouse or co-habitant relative with community property get a lesser sentence or immunity from criminal responsibility which appears to be too lenient. In other countries, there are laws that permit appropriation of part of confiscated property/funds out of money laundering crimes to be used by related financial institutions or law enforcement agencies for expenses on related business or equipment; no such provision is in the R.O.C. Act. As a result, there are practical difficulties that handicap law enforcement agents in enforcement. Consequently, the MJIB's Money Laundering Prevention Center sponsored a roundtable discussion on November 6, 1998, inviting representatives from academia, related government regulatory agencies and financial institutions to jointly sound out ideas and measures for future reference in making amendments to the existing ordinance. In the future, we will persist in promoting amendments to related laws and regulations so that money laundering enforcement can be backed up by adequate legal means; this will allow law enforcement agencies and financial institutions to smoothly accomplish the mission of eradicating money laundering crime without handicaps, thus dealing a heavy blow to money laundering syndicates.

### **B. Continuation of educational promotion and intensification of cooperative relations**

In order to help MJIB colleagues and the staff in financial institutions to better understand the Money Laundering Control Act, related matters and the actual MJIB operating procedures, the Money Laundering Prevention Center and the Bureau of Monetary Affairs (MOF) have held individually and collectively many seminars and training classes in 1998. Since its very inception, our money laundering prevention operation is less than two years old. On the whole, knowledge of the business is still very limited, be it financial institution staffers, related regulatory government officials at the supervisory level or law enforcement officers. Moreover,

despite the enthusiasm to work together, there lacks adequate understanding and technique in certain matters that calls for coordination and cooperation. Further, in view of the inadequacy of and restrictions by the existing law, effectiveness of enforcement and expectation has left much room to be desired. Provisions of the Act have made the relationships difficult between clients and financial institutions such as credit card issuers, insurance, securities, investment and trust, investment and consultants. As for gold shops, the problems are even worse as it remains controversial with respect to who shall be the regulatory agency and what the regulatory agency should supervise. On-line operation between the Money Laundering Prevention Center and data banks of various government agencies has not become a reality due to restrictions by existing laws and regulations. As the matter stands now, we can only rely on unceasing promotion and training to remove the differences in understanding of the issue among related government agencies and their staffers, thereby enhancing mutual dialogue and cooperation.

### **C. Vitalization of capital auditing to uncover major crimes**

In the two years 1997 and 1998, cases referred to the prosecutor's office by the Money Laundering Prevention Center mostly were of economic crime; there were seldom cases of corruption, drugs, or violence. Unsolved money laundering crimes are likely to cause increased concern by international money laundering prevention organizations for the prime motive of enacting money laundering laws in each country stemmed from widespread money laundering activities that resulted from illegal drug sales. Despite the fact that the ROC was the first country in Asia that had initiated money-laundering legislation, there has never been a local case of money laundering involving drug trafficking. The most urgent task at present, therefore, is to coordinate with investigative agencies in trying to seek an appropriate pitching-in point from where to discover hidden proceeds of drug traffickers. Moreover, at international money laundering conferences in recent years, a subject closely related to the ROC has been the underground remittance system operated by Chinese. In Taiwan, operators of the business are primarily gold shop owners while travel agents, trading companies and a few independent dealers are the other minority operators. In the past, related government agencies and the MJIB have all encountered this illegal activity, nabbed the suspects and referred each case to the prosecutor's office for further action, but not with the results as expected. Further, money laundering through these sorts of channels often leaves no trace to follow. This is what we have identified as something we need to break through. Since the implementation of the Money Laundering Control Act, the MJIB and other law enforcement agencies have handled varieties of major money laundering cases. Perhaps it was due to the investigative agents who lacked adequate knowledge of the business or the immature capital auditing investigative techniques that we have been unable to further follow up the money laundering crime and confiscate the violator's illegal gains.

### **D. Strengthening of computer files to further advance analytic capability**

In a closely-knit anti-money laundering crime network, the most basic need is to set up a data base. In this respect, the Money Laundering Prevention Center has never lost sight on this aspect and has spared no efforts in trying to achieve this objective. Ever since its establishment, the Money Laundering Prevention Center has keyed in all reports on Suspicious Activity Reports into its computer files for control and follow-up. In 1998, powerful NETMAP software was installed. The system is known for its strong capability of information analysis. Agents were also dispatched to Australia for learning related technology. At present, the Center is busily engaged in setting up file data for support of future anti-money laundering operations. The move would make money laundering impossible to avoid the mechanism of the closely-knit anti-money laundering network. In addition, case study and analysis and exchange of findings have become excellent textbook materials for law enforcement agents and staffers in financial institutions, thereby familiarizing themselves with the investigation process of different types of cases, enabling them to more easily identify suspicious cases. Plans are under way to design application software to integrate suspicious money laundering transactions and do analysis of case type so that law enforcement agents can quickly and swiftly take control of investigative direction and the direction of capital flow. This would make the job more efficient and the anti-money laundering network even more tightened.

