



香港海關
Customs and Excise Department

The Regulatory Landscape of Money Service Business

17 May 2019

Risk Assessment Division

Money Service Supervision Bureau

Outline

Civil Sanctions

- Brief introduction on civil sanctions under the AMLO

Compliance issues

- Country risk and Politically Exposed Persons (PEP)
- Financial Sanctions and Terrorists Financing



Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 (AMLO)

Powers of Commissioner of Customs and Excise (CCE) to regulate MSOs

- Criminal Sanctions
- Civil Sanctions



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Civil Sanctions – Disciplinary Actions

Legal Basis under the AMLO

- Section 21, Part 4 of the AMLO
- Section 43, Part 5 of the AMLO
- Known as “Disciplinary Actions”



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Civil Sanctions – Disciplinary Actions

Disciplinary Actions under Section 21

- Taken against MSOs who failed to comply with CDD and record keeping requirements under AMLO



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Civil Sanctions – Disciplinary Actions

Penalties (under Section 21 of AMLO)

- Publicly reprimand
- Any remedial actions specified
- A pecuniary penalty not exceeding:
 - (1) \$10,000,000 or
 - (2) 3 times the amount of profit gained, or costs avoided



Civil Sanctions – Disciplinary Actions

Disciplinary Actions under Section 43

- Taken against MSOs who contravened:
 - (1) any regulations made by CCE under AMLO;
 - (2) any licensing conditions imposed by CCE;
 - (3) Section 35(1), 36(1), 37(1), 38(1), 39(1), 39A(1), 40(1) and 41(1) of the AMLO



Civil Sanctions – Disciplinary Actions

■ Examples of contraventions:

- (1) Failed to obtain CCE's prior approval to become MSOs' director, partner or ultimate owner;
- (2) Failed to obtain CCE's prior approval in adding new business premises;
- (3) Failed to display the original of licence at business premises;
- (4) Failed to notify CCE on the addition of bank accounts for money service business



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Civil Sanctions – Disciplinary Actions

Penalties (under Section 43 of AMLO)

- Publicly reprimand
- Any remedial actions specified, or
- A pecuniary penalty not exceeding \$1,000,000



Civil Sanctions – Disciplinary Actions

Points to note

- Written Notice - CCE shall inform the licensee of taking disciplinary action by writing, before exercising the power under the AMLO
- An opportunity to be heard by the licensee



Civil Sanctions – Disciplinary Actions

Points to note

- Representation / submission - Licensee will have a reasonable opportunity to provide written submission
- Meeting – Between C&ED and Licensee
- Decision Notice to Licensee – Notify final decision of disciplinary actions



Civil Sanctions – Disciplinary Actions

Factors to be considered by C&ED

- Nature / seriousness and impact of the licensee's contravention
- Conduct of licensee after contravention
- Previous disciplinary record and compliance history of the licensee
- Other relevant factors



Civil Sanctions – Disciplinary Actions

Publicly available guidelines

- Disciplinary Action Guideline on Imposition of Pecuniary Penalty
- Disciplinary Fining Guideline

Accessible from MSOS webpage:

https://eservices.customs.gov.hk/MSOS/index?request_locale=en



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Civil Sanctions – Disciplinary Actions

Case sharing

- Publicly reprimand
- Pecuniary penalty



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Compliance issues – Country Risk

General principle of risk assessment

- MSO should pay particular attention to countries or geographical locations of operation with which its customers and intermediaries are connected where they are subject to high levels of organized crime, increased vulnerabilities to corruption and inadequate systems to prevent and detect ML/TF.



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Country Risk

General principle of risk assessment

- Make reference to publicly available information or relevant reports and databases on corruption risk
- e.g. Transparency International's 'Corruption Perceptions Index', which ranks countries according to their perceived level of corruption



Country Risk

- Transparency International (founded in 1993) is an international non-governmental organization (NGO) based in Berlin, Germany
- Non-profit purpose to combat global corruption with civil societal anti-corruption measures, and criminal activities arising from corruption
- The Corruption Index will be updated and published annually

