



**ANTI-MONEY LAUNDERING
YEARBOOK, 1997**

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

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Preface

In recent years, some citizens of the nation have overzealously pursued material enjoyment and lost sight of spiritual advancement, so the criminal rate is growing. Obviously these phenomena have become a significant threat to our society.

From criminology view, the key to control of white-collar crime, organized crime, drug trafficking, should cut off the flow of illegal profits to criminal organizations. It is estimated that \$500 billion "dirty money" was laundered each year. Its origin and ownership are obscured as it passes through financial institutions and moves abroad to hide and protect it from law enforcement agencies.

Currently, criminal organizations use money laundering to circumvent investigation by law enforcement agencies. The proceeds thus laundered are used for new criminal activity. Therefore, money laundering threatens to destroy the financial and political system of our society.

Awareness of the pervasive presence of money laundering as well as its damaging consequences has caused our government to conform to a global trend by enacting anti-money laundering legislation. It was proposed by the Republic of China government and then passed by the Legislation Yuan on October 3, 1996. President Lee signed the bill into law on October 23 of the same year. It become effective on April 23, 1997.

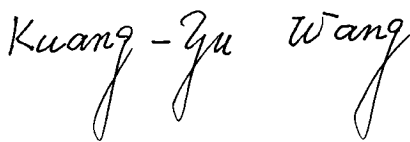
According to Paragraph 1 of Article 8 of the Money Laundering Control Act (MLCA), the Money Laundering Prevention Center (MLPC) of MJIB was formed on April 23, 1997 to handle Suspicious Activity Report (SARs) from financial institutions to assume responsibility for preventive measures.

Nowadays, criminal organizations can easy move money to the oversea by wire transfer. Money laundering is an international crime that has no borders. All countries

should work together, because none can combat money laundering by itself. We would like to share our experience with our counterparts in other countries. Of course, MLPC will be glad as a Financial Intelligent Unit to cooperate with other law enforcement agencies to solve this difficult problem in Taiwan.

The MLCA is the first independent legislation of its kind ever enacted by an Asian country. As a law enforcement agency, the Investigation Bureau, Ministry of Justice shall abide by its delegated authority to step up efforts to suppress money laundering to secure our society against the threat from criminal cartel.

WANG, Kuang-Yu

A handwritten signature in black ink that reads "Kuang-Yu Wang". The signature is written in a cursive style with a horizontal line connecting the first and last names.

Director General
MJIB

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Part One

Organization



I. Background

The government of the Republic of China (ROC) recognized the importance and consequences of money laundering. The recognition of money laundering as a global problem prompted the government to pass new legislation to combat the problem.

The Money Laundering Control Act (MLCA) was passed on October 3, 1996 by Legislative Yuan. President Lee signed the bill into law on October 23 of the same year, and it became enforceable on April 23, 1997.

According to Paragraph 1 of Article 8 of the MLCA, "the financial institution concerned shall identify the status of the customer involved and maintain 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."

The Act also specifies the government agency, which is to be responsible for implementing this law along with the proper procedure for accepting reports of suspected money laundering, the Ministry of Finance (MOF) shall make these decisions after consulting with the Ministry of Interior (MOI), Ministry of Justice (MOJ), and the Central Bank of China (CBC). On January 21, 1997, during a meeting of the above parties, the Investigation Bureau of MOJ (MJIB) was determined to be "designated agency".

Subsequently, the Money Laundering Prevention Center (MLPC) was established on April 23, 1997 to handle Suspicious Activity Report (SARs) and to assume responsibility for implementing preventive measures.

II. Function

The MLPC's functions, subject to the "regulations concerning the functions of the Money Laundering Prevention Center of MJIB," are:

- 1.Strategic researches on money laundering prevention.
- 2.Handling reports on suspected transactions requested by financial institutions.
- 3.Collecting, analyzing, processing and utilizing intelligence and information.
4. Providing assistance to other government agencies in solving money laundering related matters, and acting as coordinator or liaison concerning the matters.
- 5.Coordinating, planning, consulting and carrying through matters on communications, training, and cooperation with the related foreign counterparts.
6. Computer processing for compilations of database files.

