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MONEY LAUNDERING THROUGH SECURITIES MARKETS

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EAG Typology Report
on
MONEY LAUNDERING THROUGH THE
SECURITIES MARKETS

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Securities and Exchange Board of India

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CHAPTER 1: INTRODUCTION

Securities markets play a key role in today's global financial economy. Participants range from huge financial conglomerates to single person brokerages and financial advisors. There has been a rapid development of new products and services to cater to all sorts of investor classes – from retail investors, for their investment requirements, to sophisticated investors, for their speculative, hedging or investment requirements. Transactions are carried out electronically and across international borders.

Some of the features of the securities markets, such as, speed of transactions, liquidity, ability to convert funds into a different asset class, international nature of markets, etc., apart from being advantages, also provide an avenue to mask and transform the identity of illegal funds. The sheer magnitude of transactions in securities markets and the ease of moving funds make these markets an obvious target for laundering illegal funds. Further, the securities market can also be used to generate illegal proceeds through insider trading and market manipulation.

Money laundering is typically viewed as occurring in three stages – placement, layering and integration. The placement stage is where illegal funds (mainly in the form of cash) are converted into a non-cash instrument. Layering is the conversion and movement of these illegal funds to conceal their source and to obscure the trail for law enforcement agencies and regulators/supervisors. Integration is the return of these illegal proceeds to the launderers in a form that gives them an appearance of being legitimate funds. The securities industry provides an ideal vehicle for layering illegal proceeds and it is more likely that the securities markets will be used at the layering stage of money laundering.

While the reported incidents of money laundering in the securities industry far outweigh those related to terrorist financing, the sector remains vulnerable to both money laundering and terrorist financing risks.

1.1 Need for the Typology

The Eurasian Group (EAG) felt that it would be beneficial to conduct a typology on “Money Laundering through the Securities Market” with a view to have a picture of the securities markets in the Eurasian region and an idea about the AML/CFT framework that is in place. The Republic of India was assigned the leadership of the project with the Securities and Exchange Board of India (SEBI) - the securities market regulator - being given the responsibility to carry out the research.

The objective and scope of this typology are as below:

1. To provide a brief on the offences in the securities markets that are designated as money laundering offences and to list out suspicious indicators for each offence,
2. To provide an overview of the securities markets in the Eurasian region in terms of their turnover, products traded as securities, intermediaries active in the securities markets, payment methods, delivery methods, designation of securities market related ML offences etc.,
3. To provide a view of the AML/CFT framework in the jurisdictions in the EAG with respect to control features used to mitigate risks of ML/TF through the securities markets,
4. To enable jurisdictions in the EAG to learn from the best practices followed in the more developed jurisdictions and to apply the same to their securities markets,
5. To provide a set of suspicious transactions indicators, and

6. To provide case studies, if any

The typology was required to make recommendations and suggestions which can be applied by the jurisdictions in the Eurasian region to their AML/CFT framework for the securities markets.

1.2 Methodology

To meet the objectives of the typology project, the project team drafted a questionnaire which was circulated to all EAG members and jurisdictions. The response to this questionnaire was received only from Belarus, Kazakhstan, Kyrgyz Republic, Russia, Tajikistan, Uzbekistan, Armenia, Turkey and Ukraine. Further, as the questionnaire was lengthy (having 59 questions and 12 tables), only part information was received from the jurisdictions. Based on the responses received, preliminary findings were presented by the project team at the 16th EAG Plenary held in Moscow, Russia, in May 2012 and at the 17th EAG Plenary held in New Delhi, India, in November 2012. The project team suggested that a revised and simplified questionnaire should be circulated to the EAG members in order to obtain information that was not received earlier and to update the information and statistics already received. The suggestion was accepted by the EAG members and a revised and simplified questionnaire (13 questions) was circulated to the EAG members in January 2013. This revised questionnaire was designed such that the jurisdictions were required to fill up data in the tables against their names and in most cases, only “Yes/No” answers were required. Thereafter, some jurisdictions provided replies to the revised questionnaire, while a few jurisdictions updated the information provided earlier. Instead of replying to questionnaires, China had provided its AML Report, 2010, from where data and relevant case studies have been taken. Both these questionnaires are attached as annexures (**Annexures 1 and 2**) to this report.

As some of the information that was relevant for preparing this typology was not made available to the project team, reliance has been placed on information that is available in the public domain. The project team has obtained information from the mutual evaluation reports and follow-up reports of these jurisdictions, which have been authored by the Financial Action Task Force (FATF), the Asia-Pacific Group on Money Laundering, the Moneyval, the European Bank for Reconstruction and Development etc. Information has also been obtained from the annual reports of the stock exchanges functioning in these jurisdictions, annual reports of the respective securities market regulators, the FIU etc. Where external sources have been relied upon, the source has been mentioned in the footnotes.

CHAPTER 2: OFFENCES IN THE SECURITIES MARKET DESIGNATED AS MONEY LAUNDERING OFFENCES

The securities market does not just provide an avenue through which illegal assets can be laundered but it also provides ways to generate illegal assets that would eventually have to be further laundered. It has the following characteristics that make it a challenging task to detect possible money laundering transactions:

1. Huge volume of transactions makes it difficult to analyze and investigate each transaction from the point of view of ML/TF.
2. Securities markets provide quick liquidity and anonymous trading requirements which are much sought after by potential money launderers.
3. A large number of entities provide intermediation services raise the issue of effective monitoring and enforcement.
4. Competitive nature of these markets may cause intermediaries to ignore 'suspicious transactions indicators' or even provide active collaboration in money laundering activities.
5. AML/CFT compliance is a new arena and capacity building is an issue, at least for jurisdictions where the markets are in a nascent stage of growth.
6. Potential money launderers may trade through a complex maze of entities and structure their transactions so as to avoid detection.
7. Globalization, integration of financial markets and electronic trading networks provide seamless avenues for carrying out financial transactions across markets and regions.

As already mentioned, money laundering typically occurs in three stages – placement, layering and integration. The placement stage is where illegal funds (mainly in the form of cash) are converted into a non-cash instrument. Layering is the conversion and movement of these illegal funds to conceal their source and to obscure the trail for law enforcement agencies and regulators/supervisors. The securities industry provides an ideal vehicle for layering illegal proceeds. Integration is the return of these illegal proceeds to the launderers in a form that gives them an appearance of being legitimate funds. It is more likely that the securities markets will be used at the layering stage of money laundering.

The FATF definition of “designated offences” that may lead to money laundering includes three securities market specific offences: Insider Trading, Market Manipulation and Fraud¹.

2.1 Insider Trading

Insider trading involves situations where a person, who is dealing in securities, does so in violation of a fiduciary duty or other relationship of trust and confidence, while in possession of material, non-public information about the security. The term may also include "tipping off" such information, securities trading by the person who has been "tipped off" and securities trading by those who misappropriate such information. Further, the proceeds generated through such illegal insider trading activities may be laundered through the securities market itself.

2.2 Market Manipulation

Market manipulation, in its most general sense, refers to activity that is intended to mislead investors by controlling or artificially affecting the market for a security. In particular, the

¹ FATF Glossary (<http://www.fatf-gafi.org/pages/glossary/fatfrecommendations/d-i>)

manipulator's purpose is to drive the price and volume of a security up or down in order to profit from price differentials. It is a deliberate attempt made to interfere with the free and fair operation of the market for a security.

2.3 Frauds related to the Securities Markets

Securities fraud broadly refers to schemes or practices in connection with the offer and sale of securities. Such frauds are generally perpetrated through schemes which are unregulated and involve mobilizing funds/investments from the public for e.g., unregulated collective investment schemes, unregulated portfolio management etc. Although, such schemes do not necessarily involve the direct use of securities, intermediaries or the securities markets, the way these schemes are marketed often causes them to be classified as securities and thus subject to the jurisdiction of securities regulators.

A list of such suspicious indicators² associated with the offences of insider trading, market manipulation and securities fraud are given as **Annexure 3** to this report.

² FATF Typology on the Money Laundering and Terrorist Financing in the Securities Sector, October 2009

CHAPTER 3: OVERVIEW OF SECURITIES MARKETS IN THE EURASIAN REGION

The EAG has 9 members and 14 observer states and the questionnaires were distributed to all of them through the EAG Secretariat. However, the response to the questionnaire has been received from only 13 countries – 9 members and 4 observers. As part of this chapter, we shall have a look at the securities markets in these jurisdictions with respect to statistics such as securities market turnover versus the gross domestic product and various features of the markets, such as, products traded as securities, securities market intermediaries, the regulators in the securities markets and the designation of offences pertaining to the securities markets as money laundering offences.

3.1 Designation of offences in the securities markets as ML/TF offences

As already mentioned, the FATF standards³ require that securities market related offences, such as, insider trading, market manipulation and securities related fraud should be designated as ML/TF offences. Therefore, jurisdictions were requested to inform if these offences had been designated as ML/TF offences. The responses are received below.

Jurisdiction	Whether Insider Trading is designated as ML offence (Yes/No)?	Whether Market Manipulation is designated as ML offence (Yes/No)?
Belarus ⁴	Yes	Yes
China	Yes	Yes
India ⁵	Yes	Yes
Kazakhstan	No	No
Kyrgyz Republic ⁶	Yes	Yes
Russia ⁷	Yes	Yes
Tajikistan ⁸	Yes	Yes
Turkmenistan ⁹	Yes	Yes
Uzbekistan	Yes	Yes
Armenia ¹⁰	Yes	Yes
Turkey	Yes	Yes
Ukraine	No	Yes
Mongolia	No	No

³ FATF standards mentioned refer to the revised FATF standards that were issued in February 2012

⁴ 2nd Follow-up report of 2010

⁵ Schedules to the Prevention of Money Laundering Act, 2002 - Alongwith insider trading and market manipulation, offences involving violation of regulations related to substantial acquisition of securities and control are designated as ML offences

⁶ 7th Follow-up report of 2012

⁷ 2nd Follow-up report of 2010

⁸ Pg. 23 of MER 2008

⁹ 2nd Follow-up report of 2011

¹⁰ Pg. 40 of MER 2009

3.2 Securities Market Turnover v/s Gross Domestic Product

The jurisdictions were requested to provide statistics on their Gross Domestic Product (GDP) and the turnover in their securities markets so as to compare the two figures. As the responses received were for an earlier period, data from the World Bank has been relied upon in this regard. The figures are given in the table below.