Source: <https://www.transparency.org/> and wikipedia



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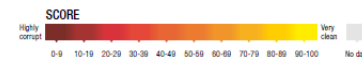
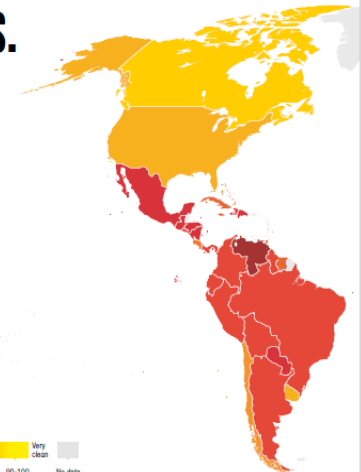
Transparency international – Corruption Perceptions Index (180 countries/jurisdictions)

CORRUPTION PERCEPTIONS INDEX



**180 COUNTRIES.
180 SCORES.**
**HOW DOES
YOUR COUNTRY
MEASURE UP?**

The perceived levels of public sector corruption in 180 countries/territories around the world.



RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE	RANK	COUNTRY/TERRITORY	SCORE			
1	New Zealand	89	23	France	70	46	Georgia	66	68	Belarus	44
2	Denmark	88	24	Uruguay	70	47	Malta	66	69	Jamaica	44
3	Finland	86	25	Barbados	68	48	Cabo Verde	66	70	Oman	44
4	Norway	86	26	Bhutan	67	49	Rwanda	66	71	Bulgaria	43
5	Switzerland	86	27	Chile	67	50	Saint Lucia	66	72	South Africa	43
6	Singapore	84	28	Bahamas	66	51	Korea (South)	64	73	Vanuatu	43
7	Sweden	84	29	Portugal	63	52	Grenada	62	74	Burkina Faso	42
8	Canada	82	30	Qatar	63	53	Namibia	61	75	Lesotho	42
9	Luxembourg	82	31	Taiwan	63	54	Italy	60	76	Tunisia	42
10	Netherlands	82	32	Brunei Darussalam	62	55	Mauritius	60	77	China	41
11	United Kingdom	82	33	Israel	62	56	Slovakia	60	78	Serbia	41
12	Germany	81	34	Botswana	61	57	Croatia	59	79	Gutname	41
13	Australia	77	35	Glovenia	61	58	Saudi Arabia	49	80	Trinidad and Tobago	41
14	Hong Kong	77	36	Poland	60	59	Greece	48	81	Ghana	40
15	Iceland	77	37	Geyonelles	60	60	Jordan	48	82	India	40
16	Austria	76	38	Costa Rica	59	61	Romania	48	83	Morocco	40
17	Belgium	76	39	Lithuania	59	62	Cuba	47	84	Turkey	40
18	United States	76	40	Latvia	58	63	Malaysia	47	85	Argentina	39
19	Ireland	74	41	Saint Vincent and the Grenadines	58	64	Montenegro	46	86	Benin	39
20	Japan	73	42	Cyprus	57	65	Sao Tome and Principe	46	87	Kosovo	39
21	Estonia	71	43	Czech Republic	57	66	Hungary	45	88	Kuwait	39
21	United Arab Emirates	71	44	Dominica	57	67	Senegal	45	89	Salomon Islands	39
			45	Spain	57	68			90	Swaziland	39
									91	Albania	38

Ranking in Corruption Perceptions Index

	2018	2017
Singapore	3	6
United Kingdom	11	8
Hong Kong	14	13
United States of America	22	16



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Source: <https://www.transparency.org/>

Ranking in Corruption Perceptions Index

	2018	2017
Indonesia	89	96
Philippines	99	111
North Korea (DPRK)	176	171



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Source: <https://www.transparency.org/>

Country Risk

Other characteristics of high-risk countries

- Jurisdictions that have been identified by the FATF as the ones with strategic AML/CFT deficiencies;
- Countries that are subject to sanctions, embargos or similar measures issued by, for example, the United Nations;
- Countries that are believed to have strong links to terrorist activities.



Politically exposed persons

- Politically exposed persons (“PEPs”) are **high-risk customers**
- Under the AMLO, MSOs must carry out Enhanced Customer Due Diligence (EDD) before establishing a business relationship with PEPs
- Ensure that the company can have effective controls on the potential ML risk involved



Politically exposed persons

EDD measures include:

- Obtaining approval from the senior management for establishing such business relationship
- Obtaining additional documents and information from the customer to establish the customer's source of wealth and the source of the funds
- Reviewing the business relationship with the customer and assessing the potential ML risk involved by the senior management on a regular basis (Review to be conducted at least once a year)



Financial Sanctions and Terrorist Financing

Circular to Money Service Operators

- United Nations Sanctions Ordinance (UNSO)
- United Nations (Anti-Terrorism Measures) Ordinance (UNATMO)
- US Treasury Executive Orders
- FATF Statement



