



UN Convention against Corruption Regional Approaches to Implementation of the Global Anti- money Laundering Standards

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17 February 2005

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Introduction



- Why the focus on corruption and money laundering?
- Money laundering typologies - corruption
- FATF & APG - FATF Style Regional Bodies
- Regional Challenges
- The AML/CFT Standards
- Risks of not responding
- Implementation responses

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Article 23 - Money Laundering

“...criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.”

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Money Laundering Typologies

- currency smuggling
- underground banking / alternative remittance (hawala, hundi)
- wire transfers
- Use of nominees, trusts, family members or third parties
- purchase of valuable, portable commodities (gold, gems etc)
- purchase of valuable 'fixed' commodities (real estate etc)
- gambling, use of casinos
- commodity exchange / barter
- smurfing / structuring
- mingling (business investment, especially with cash)
- trade based money laundering
- use of shell companies
- use of professionals - gatekeepers
- investment in capital markets
- use of foreign bank accounts
- ETC

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FATF Standards



- **The Financial Action Task Force (FATF) is an inter-governmental body. Its purpose is to develop and promote policies to combat money laundering and terrorist financing.**
- **The *Forty Recommendations* and *Nine Special Recommendations* of the FATF set out the framework for anti-money laundering and combating the financing of terrorism efforts covering the following areas:**
 - **the criminal justice system and law enforcement,**
 - **the financial system and its regulation, and**
 - **international co-operation.**

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The FATF's role



- **The FATF:**
 - **reviews money laundering and terrorist financing techniques and measures, and**
 - **promotes the adoption and implementation of appropriate measures globally.**
 - **monitors its members' progress in implementing necessary measures,**
- **In performing these activities, the FATF collaborates with other international and regional bodies involved in combating money laundering and the financing of terrorism, including the UN and the APG.**

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What is the APG?



- **The APG's principal roles are the implementation of the AML/CFT global standards and the regional assessment of compliance.**
- **An agreed part of that regional role is to coordinate AML/CFT technical assistance & training across the Asia/Pacific.**
- **The APG also undertakes typologies work to study methods and trends of money laundering.**

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APG Members

The APG presently consists of 28 members:

- | | |
|---------------------------|--|
| Australia | Marshall Islands, Republic of the |
| Bangladesh | Mongolia |
| Brunei Darussalam | Nepal |
| Cambodia | New Zealand |
| Chinese Taipei | Niue |
| Cook Islands | Pakistan |
| Fiji Islands | Palau |
| Hong Kong,China | Philippines |
| India | Samoa |
| Indonesia | Singapore |
| Japan | Sri Lanka |
| Korea, Republic of | Thailand |
| Macau,China | United States of America |
| Malaysia | Vanuatu |

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APG Observer Jurisdictions



The APG currently has 12 Observer jurisdictions:

Canada

France

Germany

Kiribati

Lao PDR

Maldives

Myanmar

Nauru

Papua New Guinea

Tonga

United Kingdom

Vietnam

APG Observer Organisations



The APG currently has 16 observer Organisations:

- Asia Pacific Economic Cooperation (APEC) Secretariat
- Asian Development Bank (ADB)
- Associations of Southeast Asian Nations (ASEAN) Secretariat
- Caribbean Financial Action Task Force (CFATF)
- Commonwealth Secretariat
- Egmont Group of Financial Intelligence Units of the World
- Finance Action Task Force on Money Laundering (FATF) Secretariat
- International Monetary Fund (IMF)
- Interpol
- Oceania Customs Organisation (OCO)
- Offshore Group of Banking Supervisors (OGBS)
- Pacific Islands Forum Secretariat (PIFS)
- Pacific Financial Technical Assistance Centre (PFTAC)
- United Nations Office on Drugs and Crime (UNODC)
- The World Bank
- World Customs Organisation (WCO)

