



## **2000 CHURCHILL FELLOWSHIP**

### **Investigation & Control of Money Laundering via Alternative Remittance & Underground Banking Systems**

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## EXECUTIVE SUMMARY

### OVERVIEW

My Churchill Fellowship involved an investigative research project to assist Australian law enforcement agencies combat organised crime, in particular, money laundering via 'alternative remittance and underground banking systems' (AR/UBS). Alternative remittance systems are operated by entities ('alternative remittance agents') for moving money (or other forms of stored value) between jurisdictions on behalf of customers who do not wish to directly use the 'formal' banking system.

There is increasing international concern about money laundering via AR/UBS. The potential for criminal abuse of such systems is substantial due to their largely unregulated nature, and the ability to preserve the anonymity of their customers and conceal the source of funds remitted. In Australia alternative remittance systems have been used to facilitate the laundering of proceeds of organised crime, including drug trafficking and large-scale revenue evasion.

The aim of this project was to obtain information from overseas law enforcement agencies and financial regulators on methods of investigation and control of money laundering via AR/UBS. Information was gathered through a series of meetings with representatives from law enforcement and regulatory agencies in Asia (Thailand and Hong Kong), Europe (United Kingdom, France and Italy), the United States and Canada. A list of the agencies visited in each jurisdiction is provided at Appendix A.

As in most of the overseas countries visited, currently in Australia there are limited means by which money laundering via AR/UBS can be deterred, detected or prosecuted. Remittance agents are not considered to undertake 'banking business' and as such are not regulated by banking laws or obliged to reveal their activities.

A welcome recent initiative is proposed amendment of the *Financial Transactions Reports Act* (FTRA) (via the Measures to Combat Serious and Organised Crime Bill 2001) to ensure that alternative remittance agents are required to comply with the anti-money laundering measures provided by this legislation.

### RECOMMENDATIONS

Based upon overseas experience, this report recommends a series of measures for adoption on a national and international basis to improve regulation/control and investigation of money laundering via AR/UBS, as follows:

#### **Recommendation 1:**

It is recommended that Australian Government give careful consideration to the introduction of a system of registration of alternative remittance agents, similar to the models in place in the United States and Hong Kong.

**Recommended Responsibility:** AUSTRAC (lead agency) in consultation with the Australian Prudential Regulation Authority (APRA), the Reserve Bank of Australia (RBA),

Commonwealth, State and Territory law enforcement agencies and industry representatives.

**Recommendation 2:**

It is recommended that the extension of FTRA requirements to, and the introduction of a system of registration for, alternative remittance agents be supported by a coordinated program of cash dealer and broader community education, including with banks, credit institutions and industry groups to raise awareness amongst bank employees of indicators of alternative remittance.

***Recommended Responsibility:*** AUSTRAC.

**Recommendation 3:**

It is recommended that Australian law enforcement agencies work together through the National Task Forces coordinated by the NCA to fully explore the possibilities of developing proactive investigative strategies to detect, investigate and disrupt money laundering via alternative remittance systems, consistent with legislative requirements.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies, through the National Task Forces.

**Recommendation 4:**

It is recommended that Australian law enforcement agencies continue to contribute case studies on suspected methods of money laundering and tax evasion via alternative remittance to the ALEIN Profits of Crime Case Studies Desk, as an effective way of improving law enforcement knowledge and understanding of such systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

**Recommendation 5:**

It is recommended that Australian law enforcement agencies develop and/or enhance existing financial investigation courses to include components on investigation of money laundering via alternative remittance systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

**Recommendation 6:**

It is recommended that Australia continue to participate in and support the work of the APG and FATF in sharing information on methods of money laundering via alternative remittance systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

**Recommendation 7:**

It is recommended that through international and regional organisations and fora (such as the United Nations, Commonwealth, ASEAN Regional Forum and Asia-Pacific Economic Cooperation (APEC)), the Australian Government support the implementation of strategies in developing nations to remove incentives for use of alternative remittance systems by law-abiding citizens.

**Recommended Responsibility:** Department of Foreign Affairs and Trade, Commonwealth Attorney-General's Department.

### **Recommendation 8:**

It is recommended that Australia actively seek to enhance ongoing international law enforcement cooperation and mutual legal assistance to ensure that the capacity exists to conduct speedy, efficient international operations.

**Recommended Responsibility:** All agencies, especially the NCA, AFP and Commonwealth Attorney-General's Department.

## **DISSEMINATION**

The effectiveness of the measures recommended in this report is dependent upon long term, high quality international cooperation at the operational level between law enforcement and regulatory agencies, and at the strategic level between Governments of developed and developing nations. Accordingly, this report will be disseminated for consideration to:

- Commonwealth Ministers for Justice & Customs, Foreign Affairs & Trade and the Attorney-General;
- Key national fora, including the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA) and the Australasian Police Ministers' Council (APMC, via the Senior Officers' Group);
- All Australian law enforcement agencies (including AUSTRAC and the Australian Tax Office) via the National Task Forces coordinated by the NCA;
- Commonwealth Attorney-General's Department, APRA, the RBA, Department of Foreign Affairs and Trade;
- All international agencies visited as part of this project;
- International organisations, including Interpol, FATF, APG and the Commonwealth; and
- The public via the NCA website: [www.nca.gov.au](http://www.nca.gov.au)

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## 1. INTRODUCTION

My Churchill Fellowship involved an investigative research project to assist Australian law enforcement agencies combat organised crime, in particular, money laundering via 'alternative remittance and underground banking systems' (AR/UBS). Alternative remittance systems are operated by entities ('alternative remittance agents') for moving money (or other forms of stored value) between jurisdictions on behalf of customers who do not wish to directly use the 'formal' banking system. The anonymity afforded to customers makes these systems attractive to money launderers, who wish to transfer large amounts of criminal proceeds without drawing attention to themselves and leaving little or no audit trail.

The aim of this project was to obtain information from overseas law enforcement agencies and financial regulators on methods of investigation and control of money laundering via AR/UBS. Information was gathered through a series of meetings with representatives from law enforcement and regulatory agencies in Asia (Thailand and Hong Kong), Europe (United Kingdom, France and Italy), the United States and Canada. A list of the agencies visited in each jurisdiction is provided at Appendix A.

Following a brief introduction to the topic of money laundering via AR/UBS, this project report provides an overview of key findings from each jurisdiction. The report concludes by identifying overseas models of regulation and investigation which are recommended for potential development and application in Australia.

It should be noted that this report does not focus on describing various methods or cases of AR/UBS. Much work has been done in this area in recent times, including by the Asia/Pacific Group (APG) on Money Laundering.<sup>1</sup> In addition, it needs to be noted that I completed much of the background research for this project prior to departure on the overseas study component. Consequently, some of this background information has already been disseminated to partner agencies through various reports prepared for the National Crime Authority (NCA).

## 2. MONEY LAUNDERING

### THE GLOBAL THREAT

Since the mid-1980s, money laundering has been increasingly recognised as a significant global problem, with serious economic and social ramifications.<sup>2</sup> The sheer magnitude of money laundering is such that it now ranks as one of the gravest criminal threats to the global community, capable of corroding international financial systems and corrupting entire democracies.<sup>3</sup>

Successful money laundering enables criminals to:

- *Remove or distance themselves* from the criminal activity generating the profits, thus making it more difficult to prosecute key organisers;
- *Distance profits* from the criminal activity - to prevent them being confiscated if the criminal is caught;
- *Enjoy the benefits of the profits* without bringing attention to themselves; and
- *Reinvest the profits* in future criminal activity or in legitimate business.<sup>4</sup>

While the desirability of an accurate estimate of the size of the problem has been recognised for some time, producing such an estimate has proven to be problematic (if not impossible). There is no reliable estimate of the amount of profits being generated by criminal activity and, due to its clandestine nature, it is difficult to estimate the total volume of laundered funds circulating internationally.<sup>5</sup>

Some figures have been developed, however, which give an indication of the extent of money laundering. The International Monetary Fund (IMF) has estimated an annual figure of 2 to 5 per cent of global GDP.<sup>6</sup> At the lower end of the scale, this would equate to some US\$600 billion, which is approximately the total output of an economy the size of Spain (or about 1.5 times the total GDP of Australia).<sup>7</sup>

Attempts have also been made to quantify the extent of money laundering in Australia. Using a range of methods, a report for the Australian Transaction Reports and Analysis Centre (AUSTRAC) estimated a range of between \$1 billion and \$4.5 billion, with the most likely figure around \$3.5 billion.<sup>8</sup> In a paper published in September 1999, Freiberg and Fox reviewed a large range of estimates on the extent of money laundering in Australia and concluded that the most likely figure is between \$3 - \$9 billion per annum.<sup>9</sup> However, as noted above, such figures need to be treated with caution.