#### **E. Maintaining financial order in case of financial crisis**

In the face of the volatile international financial situation, which is still present in Asian financial markets, a few domestic individuals have abused the financial resources of financial institutions and listed companies at their disposal by removing public funds for personal gains. They acted unscrupulously in the stock market, and consequently they all fell one by one in the face of the global financial crisis. In the latter half of 1998, there were quite a few large-scale corporations that were experiencing financial difficulties while their CEO's were all involved in the commission of economic crimes. Luckily, competent government agencies had prudently dealt with the situation, keeping the otherwise serious financial crisis gradually under control. In the process of investigation in conjunction with other regulatory agencies, we have felt strongly the increasingly heavy responsibility upon our shoulders. We firmly believe that the only effective means to stop money laundering is to punish severely money laundering criminals and block money laundering channels. In so doing, we would effectively cause money laundering offenders to find it impossible to launder money, thus eliminating the intent of committing crime. While financial incidents have just begun, we at the Center are determined to fully support the government policy to rehabilitate financial order and maintain economic prosperity so as to ensure the welfare and wealth of all people.



## Part Five

### Essay



**Study on Cutting Off Money Laundering  
Channels and  
Prevention of Major Crime**

Kaohsiung County field Station  
Chang Tzi-Ran

## **I. Foreword**

Money laundering has been in existence since there has been crime; however, only in the past decade has it become the most prominent form of criminal activity. The history of crime development simply coincides with the history of money laundering. Along with the advent of electronic technology and an increasingly complex international financial environment, money laundering has become a booming business that keeps evolving. Money laundering syndicates organized by crime rings, drug traffickers and smugglers, and staffed with financial professionals engage in massive movements of illegally gained money that not only undermines the integrity of the nation's financial system, but also poses a serious threat to the social well-being of all nations. In the age of the Internet, money can be "laundered" through electronic trading systems, rendering such activity a cross-border operation, gradually eroding the foundation of nations. Despite the efforts of government legislation to prevent money laundering, not many countries have been very successful in the crackdown of such crimes. Now "money laundering" has almost become the world's biggest crime industry with hundreds of billions of dollars siphoning through various channels into the financial system to get "washed." We should not underestimate the influence of this "illicit money." International crime groups can afford to buy an entire bank with it; hundreds of billions of dollars are enough to manipulate a country's exchange rate or interest rate. Many countries have implemented anti-money laundering laws to forbid these offenses, as in the case of the United States, Germany and Taiwan, which helps to hold this type of crime in check. But the prevention of money laundering crimes is a highly intelligent and endless war as money laundering crimes have no borders. Faced with this kind of massive and borderless criminal activity, we should set up action plans to prevent its occurrence and keep the damages minimal.

## **II. Definition and Characteristics of Money Laundering**

"Money laundering" is a familiar criminal term these days. Most people know that so-called "money laundering" is a process of washing illicit money into "clean" money, but few can clearly define it. "Money laundering" is not an intrinsic legal terminology. Simply put, it is an activity or process through which criminals convert the money or property generated from crimes, such as drug trafficking, kidnapping, robbery, white collar crime or graft, into legitimate funds or property through various transactions or other routes so as to conceal the criminal activity associated with it and then use the money freely without the detection of law enforcement. Presently the Financial Action Task Force on Money Laundering under the G-7 provides the most extensive and in-depth study regarding money laundering. According to their definition, "money laundering" includes "concealing or disguising the sources of illegal assets, and transferring or converting these assets or

assisting anybody related to illegal activities to evade their legal responsibility," "concealing or disguising the true nature, sources, location, movement and control or ownership of assets generated from illegal activities," and "obtaining, owing or using assets that are known to be illegitimate at the time of acquisition."

There are different patterns of money laundering, but they have four common features which are summarized as follows:

1. Multiple transfers: Criminals employ various methods to launder their illicit money themselves or through professionals; the process does not end until they feel safe from the detection of law enforcement agencies. The number of times the money is laundered depends on the amount involved, the enforcement of anti-laundering laws, the difficulty/ease of the procedure, and cost.
2. Cash-intensive: Usually gains generated from illegal activities are in the form of cash. In order to reduce the risk of detection, the money is laundered in cash-intensive manner, leading to money laundering activities more prevalent in countries and territories where cash is primarily used in transactions.
3. Payment of cost: Either the criminals launder the money themselves or through professionals, which incurs certain costs or expenses. Money launderers usually tolerate a 10 - 30% loss in order to get "clean" money.
4. Cross-border operations: Offshore funds are harder to trace, so money launderers usually take advantage of this. Thus the laundering activity is not restricted to one country or one territory. As electronic commerce becomes more prevalent, criminals can undertake massive cross-border money laundering through the Internet. Thus it is of paramount importance to enhance international cooperation in combating this type of crime.