III. Relative Laws and Regulations

A. Money Laundering Control Act

B. Banking Law

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

(In accordance with Document No.832294756 of Ministry of Justice, June 1, 1994 it states that the MJIB is authorized to inquire into information concerning client's deposits, loans, and remittances in any banking institution. As such, the banking institution is obliged to furnish the needed information requested by the MJIB.)

C. Computer-Processed Personal Data Protection Law:

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

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

Article 18-Unless for specific purpose or in cases that are listed hereinafter, non-governmental institutions shall not engage in collection or computer processing of individuals' 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. The Banking Act states 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 of the above-mentioned, the non-governmental institutions shall not evade, impede or refuse the investigating authority.

D. Income Tax Law:

Article 119-With the exception of concerned personnel and agencies, tax collectors shall maintain strict confidentiality 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.

E. Tax Collection Law:

Article 33-With the exception of concerned personnel and agencies as listed hereinafter, tax collectors shall maintain strict confidentiality with respect to taxpayer's property, income, business, and tax information, etc.....Violators shall be prosecuted; should a violation of the Criminal Code be found to be existent, the case shall be referred to the court for prosecution:

1. Taxpayer itself, (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, the MJIB's Money Laundering Prevention Center and its staff are the agencies and personnel as approved by the Ministry of Finance.)

F. The Regulations Governing the Functions of Money Laundering Prevention Center of the MJIB.

G. Standing Operating Procedures for the Money Laundering Prevention Center of the MJIB.

The Operating Procedures is the working guideline for the Money Laundering Prevention Center of the MJIB. Under the Operating Procedures, there are items entitled "division of business," "demarcation of authority," "business flow process," "investigation and verification technology," and "performance review."

IV. Definition

Acts of money laundering defined in accordance with Article 2 of the MLCA are 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 the committing of crimes. In other words, it is a crime, committed by oneself or through others, of using financial institutions or other channels to cover up the connections between the illegal proceeds and the original commissions of crimes; thus, establishing a legal status, eluding any possible legal pursuits and securing a clean record.**

In recent years, organized crime groups are known to have continued recycling their illegally obtained income through money laundering schemes. Criminal activities have become increasingly rampant, and organized crime groups increasingly larger, creating serious danger to social security, disrupting the financial order and infringing upon the public's interest. These organizations, through syndicated crime, have become transnational. The United Nations has urged all member nations to jointly enact laws to deter money laundering. Thus anti-money laundering has become a universal trend in an international cooperation showdown to crack down on crimes.

Part Two

Overview of Job Performance



I. Handling of Suspicious Activity Report

A. Statistic Information:

SARs from Banking Institutions:

Public banks: 10 totaling 40 cases

Private banks: 17 totaling 66 cases

Foreign banks: 7 totaling 26 cases

SARs from Non-Banking Institutions:

Credit co-operative societies:

9 totaling 13 cases

Credit Dept. of Fishermen's and Farmers' Association:

6 totaling 7 cases

Insurance companies:

5 totaling 11 cases

Other financial institutions:

3 totaling 3 cases

Other Institutions: 269 cases.

In all there were 435 cases of suspected money laundering for the whole year.

B. Handling Process:

Of the 435 cases listed above for 1997, after analysis and investigation, there were 77 of them referred to the MJIB for action. 7 were referred to the police authority for reference and action while 4 cases were referred to concerned foreign countries as foreign nationals were involved. 90 other cases were referred to the MJIB's field offices/stations for further investigation. 196 cases were either suspended or closed due to lack of evidence or inadequate information. By the year's end, there were 61 cases carried over requiring further analysis.