Jurisdiction	GDP (2011-12) in USD Billion ¹¹	Turnover of stocks traded (2011-12) in USD Billion	Stocks traded, total value (% of GDP) ¹²
Belarus	55.13	N.A.	N.A.
China	7318.5	7671.36	104.82
India	1872.84	740.17	39.52
Kazakhstan	188.05	1.09	0.58
Kyrgyz Republic	6.2	0.0033	0.05
Russia	1857.77	1146.42	61.71
Tajikistan	6.52	N.A.	N.A.
Turkmenistan	28.06	N.A.	N.A.
Uzbekistan	45.36	0.08	0.18
Armenia ¹³	10.25	0.0005	0.01
Turkey	774.98	413.7	53.38
Ukraine	165.25	4.57	2.77
Mongolia	8.76	0.046	0.52

It can be seen that the securities market turnover as a percentage of the GDP ranges from 104.8 % (for China) to negligible values such as 0.01 % for Armenia etc. A lot of these jurisdictions have tremendous scope to develop their securities markets. Hence, the findings of this typology may be of particular importance to the jurisdictions who intend to develop their securities markets and wish to put in place a comprehensive AML/CFT framework for their securities markets.

3.3 Supervisory and AML/CFT regulatory model

As part of the typology, the supervisory and AML/CFT regulatory models that are prevalent in the EAG jurisdictions were looked at. The names of the supervisors/regulators responsible for securities market and AML/CFT supervision are given in the table below.

Jurisdiction	Supervisor/Regulator for securities markets	Supervisor/Regulator for AML/CFT requirements in securities markets
Belarus	The Ministry of Finance of the Republic of Belarus (Securities	Ministry of Finance

¹¹ World Bank figures (<http://data.worldbank.org/indicator/NY.GDP.MKTP.CD/countries?display=default>)

¹² World Bank figures (<http://data.worldbank.org/indicator/CM.MKT.TRAD.GD.ZS/countries>)

¹³ OTC market's accounted for 99.3% of Armenia's securities market turnover

Jurisdiction	Supervisor/Regulator for securities markets	Supervisor/Regulator for AML/CFT requirements in securities markets
	Department)	
China	China Securities Regulatory Commission	China Securities Regulatory Commission with the People's Bank of China
India	Securities & Exchange Board of India	1. Securities & Exchange Board of India and t 2. FIU - IND
Kazakhstan	The Committee for Control and Supervision of Financial Market and Financial Institutions of the National Bank of the Republic of Kazakhstan	1. Financial Monitoring Committee of the Ministry of Finance and 2. Committee for Control and Supervision of Financial Market and Financial Institutions of the National Bank of the Republic of Kazakhstan
Kyrgyz Republic	State Service for the Financial Market Regulation or Supervision	State Financial Investigation Service
Russia	The Federal Financial Markets Service	The Federal Financial Markets Service
Tajikistan	Agency for Securities and Foreign Investments at the Ministry of Finance	Financial Monitoring Department of the National Bank of Tajikistan
Turkmenistan	Ministry of Finance of Turkmenistan	Financial Intelligence Unit (under the Turkmenistan Ministry of Finance)
Uzbekistan	The Centre for Coordination of and Control over the Securities Market	The Centre for Coordination of and Control over the Securities Market
Armenia	The Central Bank of the Republic of Armenia	The Financial Monitoring Centre of the Central Bank of the Republic of Armenia
Turkey	Capital Markets Board of Turkey	FIU – Turkey (MASAK)
Ukraine	Securities and Stock Market State Commission	Securities and Stock Market State Commission
Mongolia	Committee on regulation of financial affairs / Unit on securities	1. Committee on regulation of financial affairs 2. National Bank of Mongolia

From the table, it is seen that there are four distinct institutional models of AML/CFT regulation, which are as follows:

1. Responsibility is shared between the securities market regulator and the FIU of the jurisdiction, for e.g., India
2. Responsibility is solely assumed by the FIU, for e.g., Russia
3. Responsibility is solely assumed by the securities market regulator, for e.g., Uzbekistan
4. Responsibility is centred in the hands of the concerned division/department of the Government, for e.g., Belarus
5. Responsibility is with the central bank of the country, for e.g., Tajikistan and Armenia.

It is also seen that the AML/CFT regulation in most of the jurisdictions is still in its early stages. While Turkey and India commenced regulation only post 2003, some jurisdictions have started regulations as recent as 2009 (Uzbekistan) and 2011 (Kazakhstan). This new familiarity with AML/CFT regulation explains the lack of comprehensive information available on money laundering through the securities market for the region.

3.4 Products treated as securities

As part of the questionnaire, the jurisdictions were requested to inform which products were being treated as securities in their jurisdictions. The list of securities included in the questionnaire was as provided in the FATF glossary. Based on the responses received and other sources, the information on products treated as securities is tabled below.

Jurisdiction	Equities	Derivative products	Mutual funds	Bearer shares	Bonds	Certificate of Deposit
Belarus ¹⁴	Yes	Yes	Yes	No	Yes	N.A.
China ¹⁵	Yes	Yes	Yes	Yes	Yes	N.A.
India	Yes	Yes	Yes	No	Yes	No
Kazakhstan	Yes	Yes	Yes	No	Yes	Yes
Kyrgyz Republic	Yes	Yes	Yes	Yes	Yes	No
Russia	Yes	Yes	Yes	No	Yes	Yes
Tajikistan	Yes	No	No	Yes	Yes	Yes
Turkmenistan ¹⁶	The Securities Market of Turkmenistan is still in its infancy and very small in size. Turkmenistan does not issue public securities. Issuance of bearer shares is prohibited. Turkmenistan is working to form a stock market, according to information released by the country's Institute of Strategic Planning and Economic Development.					
Uzbekistan	Yes	Yes	No	No	Yes	Yes

¹⁴ Pgs 11 and 88 of the MER 2008

¹⁵ Since 1 January 2006, joint-stock companies have been able to issue "unregistered stocks" or bearer shares (article 130, Company Law) – Pg 128 of MER 2007

¹⁶ Pg 14 of MER 2011 and <http://en.trend.az/regions/casia/turkmenistan/2124859.html>

Jurisdiction	Equities	Derivative products	Mutual funds	Bearer shares	Bonds	Certificate of Deposit
Armenia	Yes	Yes	Yes	No	Yes	No
Turkey	Yes	Yes	Yes	Yes	Yes	No
Ukraine	Yes	Yes	Yes	No	Yes	No
Mongolia ¹⁷	Yes	No	N.A.	No	Yes	N.A.

It is observed that in all jurisdictions equity and bonds are treated as a security. In addition, a few jurisdictions also considered bearer shares as securities.

3.5 Securities market intermediaries

As per the FATF Standards, financial institution in securities market means any natural or legal person who conducts the following business activities on behalf of a customer:

1. trading in transferable securities, or
2. participation in securities issues and the provision of financial services related to such issues, or
3. individual and collective portfolio management, or
4. safekeeping and administration of liquid securities on behalf of other persons, or
5. investing, administering or managing funds or money on behalf of other persons

The jurisdictions were asked to list out the intermediaries/participants who are operating in their securities markets. The responses received from the jurisdictions are tabled below.

Jurisdiction	Stock broker/ Dealer	Asset management/ Mutual Fund	Portfolio Manager	Depository Participant	Collective Investment Schemes
Belarus ¹⁸	Yes	Yes	Yes	Yes	N.A.
China ¹⁹	Yes	Yes	Yes	Yes	Yes
India	Yes	Yes	Yes	Yes	Yes
Kazakhstan	Yes	Yes	Yes	Yes	Yes
Kyrgyz Republic	Yes	Yes	No	Yes	No
Russia	Yes	Yes	Yes	Yes	N.A.
Tajikistan	Yes	No	No	Yes	No
Turkmenistan ²⁰	Yes	No	No	No (activity is carried out	No

¹⁷ Website of Mongolian Stock Exchange (<http://www.mse.mn>)

¹⁸ Pg 11 of the MER 2008

¹⁹ Article 20 of the Securities Depository and Clearing Rules (http://www.csfc.gov.cn/pub/csfc_en/laws/rfdm/DepartmentRules/200811/t20081128_70267.htm)

²⁰ Pgs 19 & 20 of the MER 2011

				by banks)	
Uzbekistan	Yes	No	No	No	No
Armenia	Yes	Yes	No	Yes	Yes
Turkey ²¹	Yes	Yes	Yes	Yes	Yes
Ukraine	Yes	Yes	No	Yes	No
Mongolia ²²	Yes	N.A.	N.A.	Yes	N.A.

The FATF standards require all jurisdictions to ensure that the financial institutions functioning in their regions are subjected to adequate supervision and regulation. The competent authorities or supervisors should ensure that there are measures in place to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a financial institution.

²¹ Pgs 19 & 31 of the MER 2007

²² Pg 19 of MER 2007

CHAPTER 4: ESSENTIAL CONTROL FEATURES TO MINIMIZE ML/TF THROUGH SECURITIES MARKETS

In order to minimize the risk of ML/TF happening through the securities markets, the securities markets must have certain features that act as control features. Based on the responses received to the questionnaires and from information obtained from reliable public sources such as Mutual Evaluation Reports, Follow-up reports etc., following are the observations:

4.1 Know Your Customer (KYC) norms

KYC norms are an integral part of Customer Due Diligence (CDD) measures that are required to be undertaken by all financial institutions, including securities markets intermediaries. The basic requirement of KYC is to identify the customer and verify the identity of the customer using reliable, independent source documents, data or information. In cases where the customer is a legal person/arrangement, the KYC norms also include identifying the beneficial owner and verifying the identity of the beneficial owner.

The jurisdictions in the EAG were requested to inform whether the KYC norms applicable in their jurisdictions required securities market intermediaries to collect and verify documents evidencing the proof of identity and address of the customer. The responses received are tabled below.

