



# LAUNDERING NEWS

The Asia/Pacific Group on Money Laundering Secretariat Bulletin

Issue No 2, May 1998

## *Note from the Editor's Desk*

As you can see, with this edition, Laundering News continues to evolve. The most exciting development is the inclusion of our inaugural guest writer articles. This month we examine mutual legal assistance (m.l.a.) and the 'hawala' system of alternative banking. These articles provide a useful introduction to two complex areas for those working on anti-money laundering measures. Much more can be said on each topic and we would welcome contributions from those who want to continue the discussion on specific aspects of these subjects or who want to relate specific experiences in dealing with either area (this might be particularly pertinent for those who have used m.l.a.).

It has also been a busy time for international conventions, meetings, seminars. Many of these have included money laundering on their agendas and this issue of Laundering News tries to cover the results from a number of those meetings.

Finally, we are also working to improve print quality and layout. We hope that these will continue to develop in coming editions. If you have any suggestions or comments please write to us at the APG Secretariat.



The Editor  
APG Secretariat Bulletin  
GPO Box 5260  
Sydney NSW 2001  
AUSTRALIA  
Ph: (612) 9373 - 2438  
Fax: (612) 9373 - 2499  
Email: fatfasia@zip.com.au

## FIRST APG ANNUAL MEETING IN TOKYO



The Asia/Pacific Group on Money Laundering held its first Annual Meeting in Tokyo, Japan on 10-12 March 1998. The meeting was attended by representatives from 25 jurisdictions and seven international organisations or bodies and consisted of experts in legal, financial, regulatory and law enforcement matters.

A major achievement of this meeting was the adoption of revised Terms of Reference for the APG which, in particular, clarified questions of membership and procedure. It was agreed that it will not be a precondition for membership of the APG that anti-money laundering laws be already enacted, but that members should recognise the need for action to be taken and are at least considering taking steps to develop legislation and other measures based on accepted international standards.

The emphasis throughout discussions at the meeting was on practical and effective responses that could be used by member jurisdictions.

Specialist workshops examined the particular needs of the financial, legal and law enforcement sectors in each jurisdiction.

As a result of the meeting, participants agreed to provide to the Secretariat for compilation information on the current status of laws on money laundering, bank secrecy, extradition and mutual legal assistance treaties. Each participant also identified his or her jurisdiction's need for, or ability to provide, training and technical assistance in legal matters.

Also information will be compiled on jurisdictions' existing secrecy laws, regulations or policies, information sharing procedures and points of contact, which will be collated into a handbook for participants.



In the workshops the majority of participants were of the view that customer identification was crucial for financial institutions as was the reporting of suspicious transactions (with protection from liability for reporting institutions). Financial Intelligence Units (FIUs) were considered the best mechanism for the receipt, analysis and dissemination of financial information related to money laundering investigations.

An Action Plan was adopted that will provide the framework for the APG's work over the next three years.

## MUTUAL LEGAL ASSISTANCE IN MONEY LAUNDERING INVESTIGATIONS

**M.C. Blanchflower**

Mutual legal assistance (m.l.a.) is crucial to effective and successful money laundering investigations.

Countries cannot enact legislation to combat money laundering and expect that it will solve or deter their money laundering problem. Large money laundering cases are international: money may come from the commission of a foreign offence, or the money from a local offence may have been taken or transferred to a foreign country or countries. Unless information about the commission of a money laundering offence can be obtained - wherever it may be located - the investigation will come to an inconclusive end, to the benefit of the money launderer.

Continued on Page 3

# • LAUNDERING NEWS •

## HAWALA - A Good Old Vehicle for the Movement of Bad Money



Harjit Sandhu

Hawala is primarily a trust-based alternative remittance system associated with South Asia and the Gulf countries and, like any other alternative remittance system it is vulnerable to exploitation by money launderers. The term Hawala (also spelt Havala, Hawallah or Hawalah) means 'trust' or 'reference' in Hindi, Urdu and Arabic, and can be used interchangeably with the term 'hundi' meaning 'cheque' or 'bill of exchange' and refers to means of transferring money based on trust or an appropriate reference. Indeed trust is the centre pillar of all such transactions and 'no one should lose out in their use of Hawala', is the principle concept behind this system.

Hawala bankers themselves are often members of old established families or clans of money changers, spread throughout similar communities in many countries. They may also be shopkeepers, traders, travel agents, gold dealers or indeed members of any trade or profession which is ostensibly respectable and in connection with which large numbers of visitors and substantial sums of cash are not unusual. They profit not so much by charging the commission as by exploiting exchange rate differentials between the countries.

The Hawala system is used to move large sums of money internationally without leaving any trace, by circumventing legal banking channels. Its 'customers' come from all different walks of life, and they use it for a wide variety of reasons. Some of the reasons are honourable - many are not. The reasons range from sending small amounts of money to support poor relatives in the home country to tax evasion to export of capital from countries with exchange control restrictions to washing of dirty money to the financing of major crime including drug trafficking, arms smuggling and terrorism. At one end of the scale it is an accepted community service. At the other end it may be entirely criminal.

The system works very rapidly, leaving only a minimal or confusing paper trail, and gives returns much higher than traditional banking transactions. It operates with the freely-convertible currencies of the developed countries which have no exchange controls, with the currencies of the developing world countries which have strict exchange control regulations and equally well with the lesser developed economies.

Putting it succinctly, Hawala is truly an international unconventional remittance system, mainly used to move tainted money around the world, is

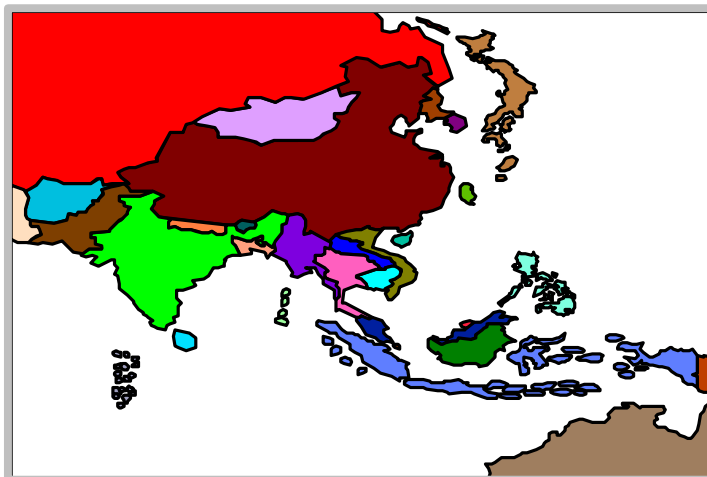
obviously subject to no external auditing, control or supervision, is undoubtedly widespread and has serious ramifications affecting the growth of crime and even the stability of national governments and economies. It is so old that it probably predates formal banking, and is so secret that the anonymity of its customers is assured, and surveillance and control by enforcement authorities well-nigh impossible.

Seeking the co-operation of the Hawala banker in the fight against crime is very difficult, even when the individual concerned is not hopelessly compromised or criminal himself. This is often because revealing any details of his operations will expose the trade in moving untaxed business profits into other countries and out of the reach of tax authorities. The Hawala banker, therefore prefers to remain in the background, out of sight, hopefully unnoticed and where he can quietly continue his trade in the way it has been successfully run for many many years.

Although the Hawala system seems impenetrable and uncontrollable, there is one area where it is vulnerable and that is the point when it emerges into daylight and rides on the back of the conventional banking system. The Hawala broker negotiates with and makes use of the international banking system in settling his accounts with other brokers, by invoice manipulation and in speculating on rate differentials between various currencies. If the banking institutions could be educated about this system, the chances are that they will recognise it when it breaks the surface, and will be able to play their part in restricting the growth of an insidious organism which harbours an immense potential for evil. In addition, a mandatory system of currency transaction reporting could contain a definition that would include the operation of the Hawala banker as well.

\* \* \* \* \*

*Harjit Sandhu is currently at the Secretariat General of Interpol. In the Indian federal police he has headed an anti-corruption branch at the Central Bureau of Investigation and was head of the Narcotics and Counterfeit Currency Branch.*



# • LAUNDERING NEWS •

## MUTUAL LEGAL ASSISTANCE

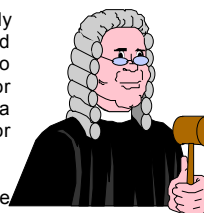
Continued From Page 1

Therefore, legislation to combat money laundering must be supported by m.l.a. legislation and bi-lateral or multi-lateral arrangements.

Mutual legal assistance is carried out informally and formally. Informal m.l.a. relies upon established contacts or channels of communication, and is useful for obtaining overseas intelligence and information about suspects, their travel movements and criminal associations. Apart from intelligence that overseas law enforcement authorities are prepared, or are able to share under their laws, publicly available information in foreign countries may also be relevant, such as information about the incorporation of companies used for money laundering. And, in cases of joint investigations by law enforcement authorities in two countries, details of the investigation can be shared.

Formal m.l.a. is carried out by domestic legislation and bi-lateral or multi-lateral arrangements. It is required to obtain private information, or information subject to laws of confidentiality or secrecy, such as the search of places or obtaining bank records.

Obtaining this information usually requires a compulsory process sanctioned by a judicial officer. Formal m.l.a. is also valuable to secure the freezing or restraining of a criminal's property in a foreign country, and to obtain evidence for the trial.



At the First Annual Meeting of the Asia Pacific Group on Money Laundering, held in Tokyo Japan, on 10-12 March 1998, m.l.a. was discussed in the Legal Workshop. The discussion highlighted the need and utility for the Group to address m.l.a. at the same time as it raises the awareness within the region of the need for anti-money laundering measures. The Group provides an ideal forum in which informal and formal regional arrangements for m.l.a. can be discussed.

*M.C. Blanchflower is the Deputy Principal Government Counsel (MLA) in the Department of Justice, International Law Division, Hong Kong, China.*

*Editors Note: A brief summary of m.l.a. arrangements in the region compiled at the APG Annual Meeting and is available from the Secretariat. A list of m.l.a. contact points is being compiled.*

## ASEM MEETS LONDON

The Asia Europe Meeting (ASEM) brings together leaders from the two continents and is intended to strengthen ties between Asia and Europe. Leaders initially met in Bangkok, Thailand in 1996 and they met again in March of this year in London, UK.

The London meeting included an initiative for co-operation, support and technical assistance related to anti - money laundering measures in the Asia region.

The Communique from the meeting included the following:

*"Leaders agreed that addressing the issue of money laundering will contribute to transparency of the financial system and to efforts to combat drug trafficking and organised crime by attacking criminal assets. The development of policies against money laundering has been helped by the FATF's 40 Recommendations which are now an internationally accepted standard. They looked forward to enhanced cooperation between Europe and Asia in this area, including exchanges of experts and a joint study on organised crime's links with Asian and Western financial markets."*

The leaders further asked that Finance Ministers encourage cooperation and review progress at their next meeting. Leaders confirmed their intention to meet again at ASEM 3 in Seoul, the Republic of Korea, in 2000.

## MINISTERS MEET ON TRANSNATIONAL CRIME MANILA

The Asia/Pacific Regional Ministerial Meeting on Transnational Crime was held in the Philippines on 23-25 March 1998 and was attended by representatives from 28 regional states and more than 10 observer countries and organisations.

A wide range of issues relating to transnational crime were discussed at the meeting including trafficking in human beings, trafficking and smuggling of firearms, corruption, illegal trafficking in drugs, terrorism and money laundering. In the discussion on money laundering it was noted that the laundering of money derived from criminal activities was spreading rapidly and that some countries in the region were more affected than others.

The meeting unanimously adopted the Manila Declaration on the Prevention and Control of Transnational Crime which included a declaration relating to the prevention and control of money laundering. The measures included: the development of modern and adequate investigation and information gathering techniques that would prevent criminals from using financial systems and developing complex structures that disguise the origin of funds and make the collection of evidence difficult; securing the cooperation of financial institutions and the business community; and, when appropriate, enacting laws that enable the extension of anti-money laundering measures to cover all serious offences and the reporting of suspicious transactions to appropriate authorities.

