

Has Hong Kong become a garden for money launderers?

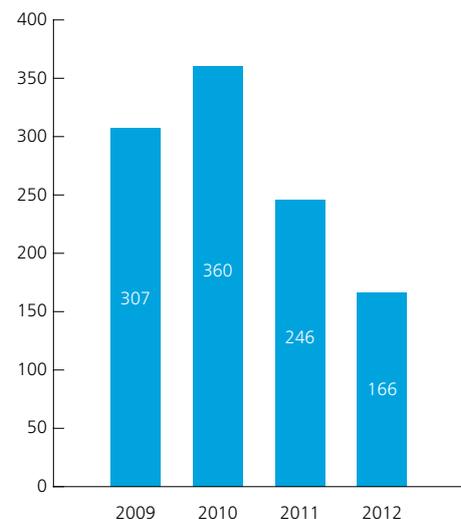


Do policymakers need to consider increasing the penalties for non-compliance of anti-money laundering and counter terrorist financing (“AML/CFT”) regulations? There has been discussion that the current level of fines may not be enough to make financial institutions take the problem seriously - and the only solution may be to use a bigger stick to force these institutions to improve their internal controls.

Recent developments in the Hong Kong AML/CFT regime

Hong Kong has seen significant changes to its AML/CFT regime since commencement of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615) – which was introduced one year ago in April 2012 and codified the customer due diligence and record keeping requirements for financial institutions to combat money laundering and terrorist financing.

Number of persons convicted of money laundering



Source: <http://www.jfju.gov.hk/en/statistics.html>

Since 2010, the number of prosecutions and convictions for money laundering in Hong Kong has seen a significant decrease.

The number of cases increased from 2009 to 2010, but dropped from 360 in 2010 to only 246 cases in 2011 and further down to 166 cases in 2012 – which was less than half of those reported in 2010. However, the cases that have recently come to light have been particularly significant and warrant further attention given the amounts laundered were some of the largest seen in Hong Kong.

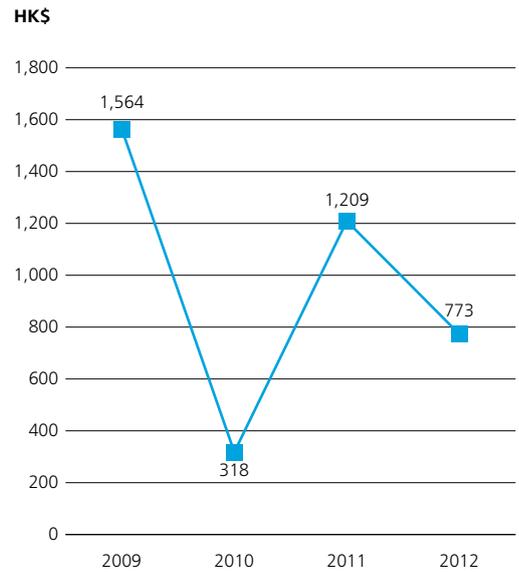
Breakthrough news

We have seen a series of publicised offences in the news these past few months. The ones that grab the headlines are those involving overseas financial institutions – however there have also been some significant cases here at home. In fact, two of the biggest money laundering cases we have seen in Hong Kong have occurred only recently and right under our noses.

Details of subject	22-year old man	61-year old woman
Amount laundered	HK\$13.1 billion	HK\$6.7 billion
Period of time	Eight months	Four years
Personal details of subject	Delivery man / high school dropout	Public housing tenant
Amount of deposits	4,800 deposits and 3,500 internet transfers between 2009 and 2010	HK\$5 million a day on average through nine banks over four years
Explanation provided by subject	He executed these transactions on behalf of his uncle in Shenzhen and that some of the proceeds had originated on the Chinese Mainland and in Macau	She executed these transactions on behalf of a woman from the Chinese Mainland
Sentence imposed by judge	10 and a half years imprisonment	10 years imprisonment

Source: <http://www.scmp.com/news/hong-kong/article/1134750/mainlander-jailed-10-years-laundering-hk13-billion-hong-kong>
<http://www.scmp.com/news/hong-kong/article/1189314/public-housing-tenant-gets-10-years-laundering-hk67b>

Value of assets restrained



Source: <http://www.jfiu.gov.hk/en/statistics.html>

As we can see, the value of assets restrained by the government decreased significantly from 2009 to 2010, but then raised steadily again in 2011 – despite the drop in conviction rates. Although the value of the assets seized seemed to have dropped in 2012, it was still more than double of what it was in 2010.