Jurisdiction	Whether mandatory to collect and verify Proof of Identity at time of account opening for a client (Yes/No)?	Whether mandatory to collect and verify Proof of Address at time of account opening for a client (Yes/No)?
Belarus	Yes	Yes
China	Yes	Yes
India	Yes	Yes
Kazakhstan	Yes	No
Kyrgyz Republic	Yes	Yes
Russia	Yes	Yes
Tajikistan	Yes	Yes
Turkmenistan	N.A.	N.A.
Uzbekistan	Yes	Yes
Armenia	Yes	Yes
Turkey	Yes	Yes
Ukraine	Yes	Yes
Mongolia	Yes	Yes

It can be seen that all jurisdictions have KYC norms in place to ensure that the securities market intermediaries identify the customer and collect documents to verify the identity.

4.2 Identification of Beneficial Ownership (BO)

It is a well known fact that money launderers misuse legal persons/arrangements in order to launder their illegal proceeds. Hence, the identification of beneficial ownership (BO) for such customers is one of the most important aspect of customer due diligence. Hence, every jurisdiction was requested to inform about the guidelines that were in place with respect to identification of BO. The responses received in this regard are tabled below.

Jurisdiction	Whether mandatory to identify BO details for customers who are legal persons (Yes/No)?	Whether mandatory to collect documents to identify BO of customers who are legal persons (Yes/No)?	Whether any thresholds have been specified that can be used to identify the BO (Yes/No)?
Belarus	Yes	Yes	Yes ²³
China ²⁴	Yes	Yes	N.A.
India	Yes	Yes	Yes ²⁵
Kazakhstan	Yes	Yes	N.A.
Kyrgyz Republic	Yes	Yes	N.A.
Russia	Yes	Yes	N.A.
Tajikistan	Yes	Yes	N.A.
Turkmenistan	N.A.	N.A.	N.A.
Uzbekistan	Yes	Yes	N.A.
Armenia	Yes	N.A.	Yes ²⁶
Turkey	Yes	Yes	Yes ²⁷
Ukraine	Yes	Yes	N.A.
Mongolia	Yes	Yes	N.A.

The FATF, in its recently issued recommendations, has provided a step-by-step method that may be followed when identifying the beneficial ownership in case of customers who are legal persons/arrangements. SEBI has provided detailed guidelines to its intermediaries with respect to identification and verification of beneficial ownership. These guidelines were issued on January 24, 2013²⁸ and are in line with the revised FATF standards and have been made applicable to the entire financial sector. The details of the guidance are given in the box below:

Guidelines on Identification of Beneficial Ownership

²³ Belarus: BO is a natural person (if unable to be identified – organization), which owns the property or shares of the organizations' registered capital in amount equal or exceeding 10 percent, including through other natural persons and (or) other organizations, and has the ability to influence the organization's decisions (from 2nd Follow-up Report, 2010)

²⁴ 1st Follow-up Report, 2007

²⁵ See table on 'Guidelines on Identification of Beneficial Ownership' given below

²⁶ Armenia: BO is the one who owns 20 or more percent of the voting shares of a given legal entity or by virtue of his/her ability to influence decisions or is the member of the management or acts in agreement, based on common economic interests.

²⁷ Turkey: BO shall be the natural and legal person partners holding more than 25% of the legal person shares.

²⁸ SEBI Circular dated January 24, 2013 on "Guidelines on Identification of Beneficial Ownership"

Guidelines on Identification of Beneficial Ownership

Beneficial owner is defined as the natural person or persons, who ultimately own, control or influence a client and/or persons on whose behalf a transaction is being conducted, and includes a person who exercises ultimate effective control over a legal person or arrangement.

For clients other than *individuals or trusts*: Intermediaries are required to take reasonable measures to verify the identity of the:

- i. natural person, who, whether acting alone or together, or through one or more juridical person, exercises control through ownership or who ultimately has a controlling ownership interest in the client

Controlling ownership interest means ownership of/entitlement to:

1. more than 25% of shares or capital or profits of the juridical person, where the juridical person is a company,
 2. more than 15% of the capital or profits of the juridical person, where the juridical person is a partnership, or
 3. more than 15% of the property or capital or profits of the juridical person, where the juridical person is an unincorporated association or body of individuals
- ii. In cases where there exists a doubt as to whether the person with the controlling ownership interest, as mentioned above, is the beneficial owner or where no natural person exerts control through ownership interests, the identity of the natural person exercising control over the juridical person through other means.

Control through other means can be exercised through voting rights, agreement, arrangements or in any other manner.

- iii. Where no natural person is identified under clauses mentioned above, the identity of the relevant natural person who holds the position of senior managing official.

For client which is a trust: Where the client is a *trust*, the intermediary shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the identity of the settler of the trust, the trustee, the protector, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

Guidelines on Identification of Beneficial Ownership

Exemption in case of listed companies: Where the client or the owner of the controlling interest is a company listed on a stock exchange, or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.

All registered market intermediaries have been directed to review their Know Your Client (KYC) and Anti-Money Laundering (AML) policies accordingly.

4.3 Enhanced Due Diligence for high-risk customers (including Politically Exposed Persons)

While Know Your Customer (KYC) requirements for all customers trading in securities markets may be made applicable on the basis of materiality and risk, the FATF standards require all financial institutions to apply enhanced due diligence measures, such as, obtaining senior management approval before opening the account, increased supervision and transaction monitoring etc. for high-risk customers and Politically Exposed Persons (PEPs). The jurisdictions were requested to inform whether their AML/CFT framework required enhanced due diligence measures to be made applicable to high-risk customers and PEPs. The responses are tabled below.

Jurisdiction	Whether enhanced due diligence measures are to be applied for high risk customers (Yes/No)?	Whether enhanced due diligence measures are to be applied for PEPs (Yes/No)?
Belarus ²⁹	Yes	Yes
China ³⁰	Yes	Yes
India ³¹	Yes	Yes
Kazakhstan	Yes	No
Kyrgyz Republic ³²	Yes	Yes
Russia ³³	Yes	Yes
Tajikistan	No	No
Turkmenistan ³⁴	Yes	Yes
Uzbekistan ³⁵	Yes	No
Armenia ³⁶	Yes	Yes

²⁹ 3rd Follow-up report, 2012

³⁰ 1st Follow-up report, 2007

³¹ Guidelines on Anti Money Laundering Standards, 2006 and subsequent SEBI circulars, the most comprehensive being the SEBI Master Circular on AML/CFT dated December 31, 2010

³² 1st and 4th Follow-up reports, 2007

³³ MER 2008 and subsequent follow-up reports

³⁴ MER 2011 and subsequent follow-up reports

³⁵ MER 2010 and subsequent follow-up report

³⁶ MER 2009

Jurisdiction	Whether enhanced due diligence measures are to be applied for high risk customers (Yes/No)?	Whether enhanced due diligence measures are to be applied for PEPs (Yes/No)?
Turkey	Yes	No
Ukraine	Yes	Yes
Mongolia	No	No

It may be mentioned here that the earlier FATF standards for PEPs only covered foreign PEPs and their family members and close associates. In February 2012, the FATF expanded these requirements to also include domestic PEPs and persons entrusted with a prominent function by an international organization, which is in line with Article 52 of the United Nations Convention against Corruption (UNCAC). Hence, the guidelines on PEPs may have to be suitably amended to also include domestic PEPs and PEPs of international organizations.

4.4 Record Keeping

The FATF standards require intermediaries to maintain the records obtained through CDD measures, account files and business correspondence, including the results of any analysis undertaken. These records should be maintained for at least five years after the business relationship has ended or after the date of the occasional transaction. The jurisdictions were requested to inform if it was mandatory to maintain records of such documents and transactions and for what period these documents are to be maintained. The responses are tabled below.

Jurisdiction	Whether there are record keeping rules/regulations for maintenance of customer due diligence documents and transaction details. (Yes/No).	Period for which customer due diligence documents and transaction details to be maintained
Belarus ³⁷	Yes	5 years
China ³⁸	Yes	5 years
India ³⁹	Yes	5 years
Kazakhstan	Yes	5 years
Kyrgyz Republic ⁴⁰	Yes	5 years
Russia ⁴¹	Yes	5 years
Tajikistan	Yes	5 years
Turkmenistan ⁴²	Yes	5 years
Uzbekistan ⁴³	Yes	5 years

³⁷ MER of 2008

³⁸ MER of 2007

³⁹ The Prevention of Money Laundering Act, 2002

⁴⁰ MER of 2007

⁴¹ MER of 2008

⁴² MER of 2011

⁴³ MER of 2010

Jurisdiction	Whether there are record keeping rules/regulations for maintenance of customer due diligence documents and transaction details. (Yes/No).	Period for which customer due diligence documents and transaction details to be maintained
Armenia ⁴⁴	Yes	5 years
Turkey	Yes	10 years
Mongolia	Yes	5 years

It is observed that at present only Turkey has a requirement for maintaining the records for 10 years. It may be mentioned here that India also had a period of maintaining records for a period of 10 years, which was recently reduced to 5 years⁴⁵.

4.5 Reliance on third parties for Customer Due Diligence

The FATF standards⁴⁶ allow for intermediaries to rely on a third party to perform certain elements of Customer Due Diligence (CDD) subject to certain criteria being fulfilled, such as, the third party is regulated and supervised and has CDD and record keeping requirements that satisfy FATF standards, copies of documents relied upon for CDD shall be made readily available and so on. The jurisdictions were requested to inform if they permitted such reliance on third parties and if yes, then whether the framework put in place satisfied the FATF standards. The responses are tabled below.

Jurisdiction	Whether reliance on third parties to carry out CDD is permitted (Yes/No)?	Whether such reliance on third parties satisfies FATF standards (Yes/No)?
Belarus ⁴⁷	No	-
China ⁴⁸	Yes	Yes
India ⁴⁹	Yes	Yes
Kazakhstan ⁵⁰	No	-
Kyrgyz Republic	No	-
Russia ⁵¹	No	-
Tajikistan ⁵²	No	-
Turkmenistan ⁵³	No	-
Uzbekistan	No	-

⁴⁴ MER of 2009

⁴⁵ The Prevention of Money Laundering (Amendment) Act, 2012

⁴⁶ Recommendation 17 of the FATF Recommendations, 2012

⁴⁷ Pg of MER 2008

⁴⁸ Pg of MER 2007 and 5th Follow-up report

⁴⁹ SEBI KYC Registration Agency Regulations, 2011

⁵⁰ Pg of MER 2011

⁵¹ Pg of MER 2008

⁵² Pg of MER 2008

⁵³ Pg of MER 2011

Jurisdiction	Whether reliance on third parties to carry out CDD is permitted (Yes/No)?	Whether such reliance on third parties satisfies FATF standards (Yes/No)?
Armenia	Yes	Yes
Turkey	Yes	Yes
Ukraine	Yes	Yes
Mongolia ⁵⁴	Yes	N.A.