C. File Database:

Cases handled by the MLPC are filed in the computer system after having been verified, induced, compared and analyzed. In addition, related information resultant from investigations are also filed. There were 454 pieces of information filed in the computer system for future reference.

II. Promotion and Training

A. After the MLCA went into effect, the MLPC, in an attempt to familiarize local financial institutions with the true spirit of the Act, has held 8 workshop sessions island-wide attended by over 1,500 attendees from April 23 to the end of December of 1997. The true spirit of the Act calls for banking institution employees to be well versed in Articles 7 and 8. Transactions above NT\$1.5 million are, if suspected of money laundering, required to be reported to the MLPC in addition to verifying the client's name and recording the transaction.

B. To increase MJIB field investigators knowledge of the law and investigation techniques in money laundering cases, the MLPC sent its agents to hold 32 circuit workshops for field offices nation-wide during May and June of 1997. Participants in the workshop included all field agents, including special agents, assigned to the money laundering prevention task force.

III. International Cooperation

A. Anti-money Laundering Workshop:

In July 1997, the MJIB invited the U.S. officers of the DEA and FinCEN to visit Taiwan and attend an anti-money laundering workshop. Attendees were staff members of the MJIB's units and field offices/stations, MOJ and the Criminal Investigation Bureau of the National Police Administration (NPA). In the 2-day workshop, the U.S. instructors shared their working experience with Taiwanese counterparts.

In August of the same year, agents of the U.S. Secret Service (USSS) also came to Taiwan to hold a 2-day workshop. Courses offered in the workshop were primarily guidelines for investigating counterfeit credit cards and bogus U.S. notes. In addition, tracing direction and investigative techniques of money laundering scams were also discussed in the workshop. The two workshops have enabled agents in the just established MLPC to acquire foreign experience to enhance their investigations.

B. Cooperation with Counterparts:

Soon after the setup of the MLPC, agents of the Center started to contact foreign law enforcement agencies either through the MJIB's foreign affairs department or the Ministry of Foreign Affairs of ROC. Until the end of 1997, contact was made with foreign agencies include the FBI, USSS, DEA, and IRS of the U.S. and the law enforcement agencies of Japan, Australia, New Zealand,

Canada and Russian. The contact was made either through their law representatives or judicial representatives stationed in Taiwan.

C. Participation International Organization:

In February 1997, the MJIB (the MLPC was prepared to establish) and MOF went to Bangkok, Thailand to attend a meeting of the Asia/Pacific Group on Money Laundering. The ROC was one of the 13 founding members. We also aggressively strive for opportunities to participate in international meetings on money laundering prevention. Combating Money laundering mostly involves tracing illegal money, the work requires a close relationship with financial institutions. By definition, as specified under Article 5 of the MLCA, financial institutions include banks, trust and investment companies, cooperative banks, farming and fishing associations (that range in 16 categories), as well as other financial institutions as designated by the MOF. The regulatory agency for financial institutions is primarily the MOF. Article 6 of the same Act states that financial institutions are required to draw up instructions against money laundering and file them with the MOF for reference. Consequently, the MLPC, in mapping out strategies for anti-money laundering, promotion of business operation, and implementation of assigned mission, feels it imperative to conduct regular dialogue and coordination with the MOF which in turn has offered a high level of support.

Additionally, in tracing fund transfers, the job involves operation of such juridical entites as Joint Credit Information Center, Financial

Information System Center, National Credit Card Center, and Data Processing Center of the MOF. The work could further extend to involve household registration offices, land administration offices, police departments, and other government agencies under the supervision of the Ministry of Economic Affairs (MOEA). All of the institutions or agencies mentioned above underscore a need for the MLPC to place emphasis on coordination, in order to carry out the money laundering prevention operation.

In general, illegal funds through financial institutions is but one option. Couriers taking cash out is another. The Customs have become the front line against this operation. Soon after the establishment of the MLPC, we realized the importance of this issue and began to aggressively get work with customs authorities. The response has been overwhelmingly supportive. The stepping up of operations thorough customs is indeed beneficial to the suppression of money laundering.