## **AUSTRALIA'S RESPONSE - MONEY LAUNDERING COUNTERMEASURES**

Australia has played an active role in international anti-money laundering efforts, including through membership of the Financial Action Task Force (FATF)<sup>10</sup> and the APG.<sup>11</sup> The NCA Chairperson is the Standing Co-Chair of the APG.

Domestically, Australia has established a comprehensive regulatory approach, based upon the following legislative package:

- *Proceeds of Crime Act 1987 (POCA)* which provides money laundering offences and a regime for the confiscation of proceeds of crime;<sup>12</sup>



- *Financial Transaction Reports Act 1988 (FTRA)* which establishes AUSTRAC and financial transaction monitoring and reporting requirements;<sup>13</sup>
- *Mutual Assistance in Criminal Matters Act 1987* which enables Australia to enter into arrangements with other countries whereby each can request assistance in criminal investigation, prosecution and proceeds of crime matters; and
- *Telecommunications (Interception) Amendment Act 1987* which extended existing interception powers to a wider range of offences, including those under the POCA, and extended the range of agencies able to seek interception warrants.

For the purposes of this report, it is important to note that the FTRA requires 'cash dealers' (as defined) to report to the Director of AUSTRAC:

- Suspicious transactions;
- Significant cash transactions - cash transactions of \$10,000 or more (or a foreign currency equivalent); and
- International funds transfer instructions (IFTIs).

The FTRA also requires cash dealers to verify the identity of persons who open accounts or become signatories to accounts, and prohibits accounts being opened or operated in a false name. There are also requirements for the public to report cash transfers into and out of Australia of \$10,000 or more or the foreign currency equivalent. The legislation provides penalties for 'structuring' transactions in order to avoid reporting requirements and for furnishing false or misleading information. It also has penalties for persons who facilitate or assist in these activities.<sup>14</sup>

Australia has been recognised by FATF as one of the world's leaders in relation to its anti-money laundering efforts:

Australia can pride itself on a well-balanced, comprehensive and in many ways exemplary system, and must be congratulated accordingly. It meets the objectives of the FATF Recommendations and is constantly reviewing the implementation of their anti-money laundering provisions, simultaneously looking well ahead in the future.<sup>15</sup>

However, despite these efforts, money laundering in Australia continues to be serious problem. For the past four years, Australia has been prioritised by the US State Department as a 'Jurisdiction of Primary Concern' (the severest category of concern), despite being acknowledged as having 'a comprehensive and effective anti-money laundering regime.'<sup>16</sup> The State Department's assessment is based upon the perceived significance of the scope of organised criminal activity and money laundering in Australia. The report noted that financial fraud and narcotics

trafficking are the major sources of criminal proceeds laundered in Australia and that, in addition to domestic organised crime groups, 'ethnic Chinese, Italian, Colombian, Japanese, Lebanese, Vietnamese, and Romanian organised crime groups are known to operate in Australia.'<sup>17</sup>

In addition, the State Department assessment raises concern that money launderers are circumventing Australia's anti-money laundering regime through the use of alternative remittance systems:

Alternative remittance systems are used by some of the organized crime groups to move and launder their funds. Detecting and investigating the movement or laundering of funds through these alternative remittance systems is extremely difficult.<sup>18</sup>

### **3. MONEY LAUNDERING VIA ALTERNATIVE REMITTANCE AND UNDERGROUND BANKING**

#### **BACKGROUND & TERMINOLOGY**

As indicated by the State Department report, there is increasing international concern about the use of what may be generally termed alternative remittance systems as vehicles for money laundering and tax evasion. FATF has recently concluded that such systems 'frequently serve as the backbone of money laundering schemes throughout the world.'<sup>19</sup>

The use of AR/UBS may be one aspect of a larger global trend, involving money launderers avoiding use of more highly regulated, 'formal' financial institutions and utilising less regulated channels. As part of this global trend, it has been suggested that a 'cottage industry' in alternative remittance has developed in Australia.<sup>20</sup>

Australia may constitute an attractive 'host' country for AR/UBS due to such factors as its multicultural population, developed status and advanced financial sector. Its geographical location naturally means that it predominantly hosts systems servicing 'home' countries in the Asian region.

#### **Remittance Systems**

Remittance systems are vehicles for transferring funds. This broad description encompasses a wide variety of entities, including:

- *'Formal' financial institutions*, such as banks, which might also be termed 'regulated' remittance services, as they are regulated by a wide variety of legislation and are subject to strict controls and reporting requirements.

- *Foreign exchange dealers*, which offer a range of financial services, are semi-regulated in Australia because they fall under the definition of ‘cash dealer’ in the FTRA,<sup>21</sup> and are therefore required to report to AUSTRAC (they may be also required to report under other legislation).
- *Alternative remittance and underground banking systems*.

## Alternative Remittance Systems

For the purposes of this project, the following terminology is used:

**Alternative remittance systems** are operated by entities (‘alternative remittance agents’) for moving money (or other forms of stored value) between jurisdictions on behalf of customers who do not wish to directly use the ‘formal’ banking system.

There are two general types of alternative remittance systems:

- ***Unregulated alternative remittance networks*** (also known as ***underground banking***) involve a variety of methods through which funds (or value) are made available at a partner service in the recipient country without an international funds transfer having taken place in the formal banking system. Such methods may involve the transfer of funds (or value) by means such as physical cash carrying, by utilising trade (primarily through invoice manipulation), or through dealings involving cash-equivalent commodities (e.g. gold smuggling). In such systems, the remittance may be communicated and facilitated via a telephone call, fax or email, or by the presentation of a paper or other form of chit.
- ***Remittance services utilising the regulated financial sector*** involve attempts by customers to conceal their true identity and/or disguise the nature of their remittance transactions by engaging an agent to move their funds through the formal banking system on their behalf. Such systems commonly involve structuring, smurfing, manipulation of business transactions and/or the use of false bank accounts and/or sender details. Because these systems rely on the ‘formal’ banking system, they are more amenable to detection, investigation and regulatory control than underground banking activities.

There are a number of terms that fall under the umbrella of ‘alternative’ remittance systems, including ‘alternative banking’, ‘parallel banking’ and ‘underground banking’. These terms are often used interchangeably, however, as outlined above, ‘underground’ and ‘parallel’ banking are most appropriately applied to those systems which are subject to no external auditing, control or supervision by regulatory authorities.<sup>22</sup>

Underground banking is believed to have originated in Asia for the purposes of facilitating trade links and well pre-dates existing banking systems.<sup>23</sup> The spread of ethnic groups from regions in Asia to other parts of the world has provided a global network for these systems, variously referred to as 'Hawala',<sup>24</sup> 'Hundi',<sup>25</sup> 'Fei Ch'ien',<sup>26</sup> 'Poey Kuan',<sup>27</sup> 'Chiti' or 'Chop Shop' banking.<sup>28</sup>

Such systems were originally designed to circumvent currency controls, assisting the movement of funds or value from one country to another without the production of an official paper trail.<sup>29</sup> The success of alternative remittance systems is largely dependent on trust by all parties involved in the transaction.<sup>30</sup> The 'alternative remittance agent' usually receives a commission or payment for their service and/or may make a profit by exploiting exchange rate differentials.