The Indian model follows the use of KYC registration agency (referred to as a “KYC” Registration Agency or a KRA) which serves as a database for all KYC information of customers in the securities market. When a client gets registered with a SEBI registered intermediary, his or her KYC details are uploaded to the KRA system. When the same client approaches another SEBI registered intermediary, these details can be downloaded from the KRA system and the client does not have to undergo the KYC process all over again. However, the ultimate responsibility for the KYC and CDD lies with the intermediary that is relying on the third party. Further, the obligations of ongoing transaction monitoring and suspicious transaction reporting remain with the intermediary relying on third party. Only SEBI registered intermediaries are allowed access to the KRA system. The KRA Regulations, 2011, gives the KRAs oversight and supervision powers over its agents, while SEBI in turn has powers of oversight and supervision over the KRAs. This system has several advantages, such as, avoiding duplication of KYC process, KYC procedure can be completed on the same day, increased competition in the market as investors can get better services, reduction in the overhead costs for intermediaries etc.

4.6 Use of the banking system as a payment mode

Cash, as a mode of payment, is an easy way for money laundering as the source of the cash is untraceable and there is also a lack of an audit trail. The preferred mode of payment for securities transactions would be through banking channels as the same would enable a sound audit trail. In order to find out whether cash was accepted as a mode of payment, the jurisdictions were requested to inform about the same. The responses received are tabled below.

Jurisdiction	Whether cash is accepted as a mode of payment (Yes/No)?
Belarus	N.A.
China	N.A.
India ⁵⁵	No
Kazakhstan	No
Kyrgyz Republic	Yes
Russia	N.A.
Tajikistan	Yes
Turkmenistan	N.A.
Uzbekistan	Yes

⁵⁴ Pg of MER 2007

⁵⁵ SEBI circular SMD-1/23341 'Regulation of transaction between clients and members' dated November 18, 1993

Jurisdiction	Whether cash is accepted as a mode of payment (Yes/No)?
Armenia	N.A.
Turkey	Yes
Ukraine	Yes
Mongolia	N.A.

While many jurisdictions did not provide a response to this question, it can be seen that certain jurisdictions are allowing cash as a mode of payment. In India, SEBI has mandated that all payments in the securities markets have to be made only through the banking channels (exception is allowed only upto the limit as prescribed by the Income Tax laws)

4.7 Disallowing third party payment/delivery of funds and securities

The practice of an intermediary in the securities markets of giving/receiving funds and securities to/from third parties (i.e., the person other than the person who has actually transacted in securities) can be used by money launderers to conceal the identity and source of funds. The responses of jurisdictions as to whether they have any regulations/rules in place to restrict such third party payments are tabled below.

Jurisdiction	Any regulations/rules that prohibit acceptance of third party payments (Yes/No)?
Belarus	N.A.
China	N.A.
India ⁵⁶	Yes
Kazakhstan	Yes
Kyrgyz Republic	N.A.
Russia	N.A.
Tajikistan	Yes
Turkmenistan	N.A.
Uzbekistan	N.A.
Armenia	N.A.
Turkey	No
Ukraine	No
Mongolia	N.A.

While many jurisdictions did not provide a response to this question, it can be seen that certain jurisdictions do not restrict third party payments. In India, SEBI has mandated that funds and securities have to be received/transferred only from/to the bank and demat accounts of the person who has actually transacted.

⁵⁶ SEBI circular SEBI/MRD/SE/Cir- 33/2003/27/08 'Mode of payment and delivery' dated August 27, 2003

4.8 Holding and settlement of securities in the electronic/dematerialized form

A physical system to hold securities and to settle securities transactions is vulnerable to misuse by money launderers as there is a potential of fraud, introduction of fake securities and no audit trail of transactions. Holding and settlement of securities in the electronic/dematerialized form has the advantages of providing an electronic audit trail of ownership details. As part of the questionnaire, the jurisdictions were requested to inform which mode of settlement for securities transactions was followed i.e., physical mode or the electronic mode. The responses are tabled below.

Jurisdiction	What is the mode of settlement for securities transactions?	
	Physical mode (Yes/No)	Electronic Mode (Yes/No)
Belarus ⁵⁷	No	Yes
China ⁵⁸	No	Yes
India ⁵⁹	No	Yes
Kazakhstan	No	Yes
Kyrgyz Republic	Yes (Settlements for security transactions must not be performed via filing)	No
Russia ⁶⁰	No	Yes
Tajikistan	Yes	No
Turkmenistan	N.A.	N.A.
Uzbekistan	Yes	No
Armenia	Settlement of securities for exchange traded transactions is not permitted	
Turkey	No	Yes
Ukraine	Physical transfer of securities as well as electronic transfer depending on the form of issue and circulation specifics.	
Mongolia	No	Yes

It can be seen that certain jurisdictions still use the physical mode for settlement of securities transactions.

4.9 Use of Bearer Shares

Ownership in bearer shares essentially vests in the person who possesses the bearer shares. The ownership can be transferred by delivering the instrument from one person to another person. In some cases, transfer is by endorsement or by signing the back of the instrument and giving delivery. Hence, the use of such shares may give rise to ML/TF risk as there is no record of

⁵⁷ Payments and Securities Clearance and Settlement Systems in The Republic of Belarus prepared by the World Bank, 2007 (<http://www.nbrb.by/eng/payment/PaySysBelbyWB2007.pdf>)

⁵⁸ Pg. 12 of the paper on Securities Clearing and Settlement in China prepared by the European Central Bank, 2010 (<http://www.ecb.europa.eu/pub/pdf/scpops/ecbocp116.pdf>)

⁵⁹ To provide an exit route for small investors holding physical shares in securities, a facility is provided for settling in physical shares not exceeding 500 shares. However, practically 100% settlement of securities market transactions happens in electronic form.

⁶⁰ Payment, clearing and settlement systems in Russia (http://www.bis.org/publ/cps97_ru.pdf)

ownership. Jurisdictions were requested to inform whether they treated bearer shares as a security in their market. The responses are tabled below.

Jurisdiction	Bearer shares
Belarus	No
China	Yes
India	No
Kazakhstan	No
Kyrgyz Republic	Yes
Russia	No
Tajikistan	Yes
Turkmenistan	No
Uzbekistan	No
Armenia	No
Turkey	Yes
Ukraine	No
Mongolia	No

It is observed that certain jurisdictions still allow bearer shares to be issued and treat them as securities.

4.10 AML/CFT focused inspections and sanctions

The supervisors in the securities markets should have the authority to inspect the intermediaries regulated by them. Regular focused or theme based inspection of securities markets intermediaries should be carried out in order to verify how compliant their policies are with the national AML/CFT requirements. Such inspections/audits should cover the CDD policies, suspicious transactions alerts generation, monitoring mechanisms etc. of the intermediaries. The jurisdictions were requested to inform if their securities market supervisors inspected their intermediaries with respect to compliance with AML/CFT norms. The responses are tabled below.

Jurisdiction	Whether compliance with KYC and AML/CFT norms is checked during inspections conducted by securities market supervisor/regulator (Yes/No)?
Belarus ⁶¹	Yes
China ⁶²	Yes
India ⁶³	Yes
Kazakhstan	Yes

⁶¹ MER of 2008

⁶² MER of 2007

⁶³ SEBI conducts AML/CFT focused inspections of its market intermediaries

Jurisdiction	Whether compliance with KYC and AML/CFT norms is checked during inspections conducted by securities market supervisor/regulator (Yes/No)?
Kyrgyz Republic ⁶⁴	Yes
Russia ⁶⁵	Yes
Tajikistan	Yes
Turkmenistan ⁶⁶	Yes
Uzbekistan ⁶⁷	Yes
Armenia ⁶⁸	Yes
Turkey	Yes
Ukraine	Yes
Mongolia	Yes

SEBI has appropriately included the verification of compliance with AML/CFT norms as part of its inspections of securities market intermediaries. In case of stock brokers and depository participants, compliance of AML/CFT norms is verified by the stock exchanges and depository participants during their annual inspections and also in half yearly internal audits. Depository participants are also required to conduct audit with respect to their operations which includes account opening/KYC/AML norms. SEBI also carries out specific theme based inspections focusing on compliance with KYC (which includes CDD) and AML/CFT guidelines for securities market intermediaries, on a yearly basis. Supervisors should have the authority to impose disciplinary and financial sanctions that are commensurate with the deficiencies observed during these inspections/audits.

⁶⁴ MER of 2007

⁶⁵ MER of 2008

⁶⁶ MER of 2011

⁶⁷ MER of 2010

⁶⁸ MER of 2009

CHAPTER 5: SUSPICIOUS TRANSACTION INDICATORS

The FATF standards require that if an intermediary suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions, in the form of a Suspicious Transaction Report (STR), to the financial intelligence unit (FIU) of the jurisdiction.

Hence, intermediaries should have a system in place that enables it to detect suspicious transactions and after further analysis of the same, if required, file an STR with the FIU. The ability of intermediaries to detect such transactions can be further enhanced if they are provided with guidance on indicators/triggers that may be indicative of such suspicious transactions. Such guidance will also improve the quality of STRs that are filed with the FIU and enable law enforcement agencies and supervisors to concentrate their resources on such high quality STRs.

5.1 Guidance on Suspicious Transaction Triggers/Indicators

The jurisdictions in the Eurasian region were requested to inform if they have provided any guidance on suspicious transaction triggers/indicators to their securities market intermediaries. The responses received are tabled below.