Part Three

Past and Future



The MLCA had been in operation only eight months in 1997. Establishing a system which could provide a direction for investigations and contact with domestic and foreign agencies was our primary goal. The spirit of cooperation and dedicated work of our agents and colleagues has enabled us to accomplish more than we had first expected. Further success can best be insured by concentrating on the following areas:

I. Build Financial Account Data Base

Tracing illegal funds is a major step in anti-money laundering. Whenever a crime is committed, information of transactions in the banking systems lead us to hidden amounts of money gained from crime activities. The existing domestic financial system does not provide such a mechanism. Consequently, whenever the needs arise to trace money movement, a bottleneck occurs. Investigating methods must be applied to obtain the banking data of the suspect. This time-consuming process often results in lost opportunity. Establishment of Financial Account Data Base, generally called All-In-One Account, has become necessary. This is an important task that we will be aggressively trying to campaign in the future.

II. Expansion of Sources for Suspicious Activity Reports

The implementation of the MLCA has not been a year yet. To many of the general public, including some financial institutions, this is a rather new idea. For more than 8 months and by concerted efforts of all concerned, banking institutions in the financial sector have gradually accepted the concept and begun to cooperate -- resulting in some degree of success. To make anti-money laundering an acceptable program among the general public, additional education of the problem must continue. The direction in future efforts, including education, should be directed at other financial institutions as defined in Article 5 of the MLCA. Primarily, non-banking institutions such as trust and investment companies, securities firms, futures dealers, and gold shops should be targeted. The move should be intended to implant the idea of anti-money laundering in those firms and institutions so as to expand the base of sources for suspected transactions. The MLPC can then effectively receive information of money laundering sources and thereby deter unlawful acts.

III. On-Job Training of Staff

Proper staffing is the key to our success. Therefore, to carry out an assignment, proficiency of the job affects the result of the assignment. The MLCA has just been put into force and agents in the MLPC are all new to the job. In the face of a cross-trade involvement covering the financial industry and judicial sphere required of anti-money laundering, it is indeed a great challenge!

Fortunately, colleagues in the MLPC have all shown great enthusiasm in trying to learn the related theory and practical knowledge by attending every available workshop. While we are trying to complete each and every mission we are assigned, we realize events in the world are changing quickly and that we must try to seek improvement so that we can catch up and not be left behind. We understand the importance of uninterrupted learning and training; we are not satisfied with our performance. In the future, we shall, (from sources both at home and abroad)unceasingly seek new knowledge of money laundering prevention techniques and receive advanced training programs.

International Meeting of Egmont Group in June 29th, 1998 as an established FIU. Our government also would like to sign the treaty and/or memorandum with other countries. We believe that there is no one country can combat money laundering by itself.

IV. International Cooperation

Over the past 8 months, establishment of the MLPC and the ROC's efforts in checking money laundering activities have become widely known in the international community. Thanks to the efforts made by the MJIB's overseas field stations and the close contact we have had with foreign governmental institutions stationed in Taiwan. On the practical side, bona fide cooperation and exchange of information have been going on for cases under investigation. In this burgeoning information age, where contact between counties and individuals have become increasingly frequent, money laundering knows no borders. The whole world should work together to focus on this target – money laundering.

The MLPC was accepted by the 6th

Part Four

Essay



Combating to Money Laundering in Taiwan

– This essay was presented by special agent Dan T.E. Chan in
6th International Meeting of Egmont Group on July 1st, 1998.

I. Introduction

In recent years, crime has become increasingly international in scope and the financial aspects of crime are becoming ever more complex due to the rapidly changing advances in technology. International organized crime is an enormous and multifaceted problem. It is not only a law enforcement problem but a national and international security threat as well.