Takeaway

The courts said that both subjects, who had simple family backgrounds and low education levels, could not be the masterminds behind these money laundering operations and would not necessarily know the nature of the crimes that had generated the funds. Banks therefore need to be more proactive in reviewing and testing their AML/CFT frameworks to ensure their existing controls are operating effectively and are in compliance with local regulations, such as:



- Recognising if their customer is transacting on behalf of a third party;
- Verifying the identity of their ultimate customer;
- Making inquiries of the source of funds – especially when transactions do not match their customer’s profile;
- Maintaining automated monitoring systems that are capable of detecting potentially suspicious transactions;
- Having procedures for escalating internal suspicious transaction reports to the Money Laundering Reporting Officer and to the relevant authorities when necessary; and
- Providing adequate AML/CFT training for senior management, staff and other related parties on an ongoing basis.

These controls should work in combination with each other and form part of the overall AML/CFT compliance programme.

Given the number of transactions processed by banks on a daily basis and the limited resources of regulatory authorities, there is a reliance on banks to act as enforcement agents and have adequate AML/CFT controls in place to identify any suspicious transactions. In addition, banks are expected to regularly review the effectiveness of their controls through independent review by either internal or external auditors.

AML/CFT compliance review approach



Our AML/CFT compliance review approach involves four key steps, including:

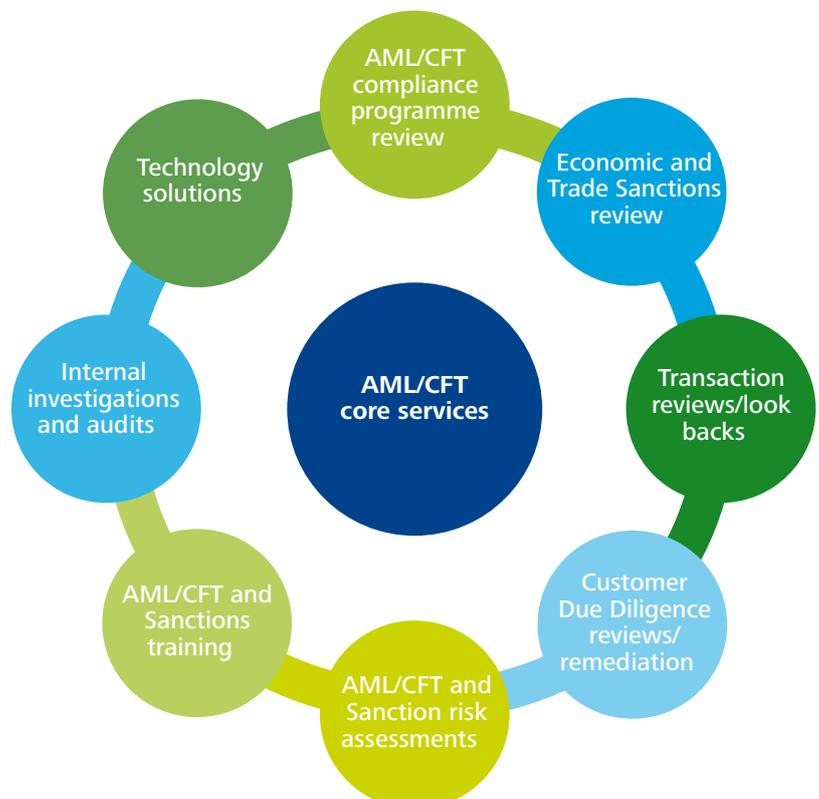
- **Preliminary assessment** – this involves a review of your AML/CFT framework, including applicable policies and procedures as well as interviews with members of senior management.
- **In-depth assessment** – this includes a detailed walkthrough of key AML/CFT internal controls, including customer due diligence, suspicious activity reporting and training.
- **Delivery** – this step involves preparing a draft report that outlines the key issues and deficiencies for you to review and collaborate with your Money Laundering Reporting Officer and senior management in agreeing to final recommendations as well as a timeline for implementation.
- **Post assessment assistance** – this includes any follow-up review proceeding the implementation of final recommendations.

How we can help

Deloitte AML/CFT specialists can help you tackle your challenges and raise your compliance standards. We understand the compliance challenges you face, and our knowledge ensures the ongoing support you need to continue to operate ahead of the regulations.

With a global team comprised of former regulatory officials, policy experts, technology and business specialists, and former law enforcement personnel, we are the leading provider of AML/CFT solutions to financial institutions, corporations and regulatory authorities in the area of design, review and evaluation of AML/CFT policies, systems and controls.

Our integrated services address the complex requirements institutions must meet to protect themselves from regulatory and reputational harm. Our AML/CFT services include:



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