Jurisdiction	Jurisdictions which have provided a list of specific suspicious transaction triggers/indicators
Belarus	Yes
China ⁶⁹	Yes
India	Yes
Kazakhstan	Yes
Kyrgyz Republic	Yes
Russia ⁷⁰	Yes
Tajikistan	Yes
Turkmenistan ⁷¹	Yes
Uzbekistan	N.A.
Armenia	N.A.
Turkey	Yes
Ukraine	Yes
Mongolia	Yes

5.2 List of Suspicious Transactions Triggers/Indicators

Jurisdictions were also requested to provide the list of such triggers/indicators that have been provided. The suspicious indicators/triggers of jurisdictions such as Belarus, China, India,

⁶⁹ Guidance is issued by the People's Bank of China (PBC), through CAMLMAC, on indicators of money laundering activity

⁷⁰ Rosfinmonitoring provides guidance to reporting entities, Pg 57 of MER 2008

⁷¹ A tentative list of signs of suspicious deals and/or transactions is provided for by Order of the Ministry of Finance of Turkmenistan No. 16 dated February 25, 2010.

Kyrgyzstan, Turkey and Uzbekistan have been analyzed and the same are broadly categorized into three headings which are given below:

Suspicious Transactions Triggers/Indicators

A. Customer Identity:

1. False identification documents
2. Absence of information or identification documents which could not be verified within a reasonable time-frame
3. Non face to face customers
4. Doubts over the real beneficiary ownership of the account
5. Accounts opened with names very close to other established business entities
6. Suspicious background or links with known criminals
7. Having business contact with high-risk countries and regions in terms of money laundering
8. Large number of accounts having a common account holder, introducer or authorized signatory with no rationale
9. Refusal by the customer to provide the data necessary for customer identification
10. Excessive focus of the customer on issue of confidentiality
11. Transactions carried out which raise suspicion that the customer has acted on behalf of persons on whom transaction prohibition is imposed by the securities regulator
12. Issuance of an instruction to open UIN for legal persons registered in offshore zones and countries not involved in international cooperation in the area of combating money laundering and terrorist financing
13. Location or registration of the customer or one of the participants of the transaction in a country not involved in the international cooperation in the area of combating money laundering and terrorist financing
14. Customer requesting to change customer information but providing documents that look like tampered or counterfeited ones

B. Transactions in customer accounts:

1. Use of different accounts by customer alternatively
2. Investment proceeds transferred to a third party
3. Constant transfer of securities and/or cash to the accounts of the persons who have no relation with the customer within several intermediary institutions without any reason
4. Transfers involving different depository accounts
5. Unusual activity compared to past transactions.

Suspicious Transactions Triggers/Indicators

6. Sudden activity in dormant accounts.
7. Unexplained transfers between multiple accounts with no rationale
8. Customer trades in securities in large amounts within a short time after opening account and closes the account soon afterwards
9. Account used for circular trading
10. Transactions appear unusual or unjustified in complexity and are different from the accepted practice
11. No economic rationale or bonafide purpose of transactions/trades of substantial amount synchronized/matched without any economic rationale
12. Appears to be case of insider trading or front running.
13. Transactions reflect likely market manipulations for e.g., high delivery turnovers in particular scrips, trading in illiquid securities, concentration of trades on the exchange etc.
14. Abrupt termination of account or transaction without any reasonable cause or independent of market conditions
15. Value of transactions just under the reporting threshold amount in an apparent attempt to avoid reporting.
16. Large sums being transferred from overseas for making payments.
17. Inconsistent with the apparent financial standing/business purpose of the customer.
18. Inconsistency in the payment pattern by customer.
19. Trades constituted significant proportion of the gross traded volume for the market for the day for the contract
20. Trades resulting in unreasonable gains/loss by giving the impression of not seeking profit, taking no notice of the risks and costs of investments, and carrying out transactions to this effect.
21. Transactions of substantial amount through off-market mode in a single scrip/several scrips/off-market transactions invariably preceded/succeeded by on market transactions
22. Simultaneous orders for purchase and sale of securities and other financial instruments placed by the customer at prices which significantly differ from the current market ones for similar transactions (operations).
23. Disregard by the customer of the undoubtedly more favorable terms of service provision, as well as the offer by the customer of an unusually high commission from the one usually charged for such service in the securities market
24. Introduction by the customer of significant, last-minute changes to the previously agreed upon transaction pattern

Suspicious Transactions Triggers/Indicators

25. Unwarranted insistence on the part of the customer to speed up the execution of transaction
26. A customer with no trading or low trading volume requesting large amount of fund to be transferred to another person's account, without obvious transaction end or use
27. Customer frequently entering into long position and short position, both of which are entered into at the same time and almost at the same price for equal or close to equal amounts for the same underlying futures contract, then closing these positions afterwards and acquiring receipts

C. Funding of transactions:

1. Source of funds used in transactions in securities are doubtful
2. Frequent changes in the bank mandate for pay outs
3. Payment through multiple pre-funded instruments having a value that is lower than the reporting threshold
4. Purchase of securities or other capital market instruments having significant value by using cash which is not in accordance with the familiar activities of the customer
5. Frequent cash receipts and payments with amounts close to the large-value transaction threshold for unknown reasons
6. Customer's capital account experiencing frequent receipts and payments while the securities account has been idle for a longtime
7. Customer having no or only small volume of futures trading but receiving funds and making payments in large amounts through capital account
8. Legal persons, other organizations and firms created by self-employed persons frequently and within a short period of time receiving remittances that are obviously unrelated to its range of business, or natural person customers frequently receiving remittances from legal persons and other organizations within a short period of time

Case studies 4 - 6 given in Chapter 7 are based on Suspicious Transaction Reports that were filed by intermediaries on the basis of one or more suspicious transaction indicators.

CHAPTER 6: RECOMMENDATIONS

The recommendations of the report are given below:

1. **Designation of offences in the securities markets as ML/TF offences:** Jurisdictions that have not designated securities market offences viz., insider trading, market manipulation and securities-related fraud as ML/TF offences may make the necessary changes in their laws to include the same.
2. **Know Your Client (KYC) norms:** Jurisdictions should ensure that securities market intermediaries put in place Customer Due Diligence policies, which should include customer acceptance and KYC norms. Jurisdictions may also prescribe a standard list of documents that can be accepted as evidence for identity and place of residence of the customer. Application of KYC requirements on the basis of materiality and risk would enable intermediaries to manage their resources efficiently.
3. **Identification of Beneficial Ownership:** Jurisdictions may consider reviewing their policies and issue necessary guidelines with respect to identification of beneficial ownership so as to ensure conformity with the requirements of the revised FATF standards.
4. **Enhanced Due Diligence for high-risk customers (including Politically Exposed Persons):** While KYC requirements may be made applicable to all customers on the basis of materiality and risk, in case of customers categorized as high-risk and as Politically Exposed Persons (PEPs), the intermediaries should apply enhanced due diligence measures. Some of these enhanced measures may include obtaining senior management approval before opening the account, increased supervision and transaction monitoring etc. Further, the FATF has expanded the PEP requirements to also include domestic PEPs and persons entrusted with a prominent function by an international organization. Jurisdictions may consider reviewing their policies on PEPs to include the same.
5. **Record Keeping:** The intermediaries are required to maintain the records obtained through CDD measures, account files and business correspondence, including the results of any analysis undertaken. These records should be maintained for at least five years after the business relationship has ended or after the date of the occasional transaction.
6. **Reliance on third party for Customer Due Diligence:** Jurisdictions may permit intermediaries to rely on third party to perform Customer Due Diligence (CDD). They should ensure that the framework for reliance on third parties should satisfy the requirements of the FATF standards.
7. **Use of the banking system as a payment mode:** Cash, as a mode of payment, is an easy way for money laundering as the source of the cash is untraceable and there is also a lack of an audit trail. The preferred mode of payment for securities transactions would be through banking channels as the same would enable a sound audit trail. Jurisdictions may consider shifting the mode of payment in securities markets through the banking system so as to enable maintenance of an audit trail.
8. **Disallowing third party payment/delivery of funds and securities:** The practice of an intermediary giving/receiving of funds and securities to/from third parties (i.e., the person other than the person who has actually transacted in securities) can be used by money launders to conceal the identity and source of funds. It is suggested that jurisdictions may put in place rules/regulations to restrict such a practice.

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- 9. Holding and settlement of securities in the electronic/dematerialized form:** Holding and settlement of securities in the electronic form/dematerialized form has the advantages of electronic audit trail of ownership details which is difficult in the case of physical or paper based shares. Hence, physical system is vulnerable to misuse by money launderers. The jurisdictions may consider shifting to an electronic mode of holding and settlement of shares.
 - 10. Bearer Shares:** Ownership in bearer shares essentially vests in the person who possesses the bearer shares and that there is no record of ownership which may give rise to ML/TF risks. Therefore, the jurisdictions which allow issuance of bearer shares and treat them as securities may consider disallowing the issuance of such shares or put in place a system that ensures a record of the transfer of ownership is maintained.
 - 11. Suspicious Transaction Indicators:** In order to enhance the ability of intermediaries to detect and report suspicious transaction, it is suggested that jurisdictions may update their list of suspicious transaction indicators at regular intervals taking into account the developments in their respective markets and by analyzing the STRs that have been generated.
 - 12. Regulation and supervision of securities market intermediaries:** Jurisdictions should ensure that securities market intermediaries are subjected to adequate regulation and supervision. The securities market supervisors should ensure that they have measures in place to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, securities market intermediaries.
 - 13. AML/CFT focused inspections and sanctions:** Regular focused or theme based inspection of securities markets intermediaries should be carried out in order to verify how compliant their policies are with the national AML/CFT requirements. Supervisors should have the authority to impose disciplinary and financial sanctions that are commensurate with the deficiencies observed during these inspections/audits.
 - 14. Capacity building and Inter-regulatory co-operation:** EAG may consider imparting technical assistance to the jurisdictions for capacity building. Inter-regulatory co-operation that allows for the exchange of best practices in the field of AML/CFT regulation should be encouraged. Workshops and seminars for the same may be organized.

CHAPTER 7: CASE STUDIES

The jurisdictions in the Eurasian region were requested to submit any case studies of known instances of money laundering or terrorist financing that may have occurred through the securities markets. Case studies were made available only from the jurisdictions of China, India, Ukraine and Russia. The same are given below.

7.1 Case Studies No. 1 - 2 from China**Case Study 1: *China***

Case Type: Providing bank accounts, fund transfer, securities, depositing cash

Brief summary of case:

Mr. X, vice-mayor of City Y in the Sichuan Province was found guilty of taking advantage of his post to give favors to others. The illegal funds that he accepted via bribes were laundered by making investments in shares of unlisted companies and laundered around 4 million Yuan.