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Circular

MSSB/SAN_04/2018

3 April 2018

Circular to Money Service Operators

Anti-Money Laundering / Counter-Terrorist Financing

Early Alert on United Nations Sanctions

The following sanctions committees of the United Nations Security Council ("UNSC") amended their sanctions lists on 29 and 30 March 2018 respectively:

- (a) the sanctions committee which administers the sanctions regime for ISIL (Da'esh) and Al-Qaida added an entity to its sanctions list ^{Note 1} on 29 March 2018. Please refer to the relevant press release issued by the UNSC available at <https://www.un.org/press/en/2018/sc13271.doc.htm>; and
- (b) the sanctions committee which administers the sanctions regime for the Democratic People's Republic of Korea added one individual and 21 entities to its sanctions list and designated 27 vessels ^{Note 1} on 30 March, 2018. Please refer to the relevant press release issued by the UNSC available at <https://www.un.org/press/en/2018/sc13272.doc.htm>.

Money Service Operators ("MSOs") should update their screening databases with the above changes made by the UNSC sanctions committees for sanctions screening of customers and payments. MSOs are reminded to refer to the circular on United Nations Sanctions issued by the Customs and Excise Department (C&ED) on 7 February 2018 ^{Note 2} which sets out C&ED's expectations on actions that MSOs should take regarding sanctions imposed by the UNSC.

Financial Sanctions and Terrorist Financing

Early Alert System Implemented by C&ED

- When the United Nations updated the Sanction List
- Against sanctioned entities related to North Korea (DPRK), Iran, ISIL and Al-Qaida
- C&ED will issue early alert emails to MSOs and upload the circulars to Money Service Operators Licensing System (MSOS) on the same day



Financial Sanctions and Terrorist Financing

- Reminder to MSOs by C&ED in circulars:

“...Money Service Operators (“MSOs”) should update their screening databases with the above changes made by the UNSC sanctions committees for sanctions screening of customers and payments...”

- To avoid contravention of the United Nations Sanctions Ordinance and United Nations (Anti-Terrorism Measures) Ordinance



Financial Sanctions and Terrorist Financing

- The United Nations (Anti-Terrorism Measures) Ordinance (UNATMO)
- Prohibition on dealing with the property of a terrorist or terrorist associate



Financial Sanctions and Terrorist Financing

- Commerce and Economic Development Bureau (CEDB) website – Major Speeches, Presentations and Press Releases
- https://www.cedb.gov.hk/speech/content_2018.htm
- Online publication of the newly amended and gazetted United Nations Sanctions Regulations and details of sanctions measures





Thank you



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Hong Kong Money Laundering and Terrorist Financing Risk Assessment Report on the MSO sector

17.5.2019

Risk Assessment Division

Money Service Supervision Bureau

Hong Kong Money Laundering and Terrorist Financing Risk Assessment Report (HRA)

HONG KONG

MONEY LAUNDERING
AND TERRORIST FINANCING
RISK ASSESSMENT REPORT

Published on 30.04.2018

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洗錢及恐怖分子資金籌集
風險評估報告



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2018年4月

Background

HONG KONG

- Member of the Financial Action Task Force (**FATF**) and Asia/Pacific Group on Money Laundering (**APG**)
- Response to the fast-changing financial-market and security landscapes
- Response to the Recommendation of FATF on National Risk Assessment



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Financial Services and the Treasury Bureau
The Government of the Hong Kong Special Administrative Region



Security Bureau
The Government of the Hong Kong Special Administrative Region



Commerce and Economic Development Bureau
The Government of the Hong Kong Special Administrative Region



Department of Justice
The Government of the Hong Kong Special Administrative Region



Hong Kong Police Force
The Government of the Hong Kong Special Administrative Region



HONG KONG MONETARY AUTHORITY
香港金融管理局



ICAC



保險業監管局
Insurance Authority



**SECURITIES AND
FUTURES COMMISSION**
證券及期貨事務監察委員會



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Risk Assessment Methodology

- FATF Guidance on National Money Laundering and Terrorist Financing Risk Assessment
- World Bank National Risk Assessment Tool

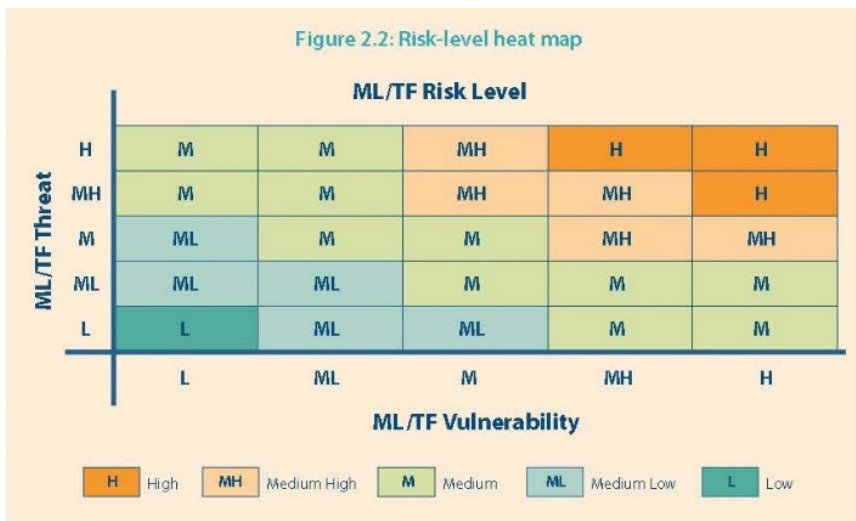
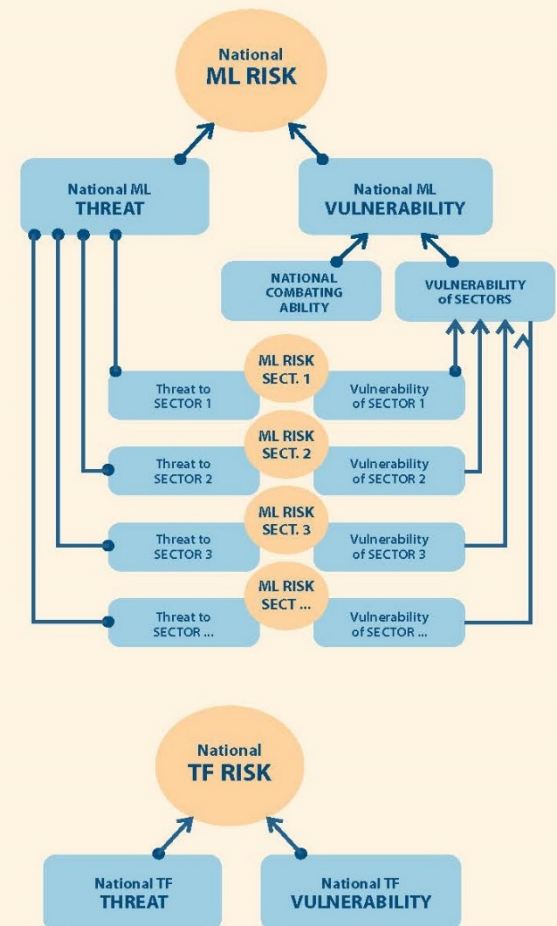


Figure 2.1 Graphical overview of the World Bank Tool



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Key Findings – Money Laundering (ML)

Hong Kong's Ability to Combat ML

- Medium-high

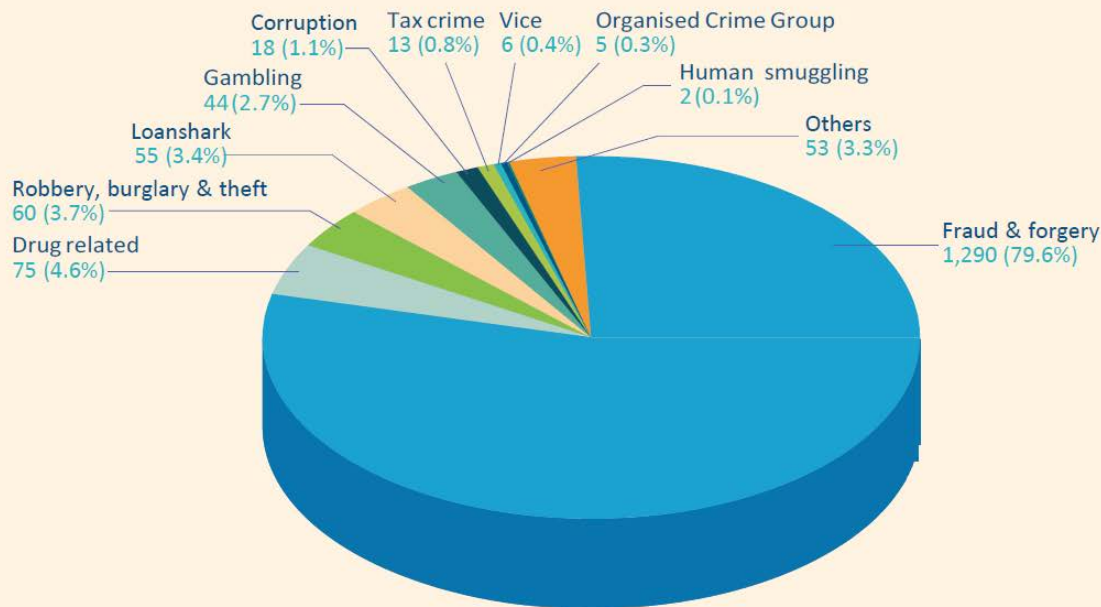


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Key Findings – Money Laundering (ML)

What are the predicate offences of ML cases?

Figure 4.1: Breakdown of 1,621 identified predicate offences associated with 1,908 ML cases in 2011-2015

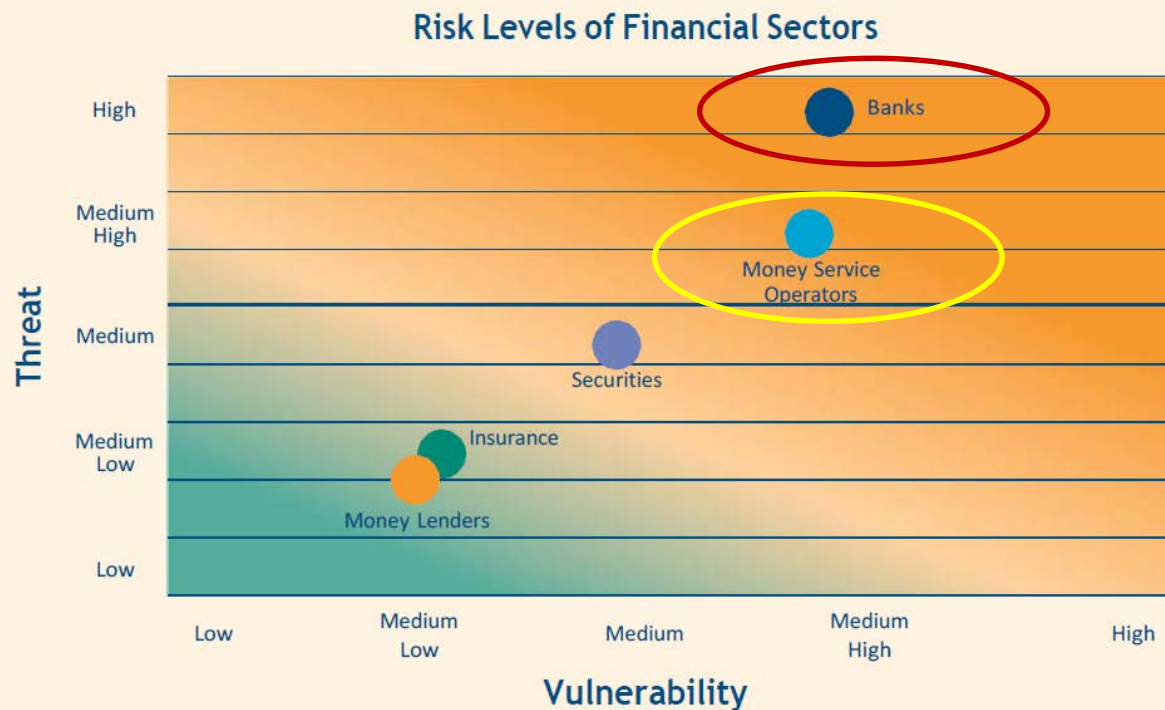


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Key Findings – Money Laundering (ML)

Hong Kong's ML Threat – Financial Sectors

Figure 5.1: Vulnerability level, threat level and overall ML risks of financial sectors



