

Jurisdiction-specific advisory
in respect of transactions with Ukraine

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 Ukraine, the requirements for the scrutiny that insurance institutions should give to certain transactions or business relationships involving Ukraine 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 Ukraine 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 embodied in the legal, supervisory, and regulatory systems of Ukraine is found to suffer from the following serious problems :

- For Ukrainian financial institutions, there is no efficient mandatory system for reporting suspicious or unusual transactions to a competent authority.
- Since anti-money laundering regulations are not in place for identification of beneficial owners, financial institutions operating in Ukraine have no obligation to verify the identity of their customers.
- There are obstacles to effective international cooperation due to the non-existence of Ukrainian laws permitting international exchange of information between administrative authorities. No explicit authority has been given to the Ukrainian administrative authorities to conduct investigation or enquires on behalf of their foreign counterparts.
- Without a centralized unit functioning as a financial intelligence unit, there is lack of mechanism for collection, analysis and dissemination of suspicious transactions information.

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

4. In October 2002, the FATF considered that inadequate progress had been made by Ukraine in addressing the deficiencies identified earlier. Specifically, the FATF called on its members to apply further counter-measures as of 15 December 2002 to Ukraine, unless its government enacted, by that date, comprehensive legislation that met international standards.

5. On 28 November 2002, the Parliament of Ukraine passed the “Law of Ukraine on Prevention and Counteraction of the Legalization (Laundering) of the Proceeds from Crime”. Most of the deficiencies identified in the country’s anti-money laundering system have still not been addressed.

6. Therefore, in addition to the application of Recommendation 21^(Note), the FATF recommended the application of further counter-measures to Ukraine. Such counter-measures should enhance surveillance and reporting of financial transactions and other relevant actions involving Ukraine, 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 Ukraine are more likely to be suspicious;

^(Note) Recommendation 21 : *Financial institutions should give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these 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 supervisors, auditors and law enforcement agencies.*

- 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 Ukraine, which is a non-cooperative country and territory (“NCCT”);
- warning non-financial sector businesses that transactions with Ukraine, which is an NCCT, might run the risk of money laundering.

7. In Hong Kong, insurance institutions are advised to make additional efforts in the following areas in respect of transactions with Ukraine :

For new customers from Ukraine, 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.

8. Insurance institutions should refer to the updated list of suspicious activity indicators including Ukraine and other NCCTs 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.

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

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

11. To enhance awareness on Ukraine and other NCCTs, attention of staff of insurance institutions should be drawn to the websites of 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 Ukraine, 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 11 NCCTs identified by the FATF as at October 2002 i.e. Cook Islands, Egypt, Grenada, Guatemala, Indonesia, Myanmar, Nauru, Nigeria, the Philippines, St. Vincent and the Grenadines, and Ukraine. Special attention should be given to Nauru and Ukraine 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 Ukraine.