Suspicious indicators:

The laundering through the securities markets was uncovered as the underlying predicate offence was detected.

Case Study 2: *China*

Case Type: Fund transfer, investment in securities

Brief summary of case:

Mr. X, Chief of Chongqing Y District, took advantage of his post and gave illegal assistance to a management consultancy firm. The bribes were then invested in pawn brokerages, securities, real estate etc.

Suspicious indicators:

The laundering through the securities markets was uncovered as the underlying predicate offence was detected.

7.2 Case Studies No. 3 - 6 from India**Case Study 3: *India***

Case Type: Market manipulation in Initial Public Offerings (IPO)

Brief summary of case:

During the course of ongoing surveillance and investigation into dealings in shares issued through IPOs, large scale off-market transactions were observed immediately following the date of allotment and prior to the listing on the stock exchanges. Preliminary scrutiny revealed that certain entities had cornered IPO shares reserved for genuine retail applicants by making applications in the retail category through the medium of thousands of fictitious/benami IPO applicants.

Subsequent to the receipt of IPO allotment these fictitious/benami allottees had transferred shares to their principals who in turn transferred the shares to the financiers¹ that had originally made available the funds for executing the fraud. The financiers in turn sold most of these shares on the first day of listing thereby realizing the windfall gain of the price difference between IPO price and the listing price. The modus operandi followed is given below:

1. As part of due diligence to be conducted before opening dematerialized accounts, depository participants (DPs) are required to verify the original documents that are submitted as Proof of Identity (POI) and Proof of Address (POA) for the holder of the account. Hence, to circumvent this check, bank accounts were opened in the names of fictitious/benami entities and the bank passbook/identity card was used as POI and POA.
2. Using the above method, thousands of such separate demat accounts and bank accounts were opened. Applications to IPOs were then made in the names of these entities, while actually these entities were merely name-lenders or non-existent.
3. During the pre-listing period, the IPO shares were then transferred to the accounts of certain key operators² through off-market transfers. Then, these shares were transferred – again through off-market transfers – to accounts of various entities. These entities have been identified as the financiers for the entire fraud. In other words, these financiers were actually the ultimate beneficial owners of the shares.
4. It was observed in several IPOs that the financiers sold most of these shares on the first day of listing thereby realizing the windfall gain of the price difference between IPO price and the listing price.
5. Hence, the financiers used funds, the sources of which were unknown, to make transactions in the securities markets and convert these funds into legal money. Loans were availed against the received securities and proceeds of crimes described in the form of sale proceeds of various shares, IPO refunds and other existing funds were utilized from time to time.

Suspicious Indicators:

1. A common address was used for opening majority of the fictitious/benami accounts. The same address belonged to the key operators and financiers.
2. Large numbers of off-market transfers between demat accounts prior to listing of shares.

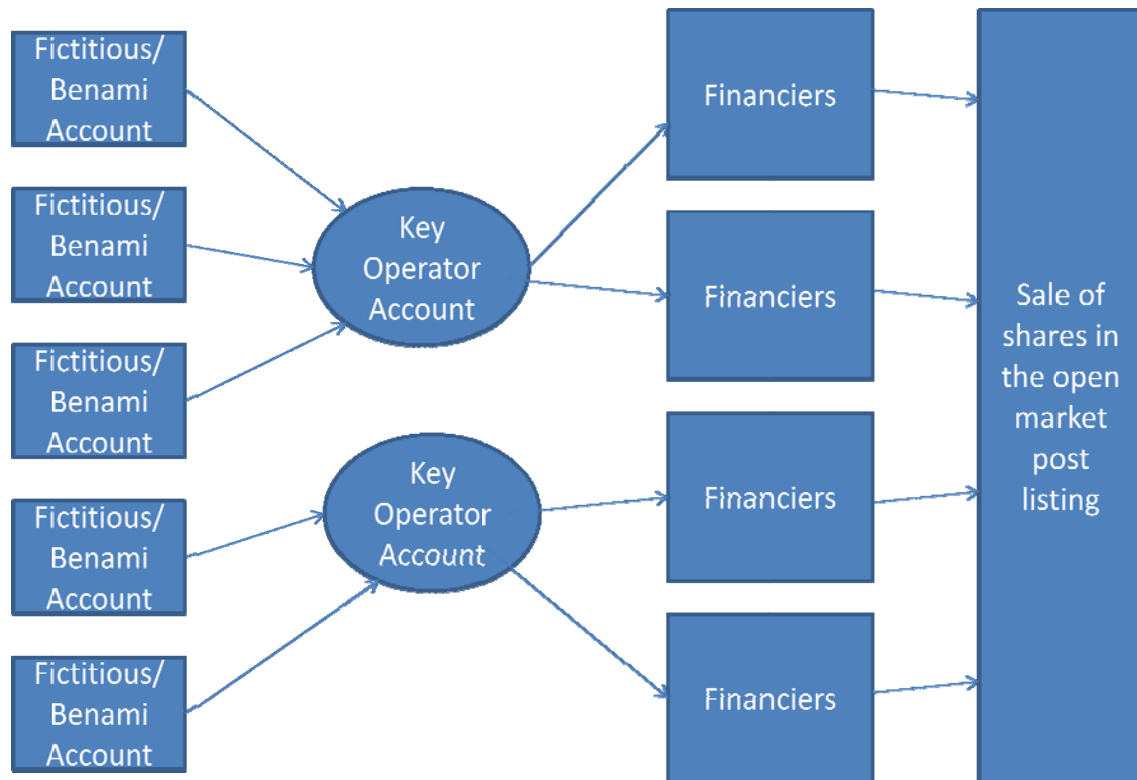
Enforcement action(s) taken:

1. Initiation of prosecution proceedings against the concerned entities
2. The demat accounts were attached under the Prevention of Money Laundering Act, 2002 and further proceedings are in progress. As on date the total value of assets attached in the proceedings values at 1.8 billion rupees.
3. References were made to the Reserve Bank of India, the Income-Tax Department and the Central Bureau of Investigation

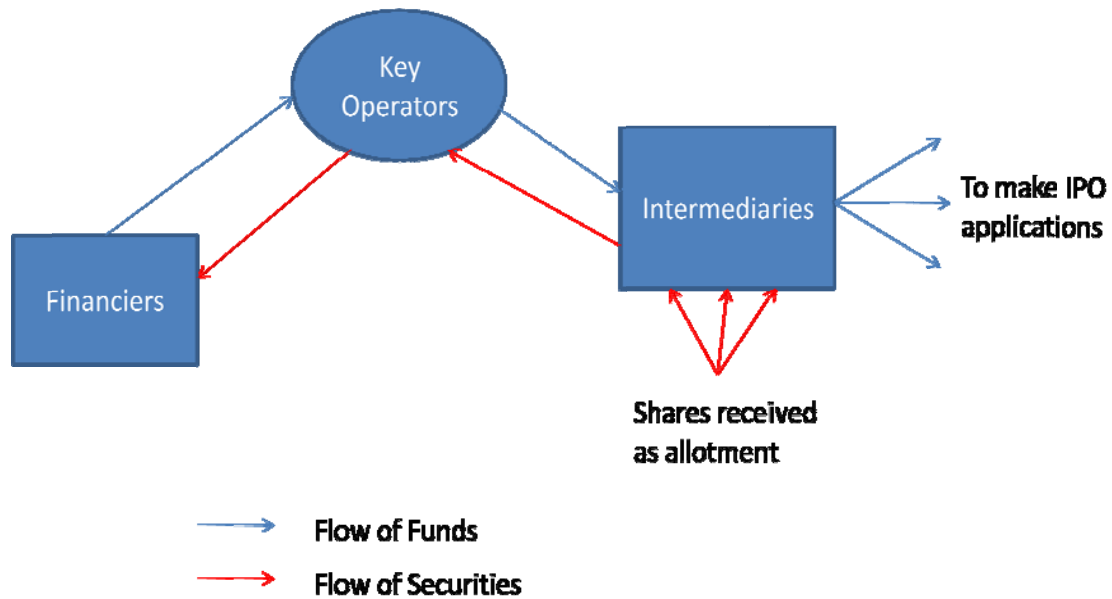
Corrective measures taken:

1. Off-market transfers of shares prior to listing prevented by activating ISINs in case of IPO shares only after commencement of trading
2. In-person verification made mandatory when opening client accounts by stock brokers and depository participants

Graphic Description:



Flow of shares between demat accounts and flow of funds



Case Study 4: *India*

Case Type: Showing fictitious profits by synchronized trading (based on a Suspicious Transaction Report)

Brief summary of case:

A person made transactions of a substantial amount which were reversed at prices significantly above or below the prices at which the first transaction took place. The traded prices of the underlying stock did not register a similar movement during the trade time of the first transaction and when the transaction was reversed. The trade appeared to be synchronized/matched and one of the parties to the transaction apparently had a positive close out difference while the other party had a negative close out difference. Trades constituted significant proportion of the gross traded volume for the market for the day. The transactions appeared to be made with no economic rationale or bonafide purpose. Search of the Cash Transaction Report (CTR) database revealed that the subject had an account with a different bank showing substantial cash deposits made in different years.

Suspicious Indicators:

1. Trades constituted significant proportion of the gross traded volume for the market for the day.
2. Transactions appeared to be made with no economic rationale.

Case Study 5: India**Case Type: Showing fictitious profits by synchronized trading (based on a Suspicious Transaction Report)****Brief summary of case:**

A person opened a trading account and declared his occupation as business and income profile between INR 0.5 to 1 million per annum. The subject registered for online trading and executed certain trades in the option contracts of the scrip of a bank on a particular date. Enquiry revealed that he had undertaken transaction of option contract at a premium of INR 1.6 and sold the same at INR 24 whereas as per the Black-Scholes formula, the fair price for purchase was between INR 26.07 to 28.02. The reversal transactions had been effected at a price significantly above the price at which the first transaction took place without a similar movement in the underlying stock during the trade time of the first transaction and the reversed transaction during the day. The movement in the price of the underlying scrip and option stock in the exchange was less than INR 2/- (the high and low price of INR 57.95 and INR 56 respectively) during the day while the difference in the premium received and paid by the client was more than INR 22/-. This raised a suspicion of indulging in synchronized trading resulting in earning unreasonable gains in this process. Search of CTR data base revealed substantial cash transaction in other bank accounts of the subject.