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EAG Members



**The Eurasian FATF Style Regional (EAG)
formed in December 2004 with 6 members:**

- Kyrgyz Republic
- People's Republic of China
- Republic of Belarus
- Republic of Kazakhstan
- Republic of Tajikistan
- Russian Federation

The EAG Secretariat is based in Moscow

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Asia/Pacific Region

Significant challenges



- **Relatively low institutional capacity**
- **Corruption, particularly in developing countries**
- **Proliferation trans-national crime and profit-driven crime across the region**
- **Major drug production centres in the region**
- **High use of alternative remittance systems**
- **Extensive use of cash & high value items**

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Low levels of institutional capacity

- **Large number of developing countries in the region**
- **Diversity in the levels of institutional development across the region**

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Corruption

- **corruption generates enormous profits to be laundered**
- **Corruption is a key factor in both predicate criminal activities and money laundering**
- **Systemic corruption undermines regulatory and legislative AML/CFT regimes**
- **Systemic corruption undermines institutional development**

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FATF 40 + 9 Recommendations

- Criminalisation of money laundering
 - Elements in UN Vienna (art 3), Palermo, and Merida
 - All property that is proceeds of crime
 - Does not require conviction for predicate crime
 - Should cover “all serious offences” - widely defined (threshold, list approach, all crimes or a combination)
 - applies to natural persons; legal persons liable criminally
 - sanctions: effective, proportionate, dissuasive

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FATF 40 + 9 Recommendations

- Confiscation, freezing and seizing proceeds of crime and terrorists funds
 - provisions in keeping with the UN conventions
 - Assessments of effectiveness address the question of burden of proof to freeze, speed and ease of freeze and seize orders; whether confiscation can occur in all money laundering or predicate offence case;



FATF 40 + 9 Recommendations

- The financial intelligence unit (FIU)
 - Countries must have an FIU
 - Countries must designate a law enforcement authority to investigate money laundering and terrorist financing
 - FIU model is not prescribed
 - FIU operational independence is essential
 - FIU requires *direct* and *timely* access to financial, administrative and law enforcement information
 - Must be able to co-operate with domestic authorities
 - Must be able to co-operate with foreign authorities

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FATF 40 + 9 Recommendations

- The financial intelligence unit (FIU)
 - FIU functions:
 - reception of STRs
 - analysis of STRs
 - Dissemination
 - Guidance to the reporting institutions
 - International co-operation (Egmont Group)

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FATF 40 + 9 Recommendations

- The financial intelligence unit (FIU)
 - Issues to consider:
 - Corruption proofing
 - model: administrative, law enforcement or prosecutorial
 - monitoring compliance with AML/CFT
 - Training for staff of reporting institutions
 - Feedback and statistics
 - Domestic co-operation and co-ordination
 - International information exchange

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FATF 40 + 9 Recommendations

- Law enforcement, prosecution and other competent authorities
 - Powers
 - Resources
 - Effectiveness
 - Domestic and international co-operation

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FATF 40 + 9 Recommendations

- Preventative measures: financial institutions
 - Suspicious transaction reports and other reports (immunities and no tipping off provisions)
 - Customer Due Diligence (CDD)
 - Know Your Customer (KYC)
 - Politically Exposed Persons (PEPs)
 - Bank secrecy
 - Record keeping, including wire transfer rules
 - Internal controls - AML/CFT guidelines, compliance
 - Supervision and monitoring
 - money or value transfer services (ARS)

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FATF 40 + 9 Recommendations



- Preventative measures: Designated Non-Financial Businesses and Professions
 - Competent authority to monitor and ensure compliance with AML/CFT
 - STR requirements and limited CDD
 - Casinos (CDD for all transactions over \$3000)
 - Real estate agents
 - Lawyers “prepare for or carry out transactions” in relation to specific activities
 - Accountants - same as lawyers
 - gold and gem dealers (CDD for transactions over \$15000)
 - dealers in high value items

