

Jurisdiction-specific advisory
in respect of transactions with Myanmar

1. The purpose of this advisory is to inform insurance institutions operating in Hong Kong of the serious deficiencies in the anti-money laundering system of Myanmar, the requirements for the scrutiny that insurance institutions should give to certain transactions or business relationships involving Myanmar and their obligation to report any suspicious transactions arising from such scrutiny. In addition, insurance institutions are requested to raise the awareness of their staff and, where applicable, the general public on non-cooperative countries and territories including Myanmar through various means as set out in this advisory identified by the Financial Action Task Force on Money Laundering (“FATF”).

2. The anti-money laundering regime of Myanmar is found to suffer from the following serious deficiencies :

- Although The Control of Money Laundering Law (“CMLL”) creates a framework for anti-money laundering measures since June 2002, there are no provisions to enhance international cooperation, particularly mutual legal assistance. Because portions of the law are basic, it will either need to be expanded or partnered with detailed regulations to make the provisions effective;
- Rules that would implement CMLL still need to be drafted and issued;
- CMLL does not criminalize unauthorized disclosure of suspicious transaction reports; and
- Further legislative work may be necessary to fully address the regulatory and supervisory functions of the central bank.

3. The deficiencies in the counter-money laundering systems of Myanmar have caused the country to be identified by the FATF as non-cooperative in the global fight against money laundering.

4. In October 2003, the FATF considered that inadequate progress had been made by Myanmar in addressing the deficiencies identified earlier. Specifically, the FATF called on its members to apply further counter-measures as of 3 November 2003 against Myanmar, unless its government introduced Mutual Legal Assistance Legislation into parliament and issued comprehensive implementing rules and regulations for the CMLL by that time. To-date the Myanmar Government has not addressed the deficiencies.

5. Therefore, in addition to the application of Recommendation 21^(Note), the FATF recommended the application of further counter-measures to Myanmar. Such counter-measures should enhance surveillance and reporting of financial transactions and other relevant actions involving Myanmar, including the possibility of :

- stringent requirements for identifying clients and enhancement of advisories, including jurisdiction-specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from the country;
- enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with Myanmar are more likely to be suspicious;
- in considering requests for approving the establishment in FATF member countries of subsidiaries or branches or representative offices of banks, taking into account the fact that the relevant bank is from Myanmar, which is an NCCT;
- warning non-financial sector businesses that transactions with Myanmar, which is an NCCT, might run the risk of money laundering.

6. In Hong Kong, insurance institutions are advised to make additional efforts in the following area in respect of transactions with Myanmar :

For new customers from Myanmar, insurance institutions should clearly ascertain the customers' background and the expected size and nature of insurance contracts. In case of doubts, a supervisory officer (who does not normally have to be involved) should review the insurance proposal/application lodged by these customers before acceptance.

7. Insurance institutions should refer to the updated list of suspicious activity indicators including Myanmar and other NCCTs at Appendix, in

^(Note) Recommendation 21 : Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate counter-measures.

addition to those set out in Annex G of the Guidance Note on Prevention of Money Laundering, in ensuring compliance with the reporting requirements under the respective anti-money laundering guidelines and regulations.

8. Insurance institutions should include the subject of NCCT with special emphasis on Myanmar in their staff training programmes in respect of money laundering.

9. Where practicable, insurance institutions should help spread more widely information on NCCT, in particular that about Myanmar, to business relationships with the non-bank financial sector, business sector, intermediaries such as lawyers and accountants and so on. This is to complement Government's efforts to disseminate information on the NCCT process, and Myanmar which is an NCCT jurisdiction subject to counter-measures, to the general public.

10. To enhance awareness on Myanmar and other NCCTs, attention of staff of insurance institutions should be drawn to the websites of the FATF, the Narcotics Division of the Security Bureau, the Joint Financial Intelligent Unit and the Insurance Authority where the background and latest developments of NCCT, in particular Myanmar, which is an NCCT jurisdiction subject to FATF counter-measures are published.

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List of Suspicious Activity Indicators
Commonly Associated with Money Laundering in Hong Kong

1. Large or frequent cash transactions.
2. Involvement of one or more of the following entities which are commonly involved in money laundering :-
 - (a) Shelf, or Shell Companies.
 - (b) Company registered in a known “Tax Haven” or “Off-shore Financial Center”.
 - (c) Company Formation Agent, or Secretarial Company, as the authorized signatory of the bank account.
 - (d) Remittance Agency or Money Changer.
 - (e) Casino.
3. Currencies of, or entities (personal or corporate) associated with, or nationals of the following High Risk countries :
 - Those countries which are commonly associated with drug trafficking, drug production, fraud and money laundering;
 - Those countries which have been identified as having serious deficiencies in their money laundering regimes. These countries include, but are not limited to, the 9 NCCTs identified by the FATF as at October 2003 i.e. Cook Islands, Egypt, Guatemala, Indonesia, Myanmar, Nauru, Nigeria, the Philippines and Ukraine. Special attention should be given to Myanmar and Nauru which have been subject to FATF counter-measures since they do not put in place significant anti-money laundering legislation to address the money laundering concerns identified by the FATF.
4. Customer refuses, or is unwilling, to provide explanation of financial activity, or provides explanation assessed to be untrue.
5. Activity is incommensurate with that expected from the customer considering the information already known to the insurance institution about the customer and the customer’s previous financial activity. (For personal accounts consider customer’s age, occupation, residential address, general appearance, type and level of previous financial activity. For company accounts consider type and level of activity).
6. A client who is introduced by an overseas agent, affiliate or other company both of which are based in a NCCT.