In certain cultures/countries, these forms of remittance are often used for legitimate transactions and are widely accepted. As stated by the Commonwealth Secretariat in a report on parallel economies and money laundering, there are many reasons why individuals and organisations may wish to transfer funds outside of the formal banking system, including:

- In certain countries, local banks often do not have overseas remittance arrangements, or where they do exist, the operation can be cumbersome and time consuming;
- The alternative system can be cheaper than official channels;
- To protect assets from theft or seizure by government, e.g. nationalisation of an industry;
- It permits evasion of stringent import/export duties;
- It permits evasion of exchange control regulations;
- It facilitates evasion of tax.<sup>31</sup>

The anonymity afforded to customers also makes alternative remittance and underground banking systems attractive to money launderers who wish to transfer large amounts of criminal proceeds without drawing attention to themselves and leaving little or no audit trail.<sup>32</sup>

It should be noted that alternative remittance systems may transfer funds or value between jurisdictions via commodities other than cash.<sup>33</sup> For instance, the Black Market Peso Exchange (BMPE) is an example of a trade-based, alternative remittance system, predominantly operating between Colombia and the United States. In simple terms, as described by US Customs, the BMPE process works as follows:

1. Colombian cartels export narcotics to the United States where they are sold for US dollars.

2. In Colombia, the cartels contact a third party — a peso broker — to launder their drug money.
3. The peso broker enters into a 'contract' with the Colombian cartel, wherein he agrees to exchange pesos he controls in Colombia for US dollars the cartel controls in the United States. Once this exchange occurs, the cartel has effectively laundered its money and is out of the BMPE process. The peso broker, on the other hand, must now launder the US dollars he has accumulated in the United States.
4. The peso broker uses contacts in the United States to place the drug dollars he purchased from the cartel into the US banking system. The peso broker, still operating in Colombia, now has a pool of narcotics-derived funds in the US to 'sell' to legitimate Colombian importers.
5. Colombian importers place orders for items and make payments through the peso broker. Again, the peso broker uses contacts in the US to purchase the requested items from US manufacturers and distributors. The peso broker pays for these goods using a variety of methods, including his US banking accounts.
6. The purchased goods are shipped to Caribbean or South American destinations, sometimes via Europe or Asia, then smuggled or otherwise fraudulently entered into Colombia. The Colombian importer takes possession of his goods, having avoided paying extensive Colombian import and exchange tariffs, and pays the peso broker for the items with Colombian pesos. The peso broker, who has made his money charging both the cartels and the importers for his services, uses those new pesos to begin the cycle once again.<sup>34</sup>

US exports that are purchased with narcotics dollars through the BMPE include household appliances, consumer electronics, alcohol, cigarettes, used motor vehicle parts, precious metals and footwear.<sup>35</sup>

The US Financial Crimes Enforcement Network (FinCEN) estimates that this underground financial and trade financing system is a major - perhaps the single largest - avenue for the laundering of the wholesale proceeds of narcotics trafficking in the United States.<sup>36</sup>

## **THE SITUATION IN AUSTRALIA**

Prior to embarking upon my Fellowship, I managed a project for the APG which involved collecting and analysing case studies on AR/UBS within the region. This project provided valuable insight into the nature and extent of AR/UBS in Australia.

Australia provided a total of nine case studies for the project, which were based on law enforcement agency investigations conducted between 1996 and 1999. In the

cases provided, remittances were conducted from Australia to Central and South America, Hong Kong, Myanmar, New Zealand, Singapore, Tonga and Vietnam.

From the nine cases, the total amount of funds remitted was very conservatively estimated at approximately \$41 million. Of the total funds channelled through these alternative remittance systems, in most cases the funds were suspected to be a mix of legitimate funds and criminal proceeds. All criminal proceeds were known or suspected of being derived from drug offences and/or tax evasion. In one case only, the funds remitted were believed to be of purely legitimate origin, with members of a small, close knit community in Australia transferring income 'home' to relatives in Myanmar.

In terms of the method of alternative remittance, all cases involved remittances conducted by alternative remittance agents either purely through the regulated financial sector, or through a combination of unregulated networks (underground banking channels) and the regulated financial sector. However, it needs to be stressed that this statistic is reflective of detected and *investigated* cases only. A well-capitalised, efficient, discreet ethnicity- or kinship-based underground banking system (utilising unorthodox financial instruments, code words and chits) would be very difficult to detect.

## 4. OVERVIEW OF FELLOWSHIP FINDINGS

This section provides a brief summary of key findings, jurisdiction-by-jurisdiction.

### THAILAND

All agencies were very positive about this project. Good information was obtained regarding the new Thai anti-money laundering law and establishment of the Anti-Money Laundering Office (AMLO), however, limited information was available on AR/UBS. It seems that whilst all agencies are aware of the practice of 'Poey Kuan' (especially with underground banks operating out of gold and jewellery shops in Chinatown in Bangkok), there has been limited law enforcement focus to date specifically on these activities.

Thailand has only recently enacted anti-money laundering legislation and is currently in the process of establishing its financial transaction monitoring and reporting systems. Consequently, the priority at present is on improving regulation of the formal banking system, ie. enabling, educating and encouraging financial institutions to report significant and suspicious transactions.

Poey Kuan is a culturally accepted practice, particularly amongst the ethnic Chinese and Taiwanese. It is also apparently a more efficient (faster and cheaper) way to

remit funds from Thailand to some other countries in the region than via the formal banking system.

## ITALY

Very good information was obtained in Italy on anti-money laundering initiatives. Law No. 197 of 1991 provides the Italian financial transaction monitoring and reporting regime. Its key provision is the prohibition of transfers of cash and bearer instruments in amounts greater than Lire 20 million, except when such transfers are carried out by means of authorised 'intermediaries', which are required to identify customers and keep records of transactions. In terms of money laundering methods, the continued use of the banking system, offshore centres and other methods such as use of casinos were identified as problems.

Limited information was available on AR/UBS. Italy has a high immigrant population and it is suspected that (legal and illegal) immigrant workers from countries in Eastern Europe, Africa and Asia use such systems to transfer money home to relatives and friends. The Guardia di Finanza has conducted some relevant investigations, however, such activities have not been subjected to concerted law enforcement attention.

## FRANCE

In France, I met with the French financial intelligence unit, Tracfin and two international organisations, the FATF Secretariat and Interpol. My meeting with Tracfin was very interesting and productive. They have identified several cases of AR/UBS. Most commonly, these systems have been detected operating between France and Algeria (but some have also involved Turkey and Pakistan). Tracfin also provided good information on some other high risk industries for money laundering, including bureaux de change, insurance products and share trading.

The visits to the FATF Secretariat and Interpol also proved very useful. Both organisations have recently conducted work on AR/UBS. FATF examined such systems and trade related money laundering methods (including BMPE) as part of its 1999 Money Laundering Typologies exercise.<sup>37</sup> Interpol has recently completed a report on underground banking systems, focusing primarily upon describing and categorising Asian systems. The report is to be released shortly.

## UNITED KINGDOM

Very good information was obtained in the UK on the recent Cabinet Office Performance and Innovation Unit (PIU) Report on 'Recovering the Proceeds of

Crime'.<sup>38</sup> The report recommends improved mechanisms for the recovery of the proceeds of crime in England and Wales. It was published a fortnight before my arrival and agencies were generally keen to discuss its likely outcomes, including the proposed establishment of a National Confiscation Agency and the more effective/increased use of tax action.

However, limited information was available on AR/UBS, which is unregulated in the UK. Once again, it seemed that whilst all agencies were aware of these activities (particularly amongst Indian, Pakistani and Chinese communities in London), there has been limited law enforcement focus specifically on these systems and their potential use in money laundering schemes. HM Customs was the only agency to report having conducted investigations involving AR/UBS, including of a system moving drug proceeds from the UK to the Netherlands. The National Criminal Intelligence Service (NCIS) and the Internal Revenue Service are planning to conduct threat assessments on AR/UBS in the UK in the near future. Both agencies are keen to draw upon information on the situation in Australia.