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FATF 40 + 9 Recommendations



- Mutual Legal Assistance
 - requires “widest possible range” of MLA for AML/CFT
 - Effectiveness test measures the conditions for providing assistance and the existence of an operating clear and efficient process:
 - adequate manpower
 - adequate prioritisation
 - technology
 - Strong central co-ordination and communication
 - closing legal loopholes that cause delay
 - “countries should, to the greatest extent possible, render MLA notwithstanding the absence of dual criminality” (rec.37)

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FATF 40 + 9 Recommendations

- Extradition
 - In practice the recommendations weigh:
 - laws
 - practice
 - resources
 - ability to use foreign evidence
 - efficiency of extradition process (see MLA above)

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The risks of not responding



- Increased corruption & criminal activity
- Stability of the banking system
- Reputational damage
- Negative economic effects
- Ostracism from the international financial system / threat of international action
- 'Weak links' attract money launderers
- National security issues

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APG Regional Progress



- **AML Laws**

In 1995, 5 jurisdictions

In 2005, over 30 jurisdictions

- **FIUs**

In 2005, 17 APG member or observer jurisdictions have an established FIU

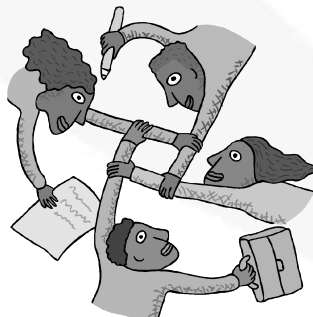
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APG Mutual Evaluations

Compliance testing

- Providing peer reviews by relevant experts of member countries' legal, financial and law enforcement systems based on the agreed global assessment methodology
- Snapshot of compliance
- Suggesting areas for improvement through cooperative feedback and follow-up



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Technical Assistance & Training



The provision of technical assistance and training (TA&T) to members is a major goal of the APG.

APG has developed a TA&T 'matrix' of needs to try to ensure that assistance is delivered in a logical, sequenced way- all TA&T needs known about APG jurisdictions are included in the matrix.

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Technical Assistance & Training



- Resources such as model laws and mentoring
- Country projects such, bilateral
- Regional projects such as ADB, ASEM, IMF, UNODC, ASEAN Secretariat
- Regional co-ordination such as APG and ASEAN Secretariat
- International co-ordination such as IMF, World Bank, ADB and APG DAP Group

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International & Regional Collaboration



- Donor Coordination Committee
- Regional groupings – APG, ASEAN, APEC, PIFS,
- Shared regional training – private/public sectors

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What Works?

- National Coordination Committees
- Financial sector consultation
- Law enforcement and regulatory consultation
- Domestic TA&T co-ordination processes

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National Coordination Committee



- APG supports all members having an AML/CFT National Coordination Committee
- No set model
- Useful consultation mechanism
- Needs to include all relevant AML/CFT agencies and ministries

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Financial Sector Consultation



- Information sharing & feedback
- Identifying compliance needs
- Identifying mutual training opportunities

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Law Enforcement and Regulatory Consultation



- Facilitated by FIU
- Improve regulatory compliance
- Encourage law enforcement's use of FIU information
- Share trends, typologies, case information
- Increase understanding of partners' priorities and limitations

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Conclusions



- There is direct symmetry between AML standards and UN Conv against Corruption
- Opportunities to share capacity between anti-corruption and AML/CFT efforts
- There is wide commitment to AML/CFT implementation in the region, but international pressure is mounting
- APG is working to assist with implementation through mutual processes, including the co-ordination of AML/CFT technical assistance and training

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Useful websites



APG - www.apgml.org

ADB AML toolkit:

www.adb.org/documents/others/OGC-toolkits/anti-money-laundering/default.asp

FATF - www.fatf-gafi.org

UNODC - Global Programme Against Money Laundering

www.unodc.org/money_laundering.html

The Egmont Group of FIUs -

www.egmontgroup.org

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THANK YOU!

**www.apgml.org
www.fatf-gafi.org**

**Contact the APG Secretariat
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