

Jurisdiction-specific advisory
in respect of transactions with the Philippines

The purpose of this advisory is to inform financial institutions operating in Hong Kong (“financial institutions”) of serious deficiencies in the anti-money laundering systems of the Republic of the Philippines, the requirements for the scrutiny that financial institutions should give to certain transactions or business relationships involving this jurisdiction and their obligation to report any suspicious transactions arising from such scrutiny. In addition, financial institutions are requested to raise the awareness of their staff and the general public on non-cooperative countries and territories including the Philippines through various means as set out in this advisory.

The anti-money laundering regime embodied in the legal, supervisory, and regulatory systems of the Philippines is found to suffer from the following serious problems :

- Money laundering is not a crime under the law of the Philippines.
- For Philippines’ financial institutions, anti-money laundering regulations are not in place to require them to verify and record the identity of their customers.
- Since there is no mandatory system for reporting suspicious transactions, financial institutions operating in the Philippines have no obligation to report suspicious transactions.
- The Philippines’ bank secrecy laws make it virtually impossible for government authorities to obtain any financial information that is collected and maintained by banks about any bank “deposits” by customers.

The deficiencies in the counter-money laundering systems of the Philippines have caused the Philippines to be identified by the Financial Action Task Force on Money Laundering (“FATF”) as non-cooperative in the fight against money laundering.

The Philippines has indicated an awareness of the impact of the

deficiencies in its anti-money laundering system, and has laid a Bill before its Parliament to remedy the structural deficiencies identified by the FATF. The purpose of the Bill is to provide for the criminalization of money laundering, requirement of customer identification as well as record keeping, introduction of suspicious transaction reporting system and relaxing the bank secrecy provisions. Up to now, the Bill has not yet completed the parliamentary process and the necessary reforms have therefore yet to be put in place.

In September 2001, the FATF considered that inadequate progress was made by the Philippines in addressing the serious deficiencies identified in June 2000. In addition to the application of Recommendation 21, it recommended the application of further counter-measures to the Philippines. It believed that enhanced surveillance and reporting of financial transactions and other relevant actions involving this jurisdiction was required, 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 this country;
- Enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with NCCT countries including the Philippines 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 an NCCT;
- Warning non-financial sector businesses that transactions with entities within the NCCTs might run the risk of money laundering.

Specifically, the FATF called on its members to apply further counter-measures as of 30 September 2001 to the Philippines, unless its government enacts, by that date, significant legislation that addresses the identified money laundering concerns.

In view of the above, this advisory is issued to advise insurance institutions in Hong Kong to make additional efforts in the following areas in respect of transactions with the Philippines :

For new customers from the Philippines, 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. To avoid undue administrative burden, a more flexible approach could be adopted for local resident Filipino domestic helpers, provided that the person's identity and employment could be clearly established.

Insurance institutions should refer to the list of suspicious activity indicators including NCCTs and the Philippines at Appendix, in 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.

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

Where practicable, insurance institutions should help spread more widely information on NCCT, in particular that about the Philippines, 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 the Philippines which is an NCCT jurisdiction subject to counter-measures, to the general public.

Staff of insurance institutions should pay attention to the websites of the Narcotics Division of the Security Bureau, the JFIU and financial regulators where the background and latest developments of NCCT, in particular in respect of the Philippines which is the NCCT jurisdiction subject to FATF counter-measures are published.

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

1. Currencies, countries or nationals of countries, commonly associated with international crime or identified as having serious deficiencies in their anti-money laundering regimes, e.g.
 - Thailand, Cambodia, Myanmar, Laos, Netherlands, Colombia relating to drug trafficking;
 - Nigeria relating to fraud and drug trafficking;
 - 19 NCCTs (Non-cooperative Countries and Territories) identified by FATF in June 2001 i.e. Cook Islands, Dominica, Egypt, Grenada, Guatemala, Hungary, Indonesia, Israel, Lebanon, Marshall Islands, Myanmar, Nauru, Nigeria, Niue, Philippines, Russia, St Kitts and Nevis, St. Vincent and the Grenadines, and Ukraine. Special attention should be given to the Philippines which will be subject to FATF counter-measures unless it passes significant anti-money laundering legislation by 30 September 2001.

2. Customer refuses, or is unwilling, to provide explanation of financial activity, or provides explanation assessed to be untrue.

3. A client who is introduced by an overseas agent, affiliate or other company both of which are based in the Philippines.