### **III. Conditions Favorable to the Development of Money Laundering**

There are many factors contributing to the development of money laundering. From the political, economical, social, educational, cultural and regulatory perspectives, a few points are summarized as follows:

1. High level liberalization and internationalization of finance: The high level liberalization and internationalization of finance has resulted in less regulation over the flow of funds, making it more convenient for illegal money to be laundered. Countries or territories without foreign exchange controls are most favorable to the development of money laundering. The single European market that aims to remove all trade barriers in the continent also provides an excellent environment for money launderers.
2. Absence of smooth and effective bilateral judicial assistance channels: Taking advantage of the weakness of law enforcement agencies being unable to effectively get hold of the intelligence on

crimes in other countries, criminals engage in cross-border money laundering. On the other hand, since judicial investigation, court judgment and execution all fall under the domain of national sovereignty, one country's judicial powers cannot be exercised in another country, adding to the difficulty of tracking cross-border money laundering.

3. Proliferation of money laundering service providers: Money laundering has developed into a highly specialized business. Given that not all criminals know about its operation, almost all of them are willing to pay a fee for professional services. Thus the industry booms in response to market demands. Professional operators offer a whole set of services, including physical transport of money, setting up bogus businesses and forging transaction papers. With these professionals entering the market to help mask the illegal money as legitimate, the climate is more favorable to the development of money laundering.
4. Collusion between money launderers and employees of financial institutions: If a money launderer can find inside help in a financial institution, there is very little chance the laundering activity can be discovered, allowing the launderers a protective cover.
5. Financial institutions and related businesses lacking vigilance toward anti-money laundering: Under the circumstances where financial institutions and related businesses commonly lack the vigilance toward money laundering, launderers can usually carry out the activity without being detected.
6. Lack of rigorous administrative oversight: The lack of effective administrative oversight leaves the collaboration between money launderers and employees of financial institutions undetected.
7. Corruption: After money laundering becomes an organized operation, criminals are in a better position to entice politicians and government officials to cover for them or act on their behalf by offering bribes or other benefits, leading to a vicious cycle of money laundering spreading unchecked.
8. Rigid standards of secrecy: The secrecy codes provisioned in the Banking Law are drawn up for the protection of customer privacy. But if they are too strict, it amounts to giving money launderers a legal protective umbrella to engage in illegal activities and keeps law enforcement agencies from detecting these activities and the underlying crimes in the absence of any paper trail.
9. Lack of criminal sanctions: If money laundering offences are not subjected to criminal sanctions on top of administrative measures, money laundering activity may become more rampant due to the light penalty it incurs.
10. Poor countries condoning money laundering activity: For the sake of pulling themselves out of economic distress by earning quick money, the government of some economically backward countries have been working with crime groups or offering a protective umbrella for money laundering activities, to gain huge profits in the process.

#### IV. Money Laundering Tools

Money laundering can be achieved through financial transactions or other non-transaction means. The involvement of professional launderers keep the process evolving and often complex. Regular money laundering activity can be summarized into three stages: placement, layering and integration.

1. Placement: This refers to physically removing bulk cash proceeds from their origin to avoid attention. In this stage, the cash proceeds are deposited into financial institutions or smuggled abroad. It constitutes the weakest link in the process and is easiest to detect. The methods for placement are as follows:
  - a. Depositing cash with banks in small portions or buying financial instruments with cash in a manner to evade the reporting requirements, or exchanging small bills into large bills. This is the most commonly used method.
  - b. Producing false documents to conceal the real origin, ownership, location or disposition of illegal gains.
  - c. Depositing illicit money into affiliated banks, then transferring the funds into the central bank, claiming it to be a regular inter-bank transfer. This practice allows massive movements of illegal funds with the setup of bogus accounts.
  - d. Bribing bank employees or gaining the control of a financial institution to conspire a scheme of moving illegal gains through the financial system.
  - e. Smuggling the money to other countries and exchanging it into foreign currency, then remitting the money back in the local currency to the country of origin.
  - f. Finding cooperating commodity brokers and dealers to cover the origin of illegal funds.
  - g. Laundering the money under the coverage of legal precious metals, gems and art dealers.
  - h. Mixing illicit money with legal funds to form a legal corporation as a channel for future money laundering activities.
  - i. Converting illicit money into property of corresponding value by buying durable and expensive property, such as precious articles, real estate or liquid assets, with bulk cash.
  - j. Smuggling the illicit money out of the country using air transport, travelers, private jet, cargo ship or vehicles.
  - k. Exchanging large amounts of small bills into gambling chips in casinos, then switching them back into large bills to evade government reporting required of financial institutions.
  - l. Exchanging bulk cash proceeds into foreign currency or gold without leaving any paper trail through the non-banking network composed of gold shops, jewelry stores and traders.
  - m. Buying winning horseracing or lottery tickets from the winners with cash and claiming the prizes to turn the illegal gains into legal income.
2. Layering: After successfully placing the bulk cash proceeds, money launderers will go through



complex financial transactions to give the illegal gains an extra layer of protection and separate it further from its origin. If law enforcers are unable to detect the laundering at the placement stage, they will have a harder time in the layering stage. The methods commonly used in the layering stage are as follows:

- a. Launderer buys stocks through the combined accounts of the bank at the securities brokers.
  - b. Launderer buys traveler's checks, letters of credit, certificates of deposit, checks, bonds or stocks with money deposited at the banks to put the illicit money in circulation.
  - c. Launderer transfers the illegal funds electronically, which is fast and leaves no paper trail.
  - d. Launderer buys durable assets (such as automobiles, gold, land and houses) with cash, then sells or exports them; such transactions are not easily detectable by law enforcers.
3. Integration: After the placement and layering stages, launders must introduce the illegal wealth back into the economic system and turn it into regular business income. The methods commonly used in the integration stage are as follows:
- a. Launderer makes investments where down payment is paid with legitimate funds, the rest is borrowed from a bank, and loan payments are paid with laundered money. To the launderers, the entire investment has turned legitimate.
  - b. Launderer sets up a parent company to buy goods from an off-shore branch company at high prices and pays the branch company with laundered money for the transactions, turning the laundered money into legitimate business income of the branch company.
  - c. Launderer buys foreign companies that are on the brink of bankruptcy at ultra low prices with legitimate funds, then another buyer buys the company at an ultra high price, but the buyer does not really pay the difference which is footed entirely by the launderer with illicit funds. The proceeds from the sale are thus turned into legal income for the launderer.
  - d. Launderer invests in a knowing foreign company which then makes an investment of equivalent value into another company controlled by the launderer. Subsequently, the company controlled by the launderer declares insolvency, while the knowing foreign company uses the investment loss to claim a deduction on tax returns. This process entails investing laundered money in legitimate business and regaining it as a legal profit.

## V. Case Report

Emerging industrial countries are easy targets of international money laundering syndicates due to their relatively fragile financial system, less thorough financial regulations and weaker government oversight. As organized crimes proliferate and all the money produced in the crimes must be laundered, the money laundering business flourishes. Nowadays, thanks to the convenience of electronic transactions that provide fast service and completely skips the needs of cash transfer, money launderers have been able to save a lot of trouble in transporting cash proceeds, swiftly making multiple transfers and eluding the detection of law enforcers. Many criminals, while in the

process of engaging in criminal activity, already have a scheme in place to conceal and launder the illegal gains. Thus it has been difficult for us to track the flow of money in cases of corruption, economic crime, drug trafficking and arms smuggling that we have worked on in recent years. Essentially, there have been few money laundering cases that we've solved. Below is one case in which Tseng of KuangSan Group attempted to wire transfer his bulk illegal gain but law enforcement agencies successfully intercepted the crime in progress:

Tseng was the responsible person of KuangSan Group with a number of companies, including Shuan, Bank XX and KuangSan under its flagship. In November 1998 when the local stock market was down, Tseng needed large sum of funds to support the stock price of Shuan. He went ahead to acquire NT\$7,450 million of loans from Bank XX (where Tseng was the bank chairman) in the names of several investment firms through fraudulent process. Of the total loans he got from the bank, NT\$6,000 million was unsecured. In addition, Tseng coerced the Trust Department of Bank XX to invest NT\$1,745,768,000 in Shuan stocks in a move to push up the stock prices.

Tseng's group started to manipulate the share price of Shuan with the fraudulently acquired funds on Nov. 11 and quickly pushed the stock price to \$68 per share on Nov. 23. But the companies under the group or their dummy accounts defaulted on their purchases of Shuan and Bank XX stocks transacted through 11 securities brokers on Nov. 21, Nov. 23 and Nov. 24 successively. From Nov. 24-26, huge defaults occurred again. The total amount defaulted on by companies or accounts associated with Tseng's KuangSan Group amounted to NT\$8,432,264,526.

Tseng had deliberately defaulted on the purchase transactions. The funds he fraudulently acquired from Bank X were originally designated to pay the 11 securities brokers who accepted the orders to purchase Shuan and Bank XX stocks. Then with the intent to conceal the gains from his criminal activities, Tseng transferred the balance of the funds from the accounts of Chang, Huang, Lai, Lin, another Lin and Yeh with their collaboration on the day of the settlement default into the accounts of Tseng and another Tseng, and intended to wire these funds into foreign bank accounts. In addition, he put 61 checks under the custody of Lin to disguise the illegal gains. The Taichung Prosecutor's Office and MJIB Taichung Office initiated the investigation in time and seized NT\$2,462,895,000 possibly involved in this money laundering scheme.

## **VI. The Importance of Money Laundering Prevention and Major Strategies**

The union of money laundering with major crimes in the nature of drug trafficking, arms smuggling, robbery, kidnapping, organized crime and terrorism causes great disruption to social order, undermines the integrity of the financial system, corrupts the moral values and twists people's sense of right and wrong. As a measure to shut off an important channel of major crimes, prevention of money laundering is vastly important for the following reasons:

1. Instituting money laundering control boosts government image: If a country pays attention to



the issue of money laundering, it is easier for its banks to promote offshore banking business which is essential for robust foreign trade. On the other hand, it helps boost the country's image. Thus many countries have been putting forth significant efforts in addressing this issue.