## UNITED STATES

In Washington, I obtained very good information at the policy level on US anti-money laundering initiatives, including on regulation of financial institutions (under the *Bank Secrecy Act* (the BSA)) and efforts to control money laundering via BMPE. Some good general information was provided by agencies on strategic issues, including organised crime threats and money laundering methodologies.

Very good information was also obtained in Washington on two major undercover operations (led by Customs and the Drug Enforcement Agency respectively) targeting money laundering by Colombian drug cartels.

In Miami, excellent information was provided by agencies on BMPE operations. All agencies were very helpful in explaining how BMPE works, describing some of their operations and outlining potential methods of regulation/control of such activities. All agencies stressed the importance of proactive covert strategies (involving the use of confidential informants, undercover agents and 'sting' techniques) to effective investigation of BMPE.

Information was also obtained on operations targeting money remittance agencies operating between Florida and Latin America, and on 'historic' money laundering investigations (ie. operations targeting assets derived from predicate criminal activity committed several years ago).

Very good information was acquired in New York on underground banking associated with a Chinese people smuggling ring – the 'Big Sister Ping' case. Cheng Chui-ping was arrested in Hong Kong in April 2000 and has been charged in relation to organising the illegal immigration 'Golden Venture' case in 1993, in



which a freighter carrying nearly 300 illegal immigrants from Fujian Province ran aground in New York, leading to the death of 10 passengers. She is also accused of other crimes in the United States, including taking Chinese illegal immigrants hostage once they arrived in the United States until ransoms were paid.

Ping operated from a restaurant on East Broadway, directly across the street from a branch of the Bank of China, Beijing's central bank. She is alleged to have used her connections in China to orchestrate a highly effective underground banking system, transferring money from those she smuggled back to their families in China. Due to its efficiency, Ping's system apparently soon became a major competitor to the Bank of China across the street. As reported in *Time Magazine*:

Says a female immigrant who patronized Ping's service: "The Bank of China took three weeks, charged a bad foreign-exchange rate and delivered the cash in yuan. Sister Ping delivered the money in hours, charged less and paid in American dollars. It was a better service." Steven Wong, an outspoken critic of snakeheads [Chinese organised crime gangs], says that things became so bad that the bank began offering color televisions and prizes to those who used them to transfer money. "Still," he says, "no one came."<sup>39</sup>

In New York, excellent information was also obtained on investigations targeting money laundering via alternative remittance agencies. The El Dorado Task Force provided comprehensive information on the introduction of the Geographic Targeting Order (GTO) and its impact and outcomes. The GTO was applied in the Jackson Heights area from August 1996 to November 1997. It required money remittance agents (which are licensed businesses in New York) to report to FinCEN information on the senders and recipients of all cash transmissions to Colombia of US\$750 or more.

The Task Force identified 12 licensed remittance agencies (and their 1,600 sub-agents) as particularly vulnerable to criminal abuse. Analysis revealed that these agencies had an annual volume of remittances to Latin America of some US\$1.2 billion. Approximately US\$800 million of this total was sent to Colombia. This business volume did not accord with the size of the Colombian community in the New York area. The Task Force calculated that to account for this figure, each Colombian household would have to send approximately US\$50,000 a year through remittance agents to Colombia. However, the median household income of the Colombian community was around US\$27,000 a year. Consequently there was justifiable cause for concern that a substantial proportion of the money being remitted was proceeds of crime, in particular drug trafficking.

By enforcing transaction reporting requirements, the GTO caused a dramatic reduction in the flow of drug money to Colombia. The Task Force found that the targeted remittance agents' overall business volume to Colombia dropped by approximately 30 percent. A major displacement effect was also observed, with much of the money previously sent via remittance agents transferred instead by bulk cash smuggling out of the United States. In the first six months after implementation

of the GTO, US Customs seized over US\$50 million – which was around four times higher than in previous years.

Following the success of the GTO and a detailed review of non-bank financial institutions conducted for FinCEN,<sup>40</sup> the US Treasury Department introduced stricter regulation of the 'money service business' (MSB) industry. In August 1999, a new rule was issued requiring MSBs to register with FinCEN and maintain a list of their agents. The rule applies to five classes of financial businesses, including remittance agents ('money transmitters').<sup>41</sup>

Information required to be included on the list of agents includes:

- The name, address, and telephone number of the agent;
- The type of service or services that the agent provides;
- A listing of the months during which the agent's gross transaction amount from the sale of products or services exceeds US\$100,000;
- The name and address of the bank at which the agent maintains a transaction account;
- The number of branches or sub-agents the agent has.<sup>42</sup>

MSBs are required to register with FinCEN by 31 December 2001 (with the initial agent list prepared by 1 January 2002). US Treasury has warned the industry that failure to register will result in 'substantial criminal and civil penalties'.

Under the BSA, MSBs are required to report to FinCEN large cash transactions, exceeding US\$10,000. In August 2000, the US Treasury extended to the 'money transmitting' and the 'travelers' cheques and money order' segments of the MSB industry the requirement to also report suspicious activity. Under the MSB Suspicious Activity Reporting (SAR) Rule, reportable transactions include those:

- Involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity;
- Designed, whether through structuring or other means, to evade the requirements of the BSA; and
- That appear to serve no business or apparent lawful purpose.<sup>43</sup>

The rule includes two different dollar thresholds depending on the stage and type of transaction involved. For remittance agents, the reporting threshold involves transactions of US\$2,000.<sup>44</sup> The MSB SAR Rule does not come into effect until the MSB registration process is complete, beginning on 1 January 2002.

## CANADA

In Canada, I obtained very good information on anti-money laundering initiatives, including new legislation, the *Proceeds of Crime (Money Laundering) Act 2000*. The Act introduces mandatory suspicious transaction reporting by financial institutions (reporting was previously voluntary) and establishes the Financial Transactions and Reports Analysis Centre (FinTRAC) of Canada.

Very good general information was provided by agencies on strategic issues, including organised crime threats and money laundering methodologies. It was interesting to note different organised crime concerns and focuses between the East Coast of Canada (Ottawa, Toronto and Montreal) and the West Coast (Vancouver). Whilst East Coast law enforcement issues and cases are often transatlantic, involving European connections, West Coast cases usually have links in the Asia/Pacific region.

Excellent information was obtained on the Royal Canadian Mounted Police (RCMP) Proceeds of Crime program, which is directed at identifying, assessing, restraining and forfeiting illicit and/or unreported wealth accumulated through criminal activities. Integrated Proceeds of Crime (IPOC) Units have been established in each province, comprising RCMP investigators, seconded investigators from regional and city police forces, as well as some seconded tax officers. IPOC Units typically conduct purely financial investigations (targeting money laundering/proceeds), with investigation of underlying offences usually conducted by other specialist units (e.g. Drug Units).

The RCMP has conducted some investigations involving suspected money laundering via AR/UBS. For example, in Toronto, unregulated remittance agencies have been detected involving Latin American and Caribbean immigrants sending money home to their relatives and friends. Similarly, in Vancouver, such services have been established and used by Vietnamese immigrants (with the method usually involving a combination of underground banking channels and the formal banking system).

Alternative remittance agents are not required to register in Canada. Consequently, whilst it is intended that such agents will be subject to mandatory suspicious transaction reporting under the new Proceeds of Crime Act, it is recognised by FinTRAC that it will be very difficult to ensure compliance.

## **HONG KONG**

Very good information was obtained on anti-money laundering initiatives in Hong Kong from the agencies visited, including the Narcotics Division of the Hong Kong Government Secretariat which is responsible for policy coordination in this regard. Hong Kong has a Joint Financial Intelligence Unit (JFIU), which is a cooperative endeavour between Hong Kong Police and the Customs & Excise Department.

Mandatory suspicious transaction reporting for 'any person' suspecting money laundering was introduced under the *Organised and Serious Crimes Ordinance* (OSCO) in 1995.