Many countries around the world already engage in concerted efforts to combat international organized crime. Through the enactment of laws fighting money laundering, bilateral and multilateral agreements and other cooperative efforts, nations have joined together to foster an international awareness of the seriousness and threat of organized crime and to acknowledge this problem.

Awareness of the pervasive presence of money laundering as well as its damaging consequences has caused the Republic of China (ROC) government to conform to this global trend. Therefore, the Money Laundering Control Act (MLCA) was proposed by the ROC government and then passed by the Legislative Yuan on October 3, 1996.

President Lee signed the bill into law on October 23 of the same year. It then came into force on April 23, 1997.

II. The Substance of MLCA

The Money Laundering Control Act substantially complies with primary international anti-money laundering guidelines, such as those put forth by the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drug and Psychotropic Substance (1988 UN Convention), the 1990 Forty Recommendations of the Financial Action Task Force on Money Laundering, and the Basle Committee on Banking Regulations and Supervisory Practices.

The primary purpose of establishing these international organizations is to use financial institutions to impede global money laundering.

III. Major Contents of the MLCA

The definition of money laundering

The MLCA contains 15 Articles and it is the first comprehensive statute in the Asia-Pacific region¹ designed to curb money laundering. The MLCA defined as money laundering the following acts:

- A. Receiving, transporting, storing, intentionally buying, or acting as a broker in transactions involving the concealment

1. See Taiwan: Executive Yuan (the Cabinet) Approves Draft of New Money Laundering Law, China Eco, News Service, April 21, 1995. Available on LEXIS, ASIAP Library, Taiwan File.

or laundering of the property or interest from property derived from major crime committed by oneself or other persons, or

B. The property of other persons derived from crimes (underlying crimes).

In other words, money laundering is a crime which committed by oneself or through others, of using financial institutions or other channels, to cover up the connection between illegal proceeds and criminal activity.

Thus, establishing a legalized cover for the money, including creation of an innocent record and a legal shelter.

The ROC government in the MLCA uses three approaches for suppressing money laundering: administrative efforts, administrative fines, and criminal penalties and sanctions².

The definition of major crimes

With regard to the definition of money laundering, major crime, property/interest in property derived from criminal activity, and financial institutions, enormous technical difficulties have been overcome by Ministry of Justice (MOJ) and Ministry of Finance (MOF) to implement and oversee the four articles in the act. It is worth mentioning that, in order to broaden the range of money laundering covered by the FATF, the major crimes are defined as crimes for which the minimum principal punishment is imprisonment for five or more years as well as the following crimes:

1. Offenses of counterfeiting transferable securities;
2. Abduction for the purpose of gain;
3. Offenses of fraud and usury as an occupation;
4. Violation of the regulations for preventing sexual transactions involving children and teenager;
5. Offenses of the Fire Arms, Ammunition and Harmful Knives Control Act;
6. Smuggling;
7. Violation of the Securities and Exchange Law;
8. Offenses of the Banking Law;
9. Offenses of the Bankruptcy Law; and
10. Drug offenses, which are considered particularly major crimes.

Principal provision

1. the duties of competent authorities

(1) the MLCA authorize the Ministry of Finance to:

- a. broaden the definition of financial institutions to include other institutions not specified in the Act;
- b. prescribes procedures that shall be established in the guidelines of financial institutions;
- c. stipulate the base amount of money for mandatory reporting, the scope of currency transactions which should be reported, procedures for verifying the identity of customers, and regulations on the manner of and

2. See Ying-Jeou MA, former Minister of Justice of 1994-1996, Supplement Report to Proposed Money Laundering Control Act, prepared for the Hearing of Subcommittee on Finance and Justice, the Legislative Yuan, on June 1995.

minimum time-period for record keeping;

- d. determine lead agencies, procedures and scope for receiving reports of transactions suspected of involving money laundering.

