

Anti-Money Laundering and Counter-terrorism Financing in Hong Kong

Michael F. Martin, Ph.D.

Congressional Research Service

October 5, 2010

Disclaimer and Disclosure

- Disclaimer: Views are my own; do not reflect the views of CRS, Congress or the U.S. government
- Disclosure: Employed by the Hong Kong Trade Development Council (1994-1998); relatives living and working in Hong Kong

Financial Services are Vital to Hong Kong (cont.)

- 23 local banks and 131 foreign banks in Hong Kong; nearly 300 financial entities
- Financial Services Sector provided 16.1% of GDP in 2008 (2nd to trade)
- Up to the Global Financial Crisis, Financial Services Sector was one of the fastest growing segments of Hong Kong's economy; recovery underway

Financial Services are Vital to Hong Kong

- Financial Services Sector is a major priority for the Hong Kong government
 - “The financial services industry is the most important pillar supporting our economy.”
(Chief Executive Donald Tsang Yam-kuen, 2009-2010 Policy Address, 10/14/09)
- ***Implication: Reputation is important!***

International Conventions & Institutions

- Party to the UN Convention Against Transnational Organized Crime and its Protocols (Palermo Convention)
- Party to the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention)
- Party to the UN Convention for the Suppression of the Financing of Terrorism
- Member of the Financial Action Task Force (FATF): "40 +9 Recommendations"

Major Hong Kong Ordinances

- United Nations (Anti-Terrorism Measures) Ordinance – 2002, amended 2004
- Organized and Serious Crime Ordinance – 1994, revised 1997, July 2002
- The Drug Trafficking (Recovery of Proceeds) Ordinance – 1989, revised 1997, amended 2002

Hong Kong Government Agencies

- Lead Government Agencies
 - Financial Service and Treasury Bureau
 - Security Bureau
 - Hong Kong Police
 - Customs and Excise Department
 - Coordination via the Joint Financial Intelligence Unit (JFIU)
 - Department of Justice
 - Independent Commission Against Corruption (ICAC)

Regulatory Bodies

- Other Important Regulatory Bodies
 - Hong Kong Monetary Authority
 - Office of the Commissioner of Insurance
 - Securities and Futures Commission
- Coordination via the Financial Secretary

Key Findings from FATF Mutual Evaluation Report – June 2008

- “Investigations have found no evidence of terrorist funds moving through Hong Kong.”
- “The laundering of drug proceeds has declined in recent years and is increasingly derived from trafficking for domestic use.”
- “The primary domestic sources of laundering funds in Hong Kong are illegal gambling, fraud and financial crimes, loan sharking and vice.”
- “Supervision is effective for the banking, insurance and securities sectors, but weak or non-existent for many types of DNFBPs [designated non-financial businesses and professions].”

Key Issues for Hong Kong

- Local Organized Crime – Triads
 - Illicit funds from domestic criminal activity
- Money from Mainland China
 - Tax evasion
 - Hidden foreign exchange
 - Illegal investments
- “Hot Money”
 - Speculative investors evading capital controls

Hong Kong's Unique Situation

- Financial center for transactions with China
 - Chinese capital flowing out via Hong Kong
 - International capital flowing into China via Hong Kong
- Near convertibility of Renminbi in Hong Kong
- Tradition of laissez-faire economic policies

The Role of Remittance Agents

- Required to register under Organized and Serious Crime Ordinance
- According to FATF report, serious loophole in anti-money laundering regime
- Like all Hong Kong citizens and entities, must report suspicious transactions
- Major mechanism for the transfer of funds across border without detection
- New Ordinance being drafted to address loophole; regulation similar to those for banks

Implications for United States

■ Current Situation

- Hong Kong is low risk
- Hong Kong has different priorities

■ Future Developments

- Bellwether for issues with China?
- Model for developing good working relations with Chinese authorities?