Excellent information was received from Hong Kong Police on a new law introduced to reduce the potential for money laundering via AR/UBS (commonly known as 'unlicensed remittance centres' or 'URCs' in Hong Kong). In 1997, Hong Kong Police conducted a survey of 78 suspected URCs, identified during previous police investigations.<sup>45</sup> The survey found that large sums of money was being remitted internationally by these URCs - the turnover of individual remittance agents varied from a few hundred thousand Hong Kong dollars per month to over three hundred million Hong Kong dollars per month. Remittances were commonly found to be facilitated between Hong Kong and other countries in the region (including the People's Republic of China, Taiwan and Macau) via a variety methods mostly involving use of the formal banking system at some stage.

Whilst the difficulty in generalising results from a limited sample was stressed, Hong Kong Police concluded that due to the general lack of sound customer identification and transaction record keeping, and a lack of compliance with mandatory suspicious transaction reporting requirements under the OSCO, substantial money laundering was occurring through URCs.

In response to such concerns, the 'Remittance Agents and Money Changers' (RA&MC) law came into effect on 1 June 2000, under the *Organised and Serious Crimes (Amendment) Ordinance 2000*. The new legislation defines a 'remittance agent' as a person who provides a service for sending money from, or receiving money in, Hong Kong as a business. The law requires all remittance agents to:

- (a) Register their details with the Hong Kong Government. Existing Remittance Agents were required to register before 1 September 2000. New Remittance Agents must do so within a month of starting business.
- (b) For any transaction of \$20,000HK or more:
  - (i) Verify the identity of the customer;
  - (ii) Make a record of the customer's identity and the transaction;
  - (iii) Retain these records for six years.<sup>46</sup>

Guidelines prepared by the JFIU to inform remittance agents of their obligations under the new law also draw attention to their requirement to comply with mandatory suspicious transaction reporting requirements under the OSCO.<sup>47</sup>

Hong Kong Police is responsible for managing the registration process. By 31 August 2000, 153 RA&MC were registered. This figure had increased to 385 by 31 March 2001. Hong Kong Police is continuing a system of unannounced audits with registered and suspected unregistered RA&MC to ensure their compliance

with the law. To date, two people have been charged in relation to failing to register with Hong Kong Police as required.

Since the law came into effect on 1 June 2000, six suspicious transaction reports have been received by the JFIU from registered RA&MC. This is not considered a significant increase on previous reporting rates. However, Hong Kong Police is confident that the system is having some deterrent impact on money laundering via alternative remittance systems and is providing an accessible audit trail for money laundering investigations. Whilst the deterrent impact is very difficult to measure, anecdotal information suggests that some money laundering activities have shifted from Hong Kong to nearby jurisdictions, where RA&MC continue to be unregulated. A full evaluation of implementation of the new law is planned in July 2001.

## **5. RECOMMENDATIONS FOR REFORM**

### **NATIONAL MEASURES**

As in most of the overseas countries visited, currently in Australia there are limited means by which money laundering via AR/UBS can be detected, deterred or prosecuted. Remittance agents are not considered to undertake 'banking business' and as such are not regulated by banking laws or obliged to reveal their activities.<sup>48</sup>

As discussed earlier in this report, the potential for criminal abuse of such systems is substantial due to their largely unregulated nature, and the ability to preserve the anonymity of their customers and conceal the source of funds remitted. In Australia alternative remittance systems have been used to facilitate the laundering of proceeds of organised crime, including drug trafficking and large-scale revenue evasion. This section recommends some measures which should be considered for adoption on a national and international basis to improve regulation/control and investigation of money laundering via such systems.

### **Improving Regulation/Control**

#### ***Financial Transaction Reporting & Record Keeping***

The FTRA defines those remitting funds as 'cash dealers' if they are:

- A person (other than a financial institution) who carries on a business of:
- (i) collecting, holding, exchanging or remitting currency, or otherwise negotiating currency transfers on behalf of other persons.<sup>49</sup>

There are two issues of significance here. The first arises from the use of the phrase "carries on a business", which is not defined in the FTRA. An examination of case law, however, indicates that to be deemed to be carrying on a business, the activity needs to be repetitive and engaged in for the purpose of profit.<sup>50</sup>

The second issue arises from the use of the term 'currency', which is defined in section 3 of the FTRA as follows:

*currency* means the coin and paper money of Australia or of a foreign country that:

- (a) is designated as legal tender; and
- (b) circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue.

When a person sends (or receives) an international funds transfer instruction, 'funds' or the *value* of the currency is remitted, but the *actual* 'currency' (ie. notes and coins) remain within the bank. Thus, while many alternative remittance agents might be 'carrying on a business', their services appear to fall outside the definition of cash dealer, because they are not remitting or negotiating *currency* transfers.

Consequently, in an effort to counteract money laundering via alternative remittance systems, the recent Measures to Combat Serious and Organised Crime Bill 2001 amends the FTRA definition of 'cash dealer' to include:

\*\*\*

- (k) a person (other than a financial institution) who carries on a business of:
  - (i) collecting currency, and holding currency collected, on behalf of other persons; or
  - (ia) exchanging one currency for another, or converting currency into prescribed commercial instruments, on behalf of other persons; or
  - (ib) remitting or transferring currency or prescribed commercial instruments into or out of Australia on behalf of other persons or arranging for such remittance or transfer.<sup>51</sup>

This amendment is welcome as it ensures that alternative remittance agents are required to comply with the customer identification, record keeping and the significant and suspicious transaction reporting requirements of the FTRA, and that sanctions can be incurred for non-compliance. However, AUSTRAC faces a difficult task in ensuring compliance due to the difficulty in identifying alternative remittance agents. Whilst some of these businesses may be incorporated companies and/or openly advertising their services (eg. via ethnic community media), other remittance agents operate in a much more clandestine manner.

### ***Registration***

Since November 1999, AUSTRAC's Audit team has been working closely with identified 'high risk' cash dealers, including remittance agents.<sup>52</sup> As a result of the audit process, AUSTRAC has flagged the need to explore registration of high risk cash dealers, noting that:

'Registration ... would assist us to ensure that all cash dealers are identified and treated equally.'<sup>53</sup>

The Australian Government does need to give careful consideration to the introduction of a system of registration of alternative remittance agents, similar to the models in place in the United States and Hong Kong. Without such a system of registration, the Commonwealth Secretariat has observed that anti-money laundering requirements are likely to be ignored by alternative remittance agents.<sup>54</sup> Registration (or licensing) would provide the capacity for more effective supervision and an effective deterrent to non-compliance (removal of license).

Given its audit work with alternative remittance agents, AUSTRAC appears well placed to lead the development of an appropriate system of registration in Australia. This work would need to be conducted in close consultation with key stakeholders, including the Australian Prudential Regulation Authority (APRA), the Reserve Bank of Australia (RBA), Commonwealth, State and Territory law enforcement agencies and industry representatives.

#### **Recommendation 1:**

It is recommended that the Australian Government give careful consideration to the introduction of a system of registration of alternative remittance agents, similar to the models in place in the United States and Hong Kong.

***Recommended Responsibility:*** AUSTRAC (lead agency) in consultation with APRA, the RBA, Commonwealth, State and Territory law enforcement agencies and industry representatives.

#### ***Cash Dealer & Community Education***

The extension of FTRA requirements and the introduction of a system of registration for alternative remittance agents need to be supported by a coordinated program of cash dealer and broader community education. AUSTRAC has much experience and expertise in this regard.

In addition to informing alternative remittance agents of their obligations under the FTRA, work should be undertaken with banks, credit institutions and industry groups (such as the Australian Bankers' Association) to raise awareness amongst bank employees of indicators of alternative remittance. As noted in this report, many

alternative remittance systems utilise the formal financial institutions at some stage in the process.

The Hong Kong JFIU has undertaken some preliminary work with financial institutions in this regard. It plans to issue an advisory on 'Remittance Agents and Money Laundering', which will include details of key characteristics commonly observed on accounts used by remittance agents including:

- Large sum deposits and withdrawals, some of which may be in cash;
- Account used as a temporary repository;
- A high number of transactions but a comparatively low average balance; and
- Frequent international funds transfer instructions (IFTIs). (However, this may not always be the case, as some underground banking methods do not involve the use of IFTIs.)<sup>55</sup>

The JFIU has noted that such characteristics can be particularly regarded as 'red flags' of alternative remittance when they are observed on a personal account with no known business connections.

### **Recommendation 2:**

It is recommended that the extension of FTRA requirements to, and the introduction of a system of registration for, alternative remittance agents be supported by a coordinated program of cash dealer and broader community education, including with banks, credit institutions and industry groups to raise awareness amongst bank employees of indicators of alternative remittance.

***Recommended Responsibility:*** AUSTRAC.

## **Improving Investigation**

### ***Proactive Investigative Strategies***

By increasing the transparency of transactions and providing the capacity for an audit trail, the extension of FTRA requirements and the introduction of a system of registration for alternative remittance agents will improve law enforcement ability to successfully detect and investigate money laundering via alternative remittance systems. In addition, agencies in the United States and Canada particularly noted the importance of proactive investigative strategies to the successful investigation of such cases.



FATF recommends that countries support controlled money laundering operations as a 'valid and effective law enforcement technique for obtaining information and evidence.'<sup>56</sup> FATF has urged its members to take appropriate steps 'so that no obstacles exist in legal systems preventing the use of controlled delivery techniques, subject to any legal requisites, including judicial authorisation for the conduct of such operations.'<sup>57</sup>

In December 1999, the Parliamentary Joint Committee (PJC) on the NCA released the report of its inquiry into 'The Involvement of the National Crime Authority in Controlled Operations' (the 'Street Legal Report'). A major issue of concern to the Inquiry was that under the existing *Crimes Act 1914*, controlled operations could be authorised only in relation to the investigation of certain narcotics offences. Noting submissions from a wide range of agencies and FATF support for such an approach, the inquiry concluded that:

...the current scope of controlled operations in Part 1AB of the *Crimes Act 1914* is too narrow and does not allow the NCA to operate to its fullest capacity. The Committee is particularly concerned that the NCA should be able to conduct controlled deliveries of funds and to follow the money trail. This seems to be imperative for the NCA's efforts against the drug trade.<sup>58</sup>

In response to the Street Legal Report, the Measures to Combat Serious and Organised Crime Bill 2001 amends the controlled operations provisions of the Crimes Act to enable a controlled operation to be conducted for 'the purpose of obtaining evidence that may lead to the prosecution of a person for a Commonwealth offence.'<sup>59</sup>

### **Recommendation 3:**

It is recommended that Australian law enforcement agencies work together through the National Task Forces coordinated by the NCA to fully explore the possibilities of developing proactive investigative strategies to detect, investigate and disrupt money laundering via alternative remittance systems, consistent with legislative requirements.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies, through the National Task Forces.

### ***Intelligence and Information Sharing***

Sharing information on money laundering methods is necessary to improve law enforcement efficiency and effectiveness in combating organised crime. As with all forms of sophisticated crime, the ability to successfully detect, investigate and prosecute those involved in money laundering is dependent on our knowledge and understanding of existing and emerging criminal methodologies. Exchange of

information on such methods aids the development of law enforcement's knowledge base and assists all agencies to better position themselves to counteract criminal activity.

In August 1999, the NCA established the Profits of Crime (POC) Case Studies Desk to assist in sharing information between Australian law enforcement agencies on money laundering and tax evasion methodologies and investigative techniques. Case studies are prepared by all agencies in a simple, standardised format. The collection is readily accessible to authorised officers via the secure law enforcement intranet system (the Australian Law Enforcement Intelligence Network, ALEIN). The Desk contains a solid and growing collection of information on alternative remittance and underground banking systems, and therefore plays an important role in raising awareness amongst operational and strategic level staff about this potential method of money laundering and tax evasion.

#### **Recommendation 4:**

It is recommended that Australian law enforcement agencies continue to contribute case studies on suspected methods of money laundering and tax evasion via alternative remittance to the ALEIN Profits of Crime Case Studies Desk, as an effective way of improving law enforcement knowledge and understanding of such systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

#### ***Investigative Training***

Law enforcement ability to detect and successfully investigate money laundering via alternative remittance systems needs to be supported by the development of appropriate investigative training. In a recent report for the APG, many Australian and other agencies in the region noted a lack of experience and expertise was hampering their abilities in this regard.<sup>60</sup>

#### **Recommendation 5:**

It is recommended that Australian law enforcement agencies develop and/or enhance existing financial investigation courses to include components on investigation of money laundering via alternative remittance systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

## INTERNATIONAL MEASURES

### *Intelligence and Information Sharing*

FATF members have agreed that alternative remittance systems should continue to be studied as they relate to money laundering, especially on a regional basis. As noted earlier in this report, the APG has established a Typologies Working Group on Alternative Remittance and Underground Banking Systems, which is providing useful insight into cases in the Asia/Pacific Region.

#### **Recommendation 6:**

It is recommended that Australia continue to participate and support the work of the APG and FATF in sharing information on methods of money laundering via alternative remittance systems.

***Recommended Responsibility:*** All Commonwealth, State and Territory law enforcement agencies.

### *Removing Incentives for use of Alternative Remittance Systems*

It is recognised that due to significant cultural, social and economic factors in developing countries, the use of alternative remittance systems cannot be eliminated, even if it was desirable to do so. However, whilst such systems are used for legitimate transactions, carefully developed and coordinated strategies are required to minimise the potential for criminal abuse. This can be achieved only via a multi-faceted, cooperative approach between developing and developed nations.

The Commonwealth Secretariat has observed the need for developing nations to implement strategies which remove the incentives for use of alternative remittance systems by law-abiding citizens, including by improving the efficiency of regulated financial institutions and reviewing exchange control regulations.<sup>61</sup> FATF has similarly noted that reforms to the formal banking system in such countries could draw customers away from alternative remittance systems and that: 'It follows logically, that the reduced volumes of legal moneys using [alternative remittance] systems might make these systems less attractive as a cover for movements of illegal funds.'<sup>62</sup>

#### **Recommendation 7:**

It is recommended that through international and regional organisations and fora (such as the United Nations, Commonwealth, ASEAN Regional Forum and Asia-Pacific Economic Cooperation (APEC)), the Australian Government support the

implementation of strategies in developing nations to remove incentives for use of alternative remittance systems by law-abiding citizens.

**Recommended Responsibility:** Department of Foreign Affairs and Trade, Commonwealth Attorney-General's Department.

### ***Enhancing Law Enforcement Cooperation***

The effectiveness of such a long term approach is obviously dependent upon high quality international cooperation between Governments. From a law enforcement perspective, our ability to successfully detect, investigate and prosecute money laundering via alternative remittance systems necessitates improved liaison and working arrangements between agencies internationally, particularly in terms of the timely exchange of information and the capacity to conduct closely integrated, multinational operations.

#### **Recommendation 8:**

It is recommended that Australia actively seek to enhance ongoing international law enforcement cooperation and mutual legal assistance to ensure that the capacity exists to conduct speedy efficient international operations.

**Recommended Responsibility:** All agencies, especially the NCA, AFP and Commonwealth Attorney-General's Department.

## **SUMMARY & CONCLUSION**

There is increasing international concern about money laundering via alternative remittance systems. The potential for criminal abuse of such systems is substantial due to their largely unregulated nature, the ability to preserve the anonymity of their customers and conceal the source of funds remitted. In Australia alternative remittance systems have been used to facilitate the laundering of proceeds of organised crime, including drug trafficking and large-scale revenue evasion.

As in most of the overseas countries visited, currently in Australia there are limited means by which money laundering via AR/UBS can be deterred, detected or prosecuted. On the basis of this investigative research project, conducted in Asia (Thailand and Hong Kong), Europe (United Kingdom, France and Italy), the United States and Canada, this report has recommended a series of national and international measures to improve regulation/control and investigation of money laundering via such systems.