Suspicious Indicators:

1. Reversal transactions had been effected at a price significantly above the price at which the first transaction took place.
2. Significant difference in movement in price of underlying and difference in the premium received and paid.

Case Study 6: India**Case Type:****Brief summary of case:**

Three subjects opened on-line accounts in their individual names within a short period in 2008 and 2009. Around 5,23,000 shares of a company X were dematerialized in one of the accounts who continuously sold these shares. In the account of the second subject, 3,65,000 shares of company X were transferred in off market mode and the subject sold these shares. From the KYC documents, it is learned that the subject 2 is working with a company Y which is part of promoter group in the company X. The third subject is part of the promoter group of Company X who bought around 2,76,000 shares. Some cross dealings were also found in this scrip. Transactions of large volume in the promoter group company indicated insider trading among promoters which was reported as suspicious transaction.

Suspicious Indicators:

1. Transfer of shares through off-market mode.
2. Transactions of large volume in the promoter group company.

7.3 Case Study No. 7 from Russia**Case Study 7: *Russia*****Case Type: Acquisition of banks and withdrawal of their liquid assets by bogus securities purchase contracts****Brief summary of case:**

Pursuant to analysis of financial transaction reports of credit organizations, information received from the Central Bank of the Russian Federation and open sources revealed that a group or persons acting in concert acquired a number of banks and then made them bankrupt by means of bogus securities purchase contracts.

The modus operandi is as follows. A group of natural persons acquired a commercial **Bank A** from its former owners. The money required to acquire the shares of **Bank A** by the group is taken as a loan from an investment company (registrar) **B**. However, **Bank A** itself has funded the investment company **B** under a contract on the basis of bogus securities (bonds and bills of exchange). As a result the former owners of the bank got real money in exchange of shares and bogus securities or in other words the bank got bogus securities from the investment company (registrar) that the bank never actually acquired.

Bank A was acquired with following withdrawal of its liquid assets:

1. Monetary funds to the amount of 982 million rubles were transferred to the accounts of Investment Company **B** from **Bank A** under a contract on the basis of bogus securities (bonds and bills of exchange) registered with the depot account in the depository of investment company **B**.
2. Beneficial owners of the bank sold 89.8% shares of **Bank A** for 1 billion rubles. The shares were bought by six natural persons. Monetary funds to the amount of 1 billion rubles were transferred to the accounts of these natural persons in **Bank A** as loans from Investment Company **B** from accounts opened in **Bank B**.
3. Money is transferred to the previous owners of **Bank A** from these natural persons for the stake in **Bank A**.
4. Four days before revocation of the license for banking operations of **Bank B**, **Bank A** gave credits to the tune of 1.9 billion rubles to fictitious legal entities that were not the clients of the bank and had signs of being fraudulent entities. Subsequently, there is revocation of the license of **Bank B** and withdrawal and monetization of its funds.

5. Transfer of cash funds takes place from these fictitious legal entities to the natural persons who have acquired **Bank A**.
6. On the date of revocation of the license for banking operations of Bank B, the new shareholders deposited 1.2 billion rubles of cash to their accounts in **Bank A** for early repayment of the credit taken from investment company B.
7. On the same day **Investment Company B** repurchased the securities sold to **Bank A** for 982 million rubles.
8. On the balance sheet, the bank at its own discretion evaluated these credits given as unrecoverable and created reserves to the amount of 100% of these credits which resulted in complete loss of capital and caused deficiency of assets for total repayment of the accounts payable.

Suspicious Indicators:

1. Participation of investment companies (registrars) which do not participate in stock trading and execution of large scale transactions with a single credit organization or a narrow group of banks.
2. Credits given by the investment company (registrar) to natural persons who may become potential buyers of the bank within a short period after money transfer from the bank under a contract on purchase of securities.
3. Flow of funds within a group of interrelated persons connected with transfer of the funds (liquid assets) from the bank which transferred the license to the group of acquirers of the new bank.

Graphic Description:**7.4 Case Studies No. 8 - 10 from Ukraine****Case Study 8: *Ukraine*****Case Type: Illegal conversion of non-cash resources into cash****Brief summary of case:**

It was observed that a group of companies was crediting funds to the tune of 37.3 million grivnas for payment of bills of exchange to a securities dealer (**Mr. B**). Funds were being

credited for 4 months in 2010 for purposes of illegal conversion of non-cash resources into cash.

Mr. B credited funds to the tune of 37.3 million grivnas to **Ms. A** for shares issued by **X company**. Funds were credited on the day of funds receipt or on the following day. Ms. A, in turn, retrieved cash to the tune of 37.3 million grivnas on the day of the funds receipt or on the following day.

Document analysis demonstrated that:

- a. Ms. A is unemployed and receives no income from her primary employment.
- b. **X Company** is a construction company. No data concerning **X company** was available from open information sources, construction sites, equipment and other assets required for construction, sales of immovable property that was built, etc.

The sale and purchase of securities under which Mr. B would credit funds in favor of Ms. A were promissory notes instead of shares. The shares issued by **X company** bore signs of fraudulence. Thus, price of 1 share amounts to 4.3 grivnas and exceeded their nominal value more than 4 times. The total value of the whole stock of shares issued by **X company** amounts to 1 billion & 160 million grivnas. However, given the stagnation in the Ukrainian construction market and lack of information on **X company's** activities, it was evident that the value of the shares was ramped up. The above scheme was used for illegal conversion of non-cash resources into cash.

Suspicious Indicators:

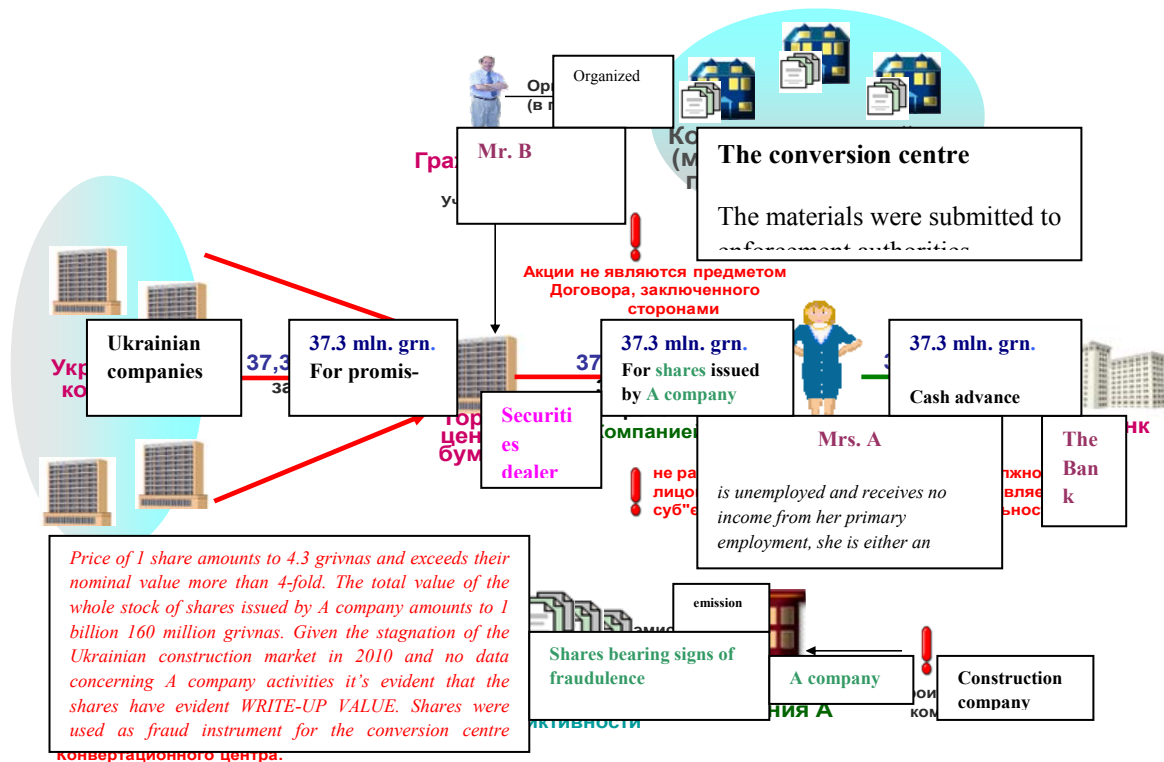
1. Ms. A is unemployed and receives no income from her primary employment.
2. **X Company** is a construction company. No data concerning **X company** was available from open information sources, construction sites, equipment and other assets required for construction, sales of immovable property that was built, etc.

Enforcement action(s) taken:

The investigation is still under progress by the Security Service of Ukraine.

Graphical Description:

The conversion centre (fraud instrument – securities)



Case Study 9: Ukraine

Case Type: "Trash securities" financial transactions scheme

Brief summary of case:

After management of the following business entities - E, F, G and C changed, a "trash securities" financial transactions scheme was organized. All financial transactions participants were characterized by fraudulence signs in the course of such transactions.

The scheme was operated as follows:

A OOO (Lugansk city) stipulated an agreement with the securities dealer **B OOO** (Kiev city) for purchase of stock of shares. **B OOO** performed repurchase of securities (bearer interest bearing bonds) from **E, F, G** companies (Kharkiv region), which were trash securities. **B OOO** performed further resale of these securities to another legal entity – **C OOO** under the power-of-attorney of the securities dealer, **A OOO**.