2. Money laundering control curtails major crimes: Money laundering control helps stop the criminals from washing their illicit gains, thus curtailing the incentives of committing a crime. It also helps track down the underlying crime or prevent its occurrence.
3. Money laundering control is in line with the principle of social equity and justice: Money laundering control can halt the crime cycle, and assets confiscated as permitted by law can be used to compensate the victims. The redistribution of the illicit gains conforms to the principle of social equity and justice.
4. Money laundering control helps the establishment of a sound financial system: The bulk of illicit cash proceeds from criminal activities is laundered through the financial system. Money laundering control can shield the financial institutions from the infiltration of illicit money and prevent scheming between launderers and bank employees.
5. Important anti-money laundering strategies that have been adopted by various countries are as follows:
  - (1) Criminal sanctions: The hazards brought about by money laundering are no less severe than other types of crimes. Imposing criminal sanctions on the offence of money laundering should be able to produce a deterring effect on the money launderers and their accomplices. Thus criminalizing the offences of money laundering through legislation has become a world trend. Presently, Japan, the United States, the UK, Australia, Germany, Belgium, Italy, Finland, Ireland, the Netherlands, China, Switzerland and the ROC have implemented anti-money laundering laws, with varying standards for elements constituting money laundering offences, criminal penalty, disposition of illicit gains and the scope of underlying crimes.
  - (2) Establishing an administrative mechanism for prevention: Comprehensive legislation against money laundering may curtail the spread of these activities. But any punishment imposed is an after-the-fact action. In order to make preemptive moves against crime, there should be administrative measures set up targeting its prevention so as to reduce the losses incurred from criminal activities. For example, establishing a "know your customers and employees system," transaction documentation and reporting system, and a system for reporting suspected account activity.
  - (3) Establishing and executing the "anti-money laundering program": Financial institutions should set up and rigorously implement an anti-money laundering program that enhances the administrative preventive effect through security checks and employee training.
  - (4) Setting up a reward/disciplinary system for the preventive actions: For the sake of carrying through all anti-money laundering policies and provisions, there should be a complete reward/disciplinary system set up in addition to legislative control and guidelines. Government agencies that rigorously observe the established policies and provisions should

be rewarded; agencies that have been lax in implementation or support should be disciplined.

## **VII. Prevailing Problems for Money Laundering Prevention**

Money laundering is a crime-driven process that turns dirty money into clean. Given the advancement in technology and active international exchange, money laundering has become an international and technologically complex operation. Usually crimes associated with money laundering is easier to detect, but not the flow of illicit money produced from the crime. Along with the enactment of the Money Laundering Control Act on April 23, 1997, the Investigation Bureau under the Ministry of Justice set up the first "Money Laundering Prevention Center" in Asia. The Center started to process reports of financial institutions on suspicious money laundering activities with the aims to prevent money laundering, investigate major crimes and deter international money laundering groups to engage in illegal activities in Taiwan. The Money Laundering Control Act has been in force for two years, but flaws are present in the actual anti-laundering operation hampered by the presence of a deluge of underground money laundering channels that makes tracking of illicit funds difficult. Presently our anti-money laundering efforts have experienced the following problems:

1. Financial institutions have low awareness of money laundering activity: Previously, financial institutions were required to double check and document the withdrawal date, name of the accountholder, name and ID of the person making the withdrawal for one-time cash withdrawals of NT\$1 million or more. The prevailing regulations require financial institutions to verify the identity of the customer and keep the transaction record for cash deposits or withdrawals of NT\$ 1.5 million or more. But the financial institutions should be more vigilant about suspicious account activities.
2. Cash dealing habits make money laundering prevention more difficult: In order to conceal their identity, criminals do business mostly in cash, particularly in drug deals. A country that is used to cash transactions provides an easy medium for money launderers, which is the case in Taiwan.
3. Prevalence of underground money laundering channels: Underground fund transfer requires no paper proving the origin of funds or goods and leaves no record. These channels are favored by crime groups when laundering money and have often proven to be dead ends in money laundering investigation.
4. Use of dummy accounts makes money laundering hard to track: The prevailing regulations allow the outward remittance of US\$5 million a year. Money launderers can use a large number of dummy accounts to move bulk cash proceeds.
5. Dispersing transactions to evade the reporting requirements: In order to evade the requirements in Money Laundering Control Act for reporting cash deposits or withdrawals of NT\$1.5 million or

- more, launderers break the transactions into small sums, thus adding to the difficulty of detection.
6. Financial institution employees are ill-equipped to identify suspicious account activity: Financial institution employees often lack adequate experience or training to identify "suspicious" or "irregular" account activity, thus missing the chance of detecting money laundering activity.
  7. Automated teller machines (ATMs) do not provide real-time withdrawal information: The prevailing regulations require the documentation of cumulative cash deposits or withdrawals of NT\$1.5 million or more in the same account in one day. But if a person withdraws money from the same account at the counter and the ATM, the transaction data cannot be displayed simultaneously. In addition, nighttime transactions are not posted until the next day, while the money has been transferred the same day.
  8. These are the problems presently encountered in the anti-money laundering efforts.