(2) the MLCA authorize the Ministry of Justice to:

- a. designate non-financial institutions to be covered and treated as financial institutions in the MLCA;
- b. define means of payment other than cash transactions to be covered by the law; if necessary, criminal liability can be imposed on the violators of the Act.

2. *the duties of financial institutions*

(1) establish internal guidelines and procedures for preventing money laundering and hold on-the-job training regarding the prevention of money laundering;

(2) verify the identity of customers and keep records as evidence in cases involving transactions exceeding a certain amount of money; and verify the identity of the customers, keep records as evidence, and report the case to the designated agency in case where transactions are suspected to involve money laundering.

3. *confiscating the illegal properties of money launderers*

As recommended by the FATF, the provisions of Article 12 of the MLCA enable

the authorities to confiscate the property laundered, proceeds from the commission of money laundering offense, or property of corresponding value, without prejudicing the right of the injured or bona fide third parties.

IV. Money laundering in Taiwan

Money Laundering was made easy by Taiwan's unique social, political and financial situation and customs. Traditionally, Asian people prefer to use cash rather than checks, credit cards or other monetary instruments. Sixty percent of all used in transactions were in cash, compared to 8.5 percent in the United States and 7.5 percent to 8 percent in Europe³.

Monetary customs on Taiwan offered ample opportunity to tax evaders, white-collar criminals, organized criminals, and drug dealers to conceal their property or interests.

The underground financial system also hampered attempts by law enforcement agencies to investigate money laundering activities. Taiwan's underground financial system provided service to small business⁴ because those customers were considered high-risk customers, had poor financial and accounting documentation, and lacked property for collateral. The paperless underground financial system enticed money launderers to intermix criminal proceeds through established underground financial

3. WU, Jung Chun (1998) Money Laundering Activity and Prevention: International and Domestic Challenges for Taiwan, R. O. C. Unpublished master's thesis, Rutgers University, Newark, New Jersey.

4 Sales less than NT\$10million per year.

institutions, since there was of no legislation or custodian agencies to monitor money laundering.

Another problem is bribery, including politicians who use their legislative position and power to acquire illegal property or interests. For example, a few Taiwanese politicians have taken personal loans from financial institutions or exchanged their illegal proceeds using their political influence⁵.

V. Rules and Regulations for Implement of the MLCA

According to the MLCA, the MOF should consult the MOJ, the Ministry of Interior (MOI) and the Central Bank of China (CBC) is setting up certain rules and regulations. The MOF has invited the MOI, the MOJ, the CBC, the Investigation Bureau of MOJ (MJIB) to discuss several technical issues. Major conclusions have been reached as follows:

1. currency transaction means cash payment (including the total of separate payments in the same account during a single business day) or paper currency changes (change large bills into small bills and vice versa);
2. the floor amount for mandatory recording in financial institutions is NT\$1.5 million or its equivalent (US\$43,000 approximately);

3. the manner and minimum time-period of keeping the customer information and the transaction evidence record; the records should be kept in their original style for five years;
4. the designated agency for accepting reports of transactions suspected of involving money laundering is the MJIB.

The MOF has instructed every self-regulatory organization to develop a model sample for their members to set up the internal guidelines for prevention of money laundering. The MOF and MOJ required that the model sample developed by each self-regulatory organization should at least include certain items. The basic contents of the internal guidelines are the following:

1. steps to deal with the opening of new accounts;
2. steps to reconfirm the identity of the account holder;
3. steps to deal with transaction amounting to the mandatory recording base or suspected of involving money laundering (including the references for judging whether the transactions are suspected of being involved in money laundering);
4. procedures regarding the record keeping and reporting process;
5. arrangements for on-the-job training.

5. LEE, Lawrence L.(1998, January) Taiwan's Recent Opposition to the Money-Laundering Epidemic. *Journal of Money Laundering Control*, pp. 368-376.