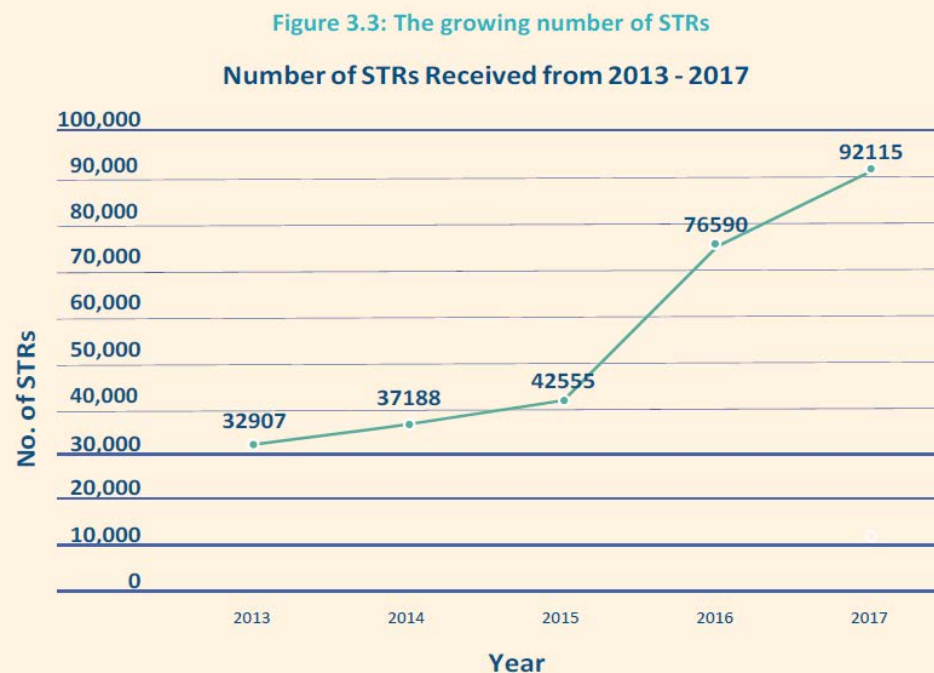
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Key Findings – Money Laundering (ML)



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Key Findings – Money Laundering (ML)

Overall ML Risk of Hong Kong

- a medium-high level of ML risk
- a medium-high level of threat
- a medium level of vulnerability



Key Findings – Terrorist Financing (TF)

Overall TF Risk of Hong Kong

- a medium-low level of TF risk
- a medium-low level of threat
- a medium-low level of vulnerability



Next Step

- Enhancing the AML/CFT legal framework
 - Strengthening risk-based supervision and partnerships
 - Sustaining outreach and awareness-raising
 - Monitoring new and emerging risks, and
 - Strengthening law enforcement efforts and intelligence capability
-



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Risk Assessment - MSO Sector

- ◆ Money Service: Money Changing Service or Remittance Service
- ◆ No. of Licensed MSOs



Threats and Vulnerabilities of MSO Sector

- ◆ Cash-intensive nature, frequent cross-border, walk-in and one-off transactions
→ medium-high risk
- ◆ Ability to process numerous transactions
→ illicit funds
- ◆ Cross-border activities



Threats and Vulnerabilities of MSO Sector

- ◆ The quality of STRs submitted by MSOs varies.
- ◆ MSOs with compliance deficiencies.
- ◆ MSOs rely on manual transaction monitoring.
- ◆ Unlicensed MSOs



Supervision and Enforcement – C&ED

- ◆ Convictions under the AMLO
- ◆ Unlicensed MSOs: suspended prison sentences and disqualification from holding an MSO licence for a specified period



Overall Risk of MSO Sector

- ◆ ML threat : medium-high
- ◆ Vulnerabilities : medium-high
- ◆ Overall risk : medium-high



Next Steps

Enhance the supervision of the MSO sector by :

- ◆ Assessing and strengthening MSOs' AML/CFT knowledge;
- ◆ Strengthening MSOs' level of compliance by raising their awareness in using computerised systems for transaction monitoring and sanction screening as well as in improving STR quality;



Next Steps

Enhance the supervision of the MSO sector by :

- ◆ Supervising the proper implementation of AML/CFT compliance programmes by MSOs; and
- ◆ Conducting a thematic review of the MSO sector.



Suggestion to MSOs

MSOs should pay attention to:

- ◆ STR quality
- ◆ AML/CFT knowledge
- ◆ TF/PF knowledge
- ◆ AML system
- ◆ Institutional Risk Assessment
- ◆ Ongoing monitoring system
- ◆ Sanction screening system





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THE END

Thank you