## **VIII. Suggestions**

Financial institutions constitute the front line for money laundering prevention and are the gatekeeper against such activity. Through their prompt reporting, law enforcement agencies can grasp the flow of illegal funds in time and take preemptive actions against the crime. In terms of administrative measures, financial institutions must verify customer's identity and save the records for transactions exceeding a certain amount. For suspicious account activities, financial institutions should verify customer's identity, save the transaction records and make reports to designated agency. Non-financial institutions should do the same in compliance with money laundering prevention regulations. Financial institutions should also set up guidelines with regard to money laundering prevention for employees to follow. In addition to administrative measures, the government should implement criminal sanctions to enable the competent authorities to confiscate or collect the illegal gains produced from the underlying crime. Major crimes involving huge sums of money and the ensuing money laundering pose a serious threat to the economy of many countries and even the stability of the global financial system. It is essential to strengthen international cooperation in combating money laundering. As the techniques of money laundering keep evolving, the following suggestions are proposed to be taken into account for prevention:

1. Amending the Money Laundering Control Act: Adding the clause that gives law enforcers the authority to coordinate with financial institutions in freezing the accounts suspected of money laundering.
2. Setting up a money laundering databank: The Money Laundering Prevention Center should deploy a powerful computer network to facilitate the setup of a comprehensive databank, and recruit a professional intelligence analyst to effectively analyze and utilize the information collected.
3. Actively developing international cooperation: Joining in international anti-money laundering

- organizations and sponsoring conferences to promote the exchange of information and personnel, and extensively establish cooperative channels to combat money laundering.
4. Rigorously banning underground finance: Reinforcing the regulation over jewelry stores, pawn shops and travel agencies that are easy underground fund transfer channels and easy vehicles for money launderers.
  5. Promoting the use of non-cash instruments: A country that is used to cash dealings provides an easy target for money launderers. Thus the government should encourage its citizens to change the cash handling habits and restrict cash transactions over a certain amount to reduce the opportunities for money laundering.
  6. Continuing training and promotion: To reinforce the correct notions about money laundering prevention among financial institutions, government agencies should continue to educate and communicate with its personnel about relevant issues. Law enforcement agencies should also beef up personnel training, enhance their professional knowledge and skills, and unite social resources to educate the public about relevant laws and regulations.

## **IX. Conclusion**

The term "money laundering crimes" first appeared in the Vienna Convention of the United Nations eleven years ago and immediately received positive responses from the majority of member countries. Many countries have taken legislative measure to criminalize the crimes since. The anti-money laundering mechanism in this country, just established two years ago, has shown some positive results under the concerted efforts of government agencies, financial institutions and law enforcement agencies. However the challenges posed by the ever-evolving crime techniques and patterns call for the improvement of the existing mechanism. This paper attempts to propose some concrete suggestions, hoping to perfect the prevailing structure and practices in the full-scale efforts of money laundering prevention and fully prepare ourselves for the new crime landscape as we step into the 21st century.

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# Appendix



## **Appendix I**

### **Money Laundering Control Act**

Promulgated under Presidential Decree on October 23, 1996

Implemented on April 23, 1997

Article 1        This Act is specially enacted for the purpose of controlling money laundering and pursuing severe crimes.

Article 2        The "money laundering" referred to in this Act shall mean the following acts:

- (1) Glossing over or hiding the property or interests in the property obtained from the result of severe crimes committed by oneself or other persons.
- (2) Receiving, transporting, storing, intentionally buying, or acting as a broker to manage the property or interests in the property of other persons obtained through committing of the severe crimes.

Article 3        The "severe crimes" referred to in this Act shall mean the following crimes:

- (1) Crimes for which the minimum principal punishment sentenced by the court is imprisonment of five years or longer.
- (2) The crime sets forth in Articles 201 I of the Criminal Code.
- (3) The crimes set forth in Articles 240 III , 241 II and 243 I of the Criminal Code.
- (4) The crimes set forth in Articles 296 I , 297 I , 298 II and 300 I of the Criminal Code.
- (5) The crimes set forth in Articles 340 and 345 of the Criminal Code.
- (6) The crimes set forth in Articles 23 II , IV & V and 27 II of the Regulations for Prevention of the Sexual Transaction with Children and Teenagers.
- (7) The crimes set forth in Articles 8 I & II , 10 I & II and 11 I & II of the Statute for the Control of Fire Arms, Ammunition and Harmful Knives.
- (8) The crimes set forth in Articles 2 I & II and 3 I & II of the Statute for Punishment of Smuggling.
- (9) The crimes in contravention of Articles 155 I & II as set forth in Article 171 as well as crimes in contravention of Article 157-1 I as set forth in Article 175 of the Securities Exchange Law.
- (10) The crime sets forth in Article 125 I of the Banking Law.
- (11) The crimes set forth in Articles 154 and 155 of the Bankruptcy Law.

The acts of illegal manufacturing, transporting, and selling of narcotic drugs or

substances which affect the mind outside the territory of the Republic of China shall be deemed the commissions of the aforesaid severe crimes, unless the said acts are not punished in accordance with the law of the place of act.

The acts of illegal manufacturing, transporting, and selling of narcotic drugs or substances which affect the mind in the Mainland China shall also be deemed the severe crimes referred to in Paragraph 1.

Article 4 The property or interests in the property obtained in the commission of the crimes referred to in this Act shall mean one of the following items:

- (1) The property or interests in the property obtained directly from the commission of crimes.
- (2) The remuneration obtained from the commission of crimes.
- (3) The property or interests in the property derived from the objects as set forth in the above two items. But those obtained by a third party in good faith shall not be subject to the provisions hereof.

Article 5 The financial institutions referred to in this Act include the following institutions:

- (1) Banks
- (2) Trust and investment companies
- (3) Credit co-operative societies
- (4) Credit department of farmers' associations
- (5) Credit department of fishermen's associations
- (6) Postal institutions which also manage the business of saving and remittance
- (7) Bills finance companies
- (8) Credit card companies
- (9) Insurance companies
- (10) Securities dealers
- (11) Securities investment and trust enterprises
- (12) Securities finance enterprises
- (13) Securities investment consulting enterprises
- (14) Securities central depository enterprises
- (15) Futures dealers
- (16) Jeweler's shops
- (17) Other institutions designated by the Ministry of Finance.

The provisions governing financial institutions set forth in this Act shall apply to the financial institutions other than those specified in the preceding Paragraph, if they

have been designated by the Ministry of Justice after consulting with the authorities in charge of the end enterprise concerned as being likely to be utilized for committing money laundering activities.

The Ministry of Justice may as it deems necessary, require the financial institutions specified in the preceding two Paragraphs to use the means of payment(s) other than cash while conducting the transactions.

Article 6 Financial institutions shall establish the matters to be noted of the prevention and control of money laundering, and the said matters shall be reported to the Ministry of Finance for recordation, and the contents thereof shall include the following items:

- (1) The operation and internal control procedures for money laundering prevention.
- (2) Regularly holding and participating in on-job-training of money laundering prevention.
- (3) Assigning specialized persons to take care of the coordination and supervision of the implementation of these points for attention.
- (4) Other items designated by the Ministry of Finance.

Article 7 For currency transactions reaching more than a certain amount, the financial institutions shall have to ascertain the identity of customers and keep the transaction records as evidence.

The amount and the scope of currency transaction, procedure for ascertaining identity of customers, and the manner and period of keeping the transaction records as evidence referred to the preceding Paragraph shall all be decided by the Ministry of Finance after consulting with the Ministry of Justice and the Central Bank of China.

Any person who violates the provisions of the first Paragraph of this Articles shall be punishable by a fine of at least NT\$200,000 but not more than NT\$1,000,000.

Article 8 For any transaction which is suspected to be money laundering, the financial institution concerned shall identify the status of the customer involved and keep the records and evidentiary documents of such transaction, and may inform the party or parties to the transaction and report the case to the designated agency.

Where the report and information set forth in the preceding Paragraph is proved, by evidence, to have been made bona fide, the financial institution concerned shall be exempt from the obligation of keeping the confidentiality of business information.

The designated agency and the scope and procedure of accepting reports referred in the first Paragraph shall be decided by the Ministry of Finance, after consulting with the Ministry of Interior, Ministry of Justice and the Central Bank of China.

Any Person who violates the provisions of the first Paragraph shall be punishable

by a fine of more than NT\$300,000 and less than NT\$1,500,000. However, if the financial institution concerned is able to prove that the cause of such violation is not attributable to the intention or negligence of its employee(s), no fine shall be imposed.

Article 9 Any person who launders money shall be punished with imprisonment of not more than five years and, in addition thereto, a fine of not more than NT\$3,000,000.

Any person who takes the commission of the above crime as routine business shall be punished with imprisonment of more than one year and less than seven years and, in addition thereto, a fine of more than NT\$1,000,000 and less than NT\$10,000,000.

In case the representative of a juristic person, or the agent or any employee or any other workers of a juristic person or a natural person has committed any of the crimes set forth in the preceding two Paragraphs in the course of carrying out his duties, in addition to the punishment of the person committing such act, a fine as specified respectively in the aforesaid two Paragraphs shall be imposed upon the juristic person or the natural person the doer represents; unless the representative of the juristic person or the natural person has done his best to prevent the occurrence of such crime.

Persons who commit the crimes set forth in the preceding three Paragraphs and give themselves up to the law within six months after the commission of the crime shall be exonerated from the provided punishments; if they give themselves up to the law later than six months after the commission of the crime, the punishments imposed on them shall be decreased or exonerated; if they confess to their crimes during the courts of investigation or trial, the punishments imposed on them shall be decreased.

Article 10 Where a person commits any of the crimes as defined in the preceding Article or the property or interests in property obtained from a severe crime or crimes committed by any of the lineal relatives by blood, the spouse or any other relatives living together and jointly owning property, the person's punishment may be reduced or remitted.

Article 11 Any government employee who reveals or hands over documents, pictures, information or articles relating to the report of a suspected transaction or crime of money laundering to another person shall be punished with imprisonment of not more than three years.

Any employee of a financial institution who is not a government employee reveals or hands over the documents, pictures, information or other articles relating to the report of suspected money laundering transaction or a suspected crime of money laundering to another person shall be punished with imprisonment of not more than two years, detention, or a fine of not more than NT\$500,000.

Article 12 The property or interests in the property obtained by a person from the result of

committing the crimes in violation of this Act, other than such which should be returned to the injured party or a third party, shall be confiscated, whether or not they belong to the offender. If they can not be confiscated in whole or in part, the price thereof shall be recovered either by demanding the payment thereof by the offender or by offsetting such price by the property of the offender.

In order to ensure that the property or the interests in the property can be recovered by demanding the payment of the price thereof or by offsetting the price thereof by the property of the offender stipulated under the preceding Paragraph, the offender's property may be seized when it is deemed necessary.

Article 13      In case any fine imposed in accordance with this Act has not been paid within the prescribed time limit, the case shall be referred to the court for compulsory execution.

Article 14      For the purpose of controlling international money laundering activities, the government may, based on the reciprocal principle, enter into cooperative treaties, or other international written agreements in regard to the control of money laundering with foreign governments, institutions or international organizations.

Article 15      This Act shall come into force six months after promulgation.

## Appendix II

### Relevant Laws and Regulations

#### Banking Act

Article 48(2) Unless otherwise stipulated, the banking institutions shall kept confidential client's deposits, loans and remittances.

(In accordance with the decision of June 1, 1994, it states that the MJIB is authorized to inquire into information concerning client's deposits, loans and remittances in any banking institutions. As such, the banking institutions are obliged to furnish the needed information requested by the MJIB.)

#### Protection Act for Personal Information as Processed by Computer:

Article 7 Unless for specific purpose or in cases that are listed herebelow, governmental agencies shall not engage in collection or computer processing of individual's personal information:

Within the necessary scope as prescribed by statutory job description. (Following are omitted)

Article 18 Unless for specific purpose or in cases that are listed herebelow, non-governmental institutions shall not engage in collection or computer processing of individual's personal information: (First 4 clauses omitted)

Clause 5 By Article 3(7)(2) of this Act and other specific provisions set forth in other laws and regulations.

(Non-governmental institutions:

By Article 3(7)(2) in the preceding paragraph, they are:  
hospitals, schools, telecom businesses, financial institutions, securities firms, insurance industry and the mass broadcasting media.)

(Specific Purpose:

By Article 3(9) of the same Act, the specific purpose shall be designated by the Ministry of Justice in conjunction with other central governmental competent authorities and, by the Banking Act, the central competent authority in charge of financial industry shall be the Ministry of Finance.)



Article 25 Whenever the central competent authority deems it necessary, it may dispatch its personnel to inspect the non-governmental institutions that fall under its supervision either for permit or for registration concerning related matters as specified in this Act. The central competent authority may order the inspected institution to furnish related information or other necessary coordinated measures during the inspection. Further the central competent authority may detain any furnished information that is found to be at variance with established rules.

With respect to the inspection, inspection or detention above-mentioned, the non-governmental institutions shall not evade, impede or refuse.

### **Income Tax Act:**

Article 119: With the exception of concerned personnel and agencies, tax collectors shall make it strictly confidential with respect to taxpayer's income and taxable amount, etc. ... The concerned personnel and agencies mentioned in the preceding paragraph denotes the individual taxpayer and its agent ... as well as concerned governmental agencies and individuals approved by the Ministry of Finance.

### **Tax Collection Act:**

Article 33: With the exception of concerned personnel and agencies as listed herebelow, tax collectors shall make it strictly confidential with respect to taxpayer's property, income, business and tax information, etc. ... Violators shall be meted out with penalty; should violation of the Criminal Code be found to be existent, the case shall be referred to the court for prosecution:

1. Taxpayer himself... (first 5 clauses omitted)
6. Agencies engaged in auditing of tax affairs as designated by law.
7. Agencies and personnel as approved by the Ministry of Finance.

(In pursuance of Article 8 of the Money Laundering Prevention Act and Ministry of Finance decision dated June 6, 1997.)