VI. To Build Financial Intelligent Unit (FIU)

According to Paragraph 1 of Article 8 of the Act, in cases when a transaction is suspected of involving money laundering, the relevant financial institution shall identify the status of the customer involved and keep the records and evidentiary documents for the suspect transactions. The institution must also report the case to the designated government agency. However, such an institution may exercise its own discretion concerning whether or not to inform those involved in these activities or transactions about its suspicions. The Act also specifies that the government agency, which is to be responsible for implementing this law along with the proper procedure for accepting reports of suspected money laundering, the MOF shall make these decisions, after consulting with the MOI, MOJ and the CBC. On January 21, 1997, during a meeting of the above parties, the MJIB was determined to be "designated agency".

Subsequently, the Money Laundering Prevention Center (MLPC) was established on April 23, 1997 to handle Suspicious Activity Report (SARs) and to assume responsibility for implementing preventive measures. The MLPC received 435 SARs from financial institutions in 1997 and have received 560 SARs since January 1st to June 24, 1998.

The Center's functions are:

1. To conduct strategic investigation in order to prevent money laundering;
2. To handle reports of suspect transactions;
3. To collect, analyze, process, and utilize

intelligence and information in order to facilitate the prevention of money laundering;

4. To provide assistance to other government agencies in money laundering related matters, and to act as a liaison in these matters;
5. To coordinate, plan, consult and carry through on matters related to communications, training and cooperation with the related foreign counterparts;
6. To provide computer processing for compilation of database files.

VII. International Cooperation

In order to suppress international money laundering, the MLCA provides the administration with the ability to sign agreements/ treaties with counterpart of other countries, or with cooperative organizations in order to collaborate in combating money laundering.

Although we could not sign the forty recommendation of FATF, we really want to work with counterparts in other countries to fight money laundering. Therefore, we joined the Asia/Pacific Group on Money Laundering in Bangkok in February 1997 as a founding member.

Moreover, the MLPC sent agents to the FinCEN in the U.S. in April 1998 for an exchange program, we were the first country in Asia involved in this program.

After the MLPC was established, we built contacts through joint cases with the FBI, DEA, Secret Service, and U.S. IRS, and the

law enforcement agencies of Australia, Canada, New Zealand, and Japan.

Of course, we would like to join the EGMONT GROUP and work with the other FIUs to fight this global problem—money laundering.

order to cooperate in the worldwide fight against money laundering.

VIII. Conclusion

Over the past thirty years, the Republic of China created economic miracle in Taiwan. The per capita GNP rose from US\$200 in 1965 to US\$13,233 in 1997; this is the 25th highest GNP worldwide. In 1996, Taiwan's hardware information technology industry (domestic and oversea combined) yielded a total production value of US\$18.2 billion, up 20 percent from the previous year, making it the ROC's most important foreign exchange earner. Taiwan has been the world's third-largest computer hardware supplier since 1995, trailing only behind the United States and Japan⁶.

We hope to develop our country as an Asian financial center and would be pleased to share our experience in economic development with other countries.

As we know, money laundering poses a substantial threat to the world's economic and financial systems, so we sincerely hope that the ROC can join the EGMONT GROUP in

6.The Government Information Office, Republic of China: The Republic of China 1998 Yearbook (Taiwan: GIN, 1998) p.173

Part Five

Appendix



I. Money Laundering Control Act

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 Article 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 corporative treaties, or other international written agreements in regard to the control of money laundering with foreign governments, institutions or interantional organizations.

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

II. Suspicious Activity Report

Bank Name:	Date:
1. The Information of Customer	
Name:	
Present Occupation:	
Address:	
DOB:	
I.D. Number:	
2. The Information of Appointee of the Transaction	
Name:	
Present Occupation:	
Address:	
DOB:	
I.D. Number:	

3. Details of the Transaction

Transaction Type:

Account No. & Sequence No.:

Date:

Total Amount:

Others:

4. The Suspicious Reason:

5. Reported by:

(Bank Name)

Responsible Person (or Contact Person):

TEL&TELEX Number:

Address: