

**REVISED JBA HANDBOOK ON
ANTI-MONEY LAUNDERING / TERRORISM FINANCING**

Customer Identification and Suspicious Transactions Reporting

**Japanese Bankers Association
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SAMPLE ONLY

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Introduction

The main focuses of Japan's measures to prevent money laundering and terrorism financing are customer identification, which is a safeguard function conducted at an initial stage, and suspicious transactions reporting, which can be considered a monitoring function of day-to-day transactions.

Measures to prevent money laundering and terrorism financing are being strengthened internationally as well. In Japan, the Law for Prevention of Transfer of Criminal Proceeds came fully into force in March 2008, and while keeping in line with global trends by, for example, taking steps to expand beyond financial institutions the range of businesses obligated to conduct customer identification and subject to suspicious transactions reporting requirements, these countermeasures are being strengthened successively.

On the other hand, even though it is being publicly acknowledged that measures to prevent money laundering and terrorism financing are being taken in the business field, there are still situations in which a customers' understanding cannot be readily obtained.

However, more than a few incidents of criminal activity relating to money laundering or terrorism financing have arisen in Japan thus far, and if such incidents occur frequently, not only will customer trust in the banking industry be lost, but other countries' trust in Japan as a whole may be lost as well. In taking measures to prevent money laundering and terrorism financing, it is important that each individual bank employee does so with a full understanding of the issues. Moreover, it is essential that each employee acquire accurate fundamental knowledge in order to obtain a customer's understanding as well.

Since the Japanese Bankers Association first prepared this handbook for bank employees in 2000, when the Act on the Punishment of Organized Crime was introduced, it has been revised it in accordance with the multiple changes in the law that have occurred since then. This handbook has been revised based on the most recent trends, such as introduction of the Law for Prevention of Transfer of Criminal Proceeds. As with previous versions, this handbook is intended to serve both as a tool for those learning about prevention of money laundering and terrorism financing for the first time, as well as a guideline for those in management and positions of responsibility requiring a basic understanding of these issues.

We will be pleased if this handbook is used by bank staff members to further their understanding of the problems of money laundering and terrorism financing and to assist them in carrying out their duties.

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CHAPTER 1

BASIC KNOWLEDGE OF MONEY LAUNDERING / TERRORISM FINANCING AND MENTAL PREPARATION FOR BANK STAFF

1. What is Money Laundering / Terrorism Financing?

Money Laundering

Money laundering is the concealment of the source of funds obtained through crime (criminal proceeds) to make it appear as though the funds were obtained through legal transactions. For example, if money obtained from criminal activity is transferred from account to account and then applied to the purchase of another financial product, if that financial product is then converted to cash it will likely become difficult to ascertain that the cash originated from criminal proceeds.

A specific example would be a drug or arms dealer putting money obtained from drug or arms sales into an account and then concealing the source of the earnings by moving the money around among multiple financial institutions, accounts, and financial products. Additionally, when money laundering is conducted by money being deposited from an overseas account into a Japanese account via a seemingly ordinary transaction, and some of that money is then transferred to another account overseas, Japanese banks have been used for money laundering even though the criminal earnings were not obtained within Japan.

Terrorism Financing

Meanwhile, terrorism financing is the offering to terrorists the funds necessary to carry out terrorist activities such as bombings and hijackings. Terrorism financing is conducted by making transactions appear to be normal, using methods such as accounts under fictitious names, so that it is not known that the collected money has been passed on to terrorists. Furthermore, the source of the funds can be concealed by transferring money from account to account so that after a terrorist activity has been carried out, the people who supported it financially cannot be traced.

In this way, terrorism financing is similar to money laundering in that both conceal the flow of money. However, it differs from money laundering, which presumes a serious crime, in that the source of funds is not limited to crime and the amount of money transferred each time is small. For example, there have been actual cases in which money is transferred in the name of contributions from ordinary citizens, many of those are collected and passed through multiple financial institutions, and the funds were ultimately used for terrorist activities. Cases have also emerged where funds remitted for school expenses were actually used as preparation funds for people who committed acts of terrorism. Because of this, there is sufficient possibility that such things are being carried out in bank transactions in our close proximity.

Background of Measures to Prevent Money Laundering / Terrorism Financing

Measures to prevent money laundering have been taken in countries around the world, in accordance with various international agreements of summits of major industrialized nations and the FATF (see Chapter 1 “3.”), which was formed, primarily, by the participating nations of those summits. Measures have also recently been further strengthened as a response to financial crimes such as terrorism financing, in addition to money laundering.