Accordingly, this report will be disseminated for consideration to:

- Commonwealth Ministers for Justice & Customs, Foreign Affairs & Trade and the Attorney-General;
- Key national fora, including the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA) and the Australasian Police Ministers' Council (APMC, via the Senior Officers' Group);
- All Australian law enforcement agencies (including AUSTRAC and the Australian Tax Office) via the National Task Forces coordinated by the NCA;
- Commonwealth Attorney-General's Department, APRA, the RBA, Department of Foreign Affairs and Trade;
- All international agencies visited as part of this project;
- International organisations, including Interpol, FATF, APG and the Commonwealth; and
- The public via the NCA website: [www.nca.gov.au](http://www.nca.gov.au)

The effectiveness of the measures recommended in this report is dependent upon long term, high quality international cooperation at the operational level between law enforcement and regulatory agencies, and at the strategic level between Governments of developed and developing nations.

## APPENDIX A: PROGRAM OF VISITS

Jurisdiction	Agencies
<b>Thailand (Bangkok)</b>	<ul style="list-style-type: none"> <li>• Royal Thai Police (Narcotics Bureau)</li> <li>• Royal Thai Customs</li> <li>• Ministry of Finance</li> <li>• Bank of Thailand</li> <li>• Bank of Bangkok (Anti-Money Laundering Board Bankers' representative)</li> <li>• Office Narcotics Control Board</li> <li>• Anti-Money Laundering Office</li> <li>• AFP Liaison Office</li> </ul>
<b>Italy (Rome)</b>	<ul style="list-style-type: none"> <li>• Guardia di Finanza</li> <li>• Direzione Investigativa Antimafia</li> <li>• Ufficio Italiano dei Cambi</li> <li>• AFP Liaison Office</li> </ul>
<b>United Kingdom (London)</b>	<ul style="list-style-type: none"> <li>• HM Customs &amp; Excise</li> <li>• Serious Fraud Office</li> <li>• National Crime Squad</li> <li>• HM Treasury</li> <li>• Financial Services Authority</li> <li>• City of London Police (Financial Investigation Unit)</li> <li>• Home Office</li> <li>• National Criminal Intelligence Service</li> <li>• AFP Liaison Office</li> </ul>
<b>France (Paris &amp; Lyon)</b>	<ul style="list-style-type: none"> <li>• Financial Action Task Force (Secretariat)</li> <li>• Tracfin</li> <li>• Interpol</li> </ul>
<b>USA (Washington, Miami &amp; New York)</b>	<ul style="list-style-type: none"> <li>• Drug Enforcement Agency</li> <li>• Internal Revenue Service (Criminal Investigation Division)</li> <li>• US Customs</li> <li>• Financial Crimes Enforcement Network</li> <li>• Federal Reserve</li> <li>• Department of Justice</li> <li>• El Dorado Task Force (NYC)</li> <li>• South Florida IMPACT (Miami)</li> <li>• HIDTA Task Force (Miami)</li> <li>• AFP Liaison Office (Washington)</li> </ul>
<b>Canada (Toronto, Ottawa, Vancouver)</b>	<ul style="list-style-type: none"> <li>• Royal Canadian Mounted Police</li> <li>• Integrated Proceeds of Crime (IPOC) units</li> <li>• Canada Customs &amp; Revenue Agency</li> <li>• Department of Justice</li> <li>• Department of Finance - FinTRAC</li> </ul>
<b>Hong Kong</b>	<ul style="list-style-type: none"> <li>• Hong Kong Police (Organised Crime &amp; Triads Bureau and Narcotics Bureau)</li> <li>• Hong Kong Customs &amp; Excise Department</li> <li>• Director of Public Prosecutions</li> <li>• Department of Justice</li> <li>• Deputy Commissioner for Narcotics</li> <li>• AFP Liaison Office</li> </ul>



## 1. Notes

- APG Typologies Working Group on Alternative Remittance & Underground Banking Systems, 'Preliminary Report for the Third APG Money Laundering Methods & Typologies Workshop', 1–2 March 2000, Bangkok, Thailand.
2. The IMF has suggested that the macro economic consequences of money laundering may include:
    - Inexplicable changes in money demand;
    - Greater prudential risks to bank soundness;
    - Contamination effects on legal financial transactions; and
    - Greater volatility of international capital flows and exchange rates due to unanticipated cross-border asset transfers.
- See Michael Camdessus, 'Money Laundering: The Importance of International Countermeasures', Address by the Managing Director, IMF to the Plenary Meeting of the Financial Action Task Force on Money Laundering, Paris, Feb 1998, p. 2.
3. See e.g. United Nations, *Political Declaration and Action Plan Against Money Laundering* (Adopted at the 20th Special Session of the General Assembly at New York on 10 July 1998) under the heading *Countering money-laundering*.
  4. Rick McDonell, 'Money Laundering: The International and Regional Response', APG Secretariat, January 2000, p. 1.
  5. John Walker Consulting Services, 'Estimates of the Extent of Money Laundering in and through Australia', AUSTRAC, Sept 1995, p. 7.
  6. Michael Camdessus, *op cit.*, Feb 1998, p. 1.
  7. US Treasury & Justice Department, The National Money Laundering Strategy for 2000, March 2000, p. 1; FATF-OECD, 'Money Laundering – Policy Brief', OECD Observer, July 1999, p. 2; OECD GDP estimates, September 2000, [www.oecd.org/std/gdp.htm](http://www.oecd.org/std/gdp.htm)
  8. John Walker Consulting Services, *op cit.*, Sept 1995, p. 39.
  9. Freiberg, A. & Fox, R. 'Evaluating the Effectiveness of Australia's Confiscation Laws' (7 September 1999, Criminology Research Council, unpublished) at p.16.
  10. FATF is an inter-governmental body which began as an initiative of the Group of Seven in 1989. The main purpose of FATF is the development and promotion of policies to combat money laundering; specifically to prevent proceeds of crime from being used in future criminal activities and from affecting legitimate economic activities. The FATF anti-money laundering strategy is embodied in its 'Forty Recommendations' - measures which cover the criminal justice system and law enforcement, the financial system and its regulation, and international cooperation. FATF membership currently consists of 29 countries and two international organisations, namely: Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, European Commission, Finland, France, Germany, Greece, Gulf Co-operation Council, Hong Kong, China, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.
  11. The purpose of the APG is to work within the region to ensure the adoption, implementation and enforcement of internationally accepted anti-money laundering standards (as set out in the FATF Forty Recommendations). The APG currently comprises 20 member jurisdictions, namely: Australia, Bangladesh, Chinese Taipei, Fiji, Hong Kong, China, India, Indonesia, Japan, Malaysia, New Zealand, Pakistan, People's Republic of China, Republic of Korea, Philippines, Samoa, Singapore, Sri Lanka, Thailand, United States, Vanuatu.
  12. Confiscation and forfeiture legislation has been introduced in each State, these acts also criminalise money laundering of the proceeds of State offences. The Commonwealth POC Act is currently subject to review, including that the Government has recently announced its intention amend the Act to enable civil recovery of proceeds of crime.
  13. AUSTRAC is Australia's anti-money laundering regulator and specialist financial intelligence unit. In its regulatory role, AUSTRAC monitors compliance with the reporting requirements



of the FTRA by a wide range of financial services providers, the gambling industry and others. In its intelligence role, AUSTRAC provides financial transaction reports information to Commonwealth, State and Territory law enforcement and revenue agencies. As such, it plays a key role in Australia's anti-money laundering efforts by increasing the risk of detection of money laundering related activity and preserving the financial trail to assist investigations. For further information see: [www.austrac.gov.au](http://www.austrac.gov.au)

14. [www.austrac.gov.au/fttr\\_act/index.html](http://www.austrac.gov.au/fttr_act/index.html)

15. See [www.oecd.org/fatf/Ctry-orgpages/ctry-au\\_en.htm](http://www.oecd.org/fatf/Ctry-orgpages/ctry-au_en.htm)

16. US Department of State, 1999 International Narcotics Control Strategy Report (INCSR), [www.state.gov/www/global/narcotics\\_law/1999\\_narc\\_report/ml\\_country99.html](http://www.state.gov/www/global/narcotics_law/1999_narc_report/ml_country99.html) INCSR

priorities draw upon a number of factors which indicate:

- i) the extent to which the jurisdiction is or remains vulnerable to money laundering, notwithstanding its money laundering countermeasures, if any;
- ii) the nature of the money laundering situation in each jurisdiction (for example, whether it involves drugs or other contraband);
- iii) the ways in which the US regards the situation as having international ramifications;
- iv) the situation's impact on US interests;
- v) whether the jurisdiction has taken appropriate legislative actions to address specific problems;
- vi) whether there is a lack of licensing and oversight of offshore banks and businesses;
- vii) whether the jurisdiction's laws are being effectively implemented; and
- viii) where US interests are involved, the degree of cooperation between the foreign government and US government agencies.

There are approximately two dozen sub-factors that are also considered.

17. *Ibid.*

18. *Ibid.*

19. FATF, *Report on Money Laundering Typologies 1999-2000*, 3 February 2000, p. 18.

20. FATF, *1996-1997 Report on Money Laundering Typologies*, February 1997.

21. Foreign exchange dealers are not specifically included within the definition of cash dealers under the FTR Act, however may be captured by the following definitions under section 3(1):

- a financial institution;
- a body corporate that is, or, if it had been incorporated in Australia, would be, a financial corporation within the meaning of paragraph 51(xx) of the Constitution;
- a person (other than a financial institution) who carries on a business of:
  - collecting, holding, exchanging or remitting currency, or otherwise negotiating currency transfers, on behalf of other persons; or
  - preparing pay-rolls on behalf of other persons in whole or in part from currency collected; or
  - delivering currency (including payrolls).

Foreign exchange dealers may be banks, etc. and may also be a registered corporation under the Financial Corporations Act 1974.

22. Stephen Carroll, 'Anti-Money Laundering Laws and the Quasi-Banker: A Report on Alternative banking in Australia', AUSTRAC, June 1995, p. 3.

23. Commonwealth Secretariat, *op cit*, p. 8.

24. An Urdu word meaning 'reference'.

25. A Hindi word meaning 'trust'.

26. A Chinese term meaning 'flying money'.

27. A Thai term.

28. Chinese terms referring to the way in which the system operates.

29. The identity of the owner of the funds may only be known to the remitter. See NCA, *Taken to the Cleaners: Money Laundering in Australia*, 1991, Chapter 5.

30. *Ibid.*, p. 69.

31. Commonwealth Secretariat, 'Money Laundering: Special Problems of Parallel Economies', Paper prepared for the Joint Meeting of Commonwealth Finance and Law Officials on Money

- Laundering, London, 1-2 June 1998 (May 1998), pp. 10-11.
32. FATF, *op cit.*, 3 February 2000, p. 18.
33. It is recognised that there are methods of transferring value offshore other than via alternative remittance systems, such as through the use of transfer pricing and credit cards. However, such schemes are beyond the scope of this study.
34. US Customs Service, 'Black Market Peso Exchange – A Trade Based Money Laundering System', June 1999, [www.customs.gov/imp-exp2/pubform/pesos.htm](http://www.customs.gov/imp-exp2/pubform/pesos.htm)
35. *Ibid.*
36. FinCEN, 'Black Market Peso Exchange Update', *FinCEN Advisory Issue 9*, US Department of Treasury, June 1999.
37. FATF, *op cit.*, 3 February 2000.
38. The report is available at: [www.cabinet-office.gov.uk/innovation](http://www.cabinet-office.gov.uk/innovation)
39. See 'Two-Faced Woman', *Time Magazine*, July 31, 2000 Vol. 156 No.5 [www.time.com/time/magazine/article/0,9171,50610-1,00.html](http://www.time.com/time/magazine/article/0,9171,50610-1,00.html)
40. Coopers & Lybrand, 'Non-Bank Financial Institutions: A Study of Five Sectors for the Financial Crimes Enforcement Network', *Final Report*, February 28, 1997, [www.ustreas.gov/fincen/cooply.html](http://www.ustreas.gov/fincen/cooply.html)
41. The other MSBs covered by the rule are: cheque cashers, currency exchangers, issuers, sellers, and redeemers of money orders, and issuers, sellers, and redeemers of travelers' cheques.
42. See FinCEN, 'Fact Sheet on MSB Registration Rule', August 18, 1999, [www.ustreas.gov/fincen/msbregrule.html](http://www.ustreas.gov/fincen/msbregrule.html)
43. See FinCEN, 'Fact Sheet for the Industry on MSB Suspicious Activity Reporting Rule', August 3, 2000, [www.ustreas.gov/fincen/msbsarfs.html](http://www.ustreas.gov/fincen/msbsarfs.html)
44. *Ibid.*
45. Hong Kong, China, 'Jurisdiction Report', Second APG Money Laundering Methods and Typologies Workshop: *Underground Banking and Alternative Remittance Systems*, 2-3 March 1999, Tokyo, Japan.
46. Hong Kong Joint Financial Intelligence Unit, 'A Guideline for Remittance Agents and Money Changers – Compliance with the Requirements of the Organised and Serious Crimes Ordinance and the Drug Trafficking (Recovery of Proceeds) Ordinance', 2000.
47. *Ibid.*
48. Stephen Carroll, *op cit.*, June 1995, p. 34. In Australia, 'banking business' is regulated by the *Commonwealth Banking Act 1959*.
49. *Financial Transaction Reports Act 1988* (Cth), sub-para (k)(i) of the definition of 'cash dealer' in section 3.
50. In *Luckins v Highway Motel (Carnarvon) Pty Ltd* (1975) 133 CLR 164 at 178, Gibbs J remarked: "The expression "carrying on a business" may have different meanings in different contexts. It would usually connote, at least, the doing of a succession of acts designed to advance some enterprise of the company pursued with a view to pecuniary gain..."
51. Under subsection 3(1) of the FTRA, 'prescribed commercial instrument' means:
- (a) a cheque, bill of exchange, promissory note or other like instrument creating an entitlement to currency; or
  - (b) any instrument (including an electronic instrument) that is declared to be a prescribed commercial instrument for the purposes of this definition.
52. AUSTRAC received special purpose funding under the Federal Government's National Illicit Drugs Strategy (NIDS) to conduct this work with 'high risk' cash dealers, including remittance agents, bullion sellers and money exchangers. Details of this program are provided by AUSTRAC's 1999-2000 Annual Report at [www.austrac.gov.au/publications/annualreports/199900/chapter4.htm#National Illicit Drugs Strategy \(NIDS\)](http://www.austrac.gov.au/publications/annualreports/199900/chapter4.htm#National_Illicit_Drugs_Strategy_(NIDS))
53. *Ibid.*
54. Commonwealth Secretariat, *op cit.*, May 1998, p. 20.

55. Hong Kong JFIU, 'Remittance Agents and Money Laundering', Feedback No. 30, *Draft* July 2000.
56. See Recommendation 36 and Interpretive Note, FATF 'The Forty Recommendations'.
57. *Ibid.*
58. Parliamentary Joint Committee on the National Crime Authority 'Street Legal: The involvement of the National Crime Authority in Controlled Operations', December 1999, Chapter 6 at: [www.aph.gov.au/senate/committee/nca\\_ctte/street\\_legal/chapter6.htm](http://www.aph.gov.au/senate/committee/nca_ctte/street_legal/chapter6.htm)
59. Such an approach is consistent with the NSW *Law Enforcement (Controlled Operations) Act 1997*, which does not limit the range of criminal activity for which approval to conduct a controlled operation may be sought.
60. APG Typologies Working Group, *op cit*, p. 16.
61. Commonwealth Secretariat, *op cit*, May 1998, p. 19.
62. FATF, *op cit*, 3 February 2000, p. 8.