In Japan, banks, etc. have been conducting customer identification based on such guidelines as the Notification issued by the Former Ministry of Finance Banking Bureau in June 1990 (subsequently changed to the Japanese Bankers Association Guidelines in 2000) (*). However, due to the terrorist incidents in the US in September 2001 it became recognized that, in addition to measures to prevent money laundering, international society has an important task of taking measures to prevent terrorism. In 2003 the Customer Identification Law was introduced, and the customer identification that banks, etc. had been conducting up to that point came to be conducted as an obligation based on law.

With the introduction of the Anti-Drug Special Provisions Law in 1992, a system was established by which banks etc. report suspicious transactions associated with proceeds from drug-related crimes. Although the subject of reports under this law was formerly limited to proceeds from drug-related crimes, with the introduction of the Act on the Punishment of Organized Crime in 2000 the presumed crimes were expanded to include certain serious crimes other than drug-related crimes (the introduction of the Act on the Punishment of Organized Crime made it a requirement to report suspicious transactions). Further, the Act on the Punishment of Organized Crime was revised along with the introduction of the Act on the Punishment of Terrorism Financing in 2002, and transactions suspected of being related to terrorism financing were added to the suspicious transactions that should be reported.

In 2005, notes on interpreting the Seven Special Recommendations were confirmed at the meeting of the FATF. Meanwhile, in Japan revisions were made of laws and regulations related to obligating banks to conduct identification of the remitter in any transaction involving a cash-value bank transfer in excess of JPY 100,000. Such obligations have been implemented since January 2007.

Since then, based on the increasing sophistication of money laundering techniques worldwide and revision of the FATF’s “40 Recommendations,” efforts have been made to gradually strengthen the measures in place. Such efforts include the full-scale introduction in March 2008 of the Law for Prevention of Transfer of Criminal Proceeds, which stipulates expansion to include businesses other than banks in the scope of businesses that should implement measures for customer identification and suspicious transactions reporting. (With the enactment of the Law for Prevention of Transfer of Criminal Proceeds, the Customer Identification Law was abolished, and suspicious transactions reporting came to be included under the Law for Prevention of Transfer of Criminal Proceeds. See Chapter 2 about Japan’s legal system.)

** Although the Notification issued by the Former Ministry of Finance Banking Bureau in June 1990 stated that financial institutions “must make efforts to conduct customer identification,” the Notification that the Bureau issued in July 1992 revised this to state they “must conduct customer identification”.*

2. Importance of Preventing Money Laundering / Terrorism Financing

Whether it is drug-related criminal activity or acts of terrorism, carrying out large-scale crimes in an organized manner requires large amounts of money. Neglecting money laundering and terrorism financing will allow criminal organizations to obtain the funds they need to operate, and crime will become out of control. The result will be a vicious cycle in which criminal earnings fund and give rise to new criminal acts.

Furthermore, there are also cases in which criminal organizations attempt to invest criminal earnings into legitimate economic activities. Because it will become impossible to differentiate between money obtained through illegal acts and legitimate funds if money laundering is ignored, there is a risk that criminal organizations will expand that power by introducing such funds into legitimate economic activities and exercising their force.

On the other hand, if money laundering and terrorism financing are prevented, the funds that are the lifelines of criminal organizations will be cut off and, as a result, the repetition of criminal acts and the expansion of the organizations' power can be obstructed. In other words, it can be said that the aim of preventing money laundering and terrorism financing is the eradication of criminal organizations and criminal acts from a financial aspect.

In addition, there have recently been many examples in which accounts under false names or other people's names are used as accounts for wire transfer frauds, such as cases where people pretend to be family members in need of money and/or accounts that are used for the repayment of illegal loans. By taking thorough measures to prevent money laundering and terrorism financing, the abuse of financial services can also be prevented.

3. What is the FATF?

For the prevention of money laundering and terrorism financing, understanding of its importance from the point of view of international cooperation is also important. The following explains the FATF and its activities.

The FATF (Financial Action Task Force on Money Laundering) is an inter-governmental institution that was established as a result of the Archa Summit Economic Declaration of 1989 in order to promote international measures and cooperation against money laundering. In addition to money laundering, since the terrorist attacks in the US in September 2001, the FATF has taken a leading role for establishing measures to prevent terrorism financing.

The main activities of the FATF are: 1) establishing and reconsidering international standards related to measures against money laundering and terrorism financing (the FATF Recommendations); 2) mutual monitoring among FATF member countries and regions as to the state of adherence to the FATF Recommendations (mutual monitoring); 3) recommending adherence to the FATF Recommendations in countries and regions that are not members of the FATF; and 4) research on methods and trends of money laundering and terrorism financing.