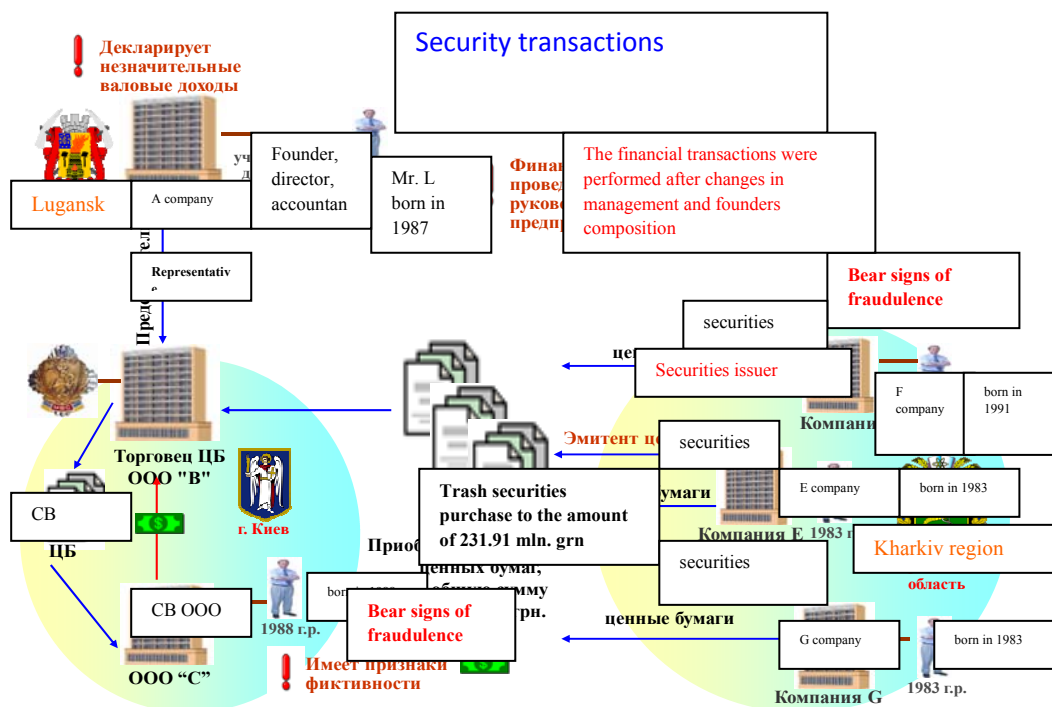
Total value of the stock of shares is 213.91 million grivnas. According to the information of State Tax administration of the Ukraine, **A OOO** declared sump sums of gross revenues, **C OOO** is absent from its location address and **E, F, G** companies (Kharkiv region) bear signs of fraudulence and bankruptcy case was started for the above companies. The age of the

official of the involved companies is 19 to 26 years old. The data concerning **B OOO** financial transactions were submitted to the Ministry of Internal Affairs of the Ukraine earlier as part of summary materials. The materials were associated with fraudulent entrepreneurial activity, conversion of non-cash resources into cash by performing securities purchase and sale operations.

Enforcement action(s) taken:

The investigation is still under progress by the Security Service of Ukraine.

Graphical Description:



Case Study 10: Ukraine

Case Type: Credit funds granted to against security of investment certificates

Brief summary of case:

A bank subsidiary directed by Provisional administration at the moment of loan disbursement granted credit funds to the Borrower 1 in the amount of 33.3 million grivnas against security of investment certificates issued by A company. Later on the same day the Borrower 1 credited funds to the amount of 33.3 million grivnas in favor of Borrower 2 as payment for securities, namely: 4.7 million grivnas - for shares

issued by B company and 28.5 million grivnas – for promissory notes issued by the Group of companies.

Borrower 2 credited funds in the amount of 33.3 million grivnas in favor of Bank Subsidiary to return a previously obtained loan, namely: 32.3 million grivnas - the principal 1.0 million grivnas – loan interest.

It was established that:

1. Bank Subsidiary granted loan funds to the **Borrower**. The fact was preceded by changes in management and founder's composition of the latter. In particular, the sole director, accountant and founder of the **Borrower 1** is Mr. **A**.
2. **Borrower 1** is non-liquid, performs practically no business activity, declares and pays sump sum taxes.
3. Financial transactions data about transactions performed by **Borrower 2** that were submitted to the Security Service of Ukraine earlier as part of summary materials. The materials are associated with transactions under sham or fake contracts.
4. Investment certificates issued by **A Company** contain signs of fraud.
5. Data on financial transactions performed by **A Company** submitted to the Security Service of Ukraine earlier as part of summary materials. The materials are associated with calculations with reference to shares bearing fraudulence signs.
6. Shares issued by **B Company** contain fraudulence. Thus, a sales price of 1 share exceeds its nominal value 390-fold. With reference to **B Company** – the Securities and Stock Market State Commission imposed 4 civil penalties for breach of law in the course of activity at the securities market. **B Company** director has criminal records (forged instrument fraud). Besides, the data about financial operations performed by **B Company** director were submitted to the Security Service of Ukraine earlier as part of summary materials. The materials are associated with the “conversion” centre transactions.
7. Promissory notes issued by the Group of companies bear signs of “fraudulence”.
8. Specifically, the notes were issued in 2002-2009, their maturity date being in 2011-2018. Most of the companies are in a negative state and are illiquid i.e., they perform almost no business activity, declare and pay no taxes.
9. As can be seen from the above, the loan of **Borrower 2** to the Bank Subsidiary was formally transferred to **Borrower 1**, the asset value of the latter being low due to the reasons mentioned above.
10. Subsequently, the failure of **Borrower 1** to repay the loan may be one of the reasons for deterioration of Bank's financial position, failure to discharge its responsibilities to the creditors in full (with reference to loans) and depositors (on deposits placed with the Bank).

Enforcement action(s) taken: The investigation is still under progress by the Security

Service of Ukraine.

Graphical Description:

Ukrainian	English translation
Злоупотребление кредитными средствами	Loan funds abuse
Компания А	A company
Инвестиционные сертификаты имеют признаки фиктивности	Investment certificates bear fraudulence signs
Гражданин В	Mr. B
Назначен должностным лицом перед кредитованием	Was appointed official prior to loan extension
Цена 1 акции составляет 38 грн. И превышает номинальную стоимость в 390 раз.	A sales price of 1 share of 38 grn. exceeds its nominal value 390-fold. With reference to B company
Эмиссия	Emission
Директор	director
Акции имеют признаки фиктивности	Shares bear signs of fraudulence
Криминальное прошлое (мошенничество, использование поддельных документов)	Criminal records (forged instrument fraud).
Наложение санкций за	civil penalties for breach of law (4

<i>правонарушения (4 раза)</i>	<i>times)</i>
<i>Государственная комиссия по ценным бумагам и фондовому рынку Украины</i>	<i>Securities and Stock Market State Commission of the Ukraine</i>
<i>Филиал банка</i>	<i>Bank subsidiary</i>
<i>Заемщик 1</i>	<i>Borrower 1</i>
<i>Банк</i>	<i>Bank</i>
<i>Гражданин А</i>	<i>Mr A</i>
<i>Временный администратор</i>	<i>Temporary administrator</i>
<i>Заемщик 2</i>	<i>Borrower 2</i>
<i>Кредит 33.3. млн. гривен</i>	<i>Loan 33.3 mln. grivnas</i>
<i>33.3. млн. гривен за ценные бумаги</i>	<i>33.3 mln. grivnas for securities</i>
<i>Неликвидное, хозяйственную деятельность почти не осуществляет</i>	<i>Non'liquidable, performs practically no business activity</i>
<i>Возвращение кредита: 33.3. млн</i>	<i>Loan repayment 33.3 mln</i>
<i>Тело кредита</i>	<i>The principal</i>
<i>Процентов по кредиту</i>	<i>Loan interest</i>
<i>Даты составления векселей: 2002-2009 года Даты погашения векселей: 2011-2018 года</i>	<i>The notes were issued in 2002-2009, their maturity date being in 2011-2018</i>
<i>Векселя имеют признаки фиктивности</i>	<i>Notes bear signs of fraud</i>
<i>Группа компаний</i>	<i>Group of companies</i>
<i>Неликвидное, хозяйственную деятельность почти не осуществляет</i>	<i>Non'liquidable, performs practically no business activity</i>

ANNEXURES**8.1 ANNEXURE 1****Original questionnaire****Regulatory Information**

1. Name of Jurisdiction.
2. Name of Securities market supervisor or Regulator:
3. Year of Establishment or from when entrusted with the function of supervising securities market; whichever is earlier
4. Name of regulator/authority responsible for supervision of national Anti Money Laundering {AML}/ Combating Financing of Terrorism {CFT} requirements in securities market. Year from which the above authority has been entrusted with the function of supervising national AML/CFT requirements in securities market

Legal Systems

5. Do you have a national law in place for combating money laundering {ML}/terrorist financing {TF}? If so, please specify the year since when the law is operative.
6. Provide a brief criminal law description of the notion of money laundering in the context of securities market. When was the principal law related to money laundering enacted?
7. Does your national AML/CFT law designate certain offences relating to securities market as predicate offences for the purpose of money laundering /terrorist financing?
8. If so, provide list of predicate offences related to securities market that are there in your law?
9. Are these offences based on a certain threshold? If so, define the threshold in terms of your currency and in USD. The term “predicate offence” is within the context of FATF Recommendation No.1
10. Provide copy of guidance/rules issued by you and circulated to securities market intermediaries for anti money laundering through the securities market. Does non-compliance of these guidelines have penal consequences?

Market Information

11. What is the approximate cost (in USD) of establishing a securities trading company in your jurisdiction? How much capital/net worth should a broker have?
12. Provide data at the end of the last financial year on the following:
 - A) Size of economy- Gross Domestic Product (in USD) in the last three years. Please indicate the period of the financial year eg Jan-Dec or April-March
 - B) Size of securities market (as traded on Exchange) i.e. annual value of transactions in last three years (USD) and number of transactions in last 3 years

- C) Provide data regarding relative size of the Over-the-Counter (OTC) market details in securities. This would constitute approximately how much percentage of the total securities market i.e. turnover in Exchanges and OTC market?

Securities Market Products, Financial Institutions and Risk Assessment

13. What state sectors and industries of the economy, in your opinion, are the most vulnerable to risks associated with securities market?
14. Range of Products classified as “securities”; please state separately for each type e.g. stock, bonds units etc.
- (a) Using the definition of “financial institution” in the FATF glossary as a point of reference, please use the following chart to identify: (1) products that are traded as “securities” in your country; (2) the type of financial institutions involved in selling, recommending or distributing securities (e.g. broker-dealers, banks, etc.); and (3) the supervisory authority(ies) responsible for AML/CFT supervision of that product/financial institution. (d) the risk assessment of such products **Table 1 (Annexure)**
- (b) In the format prescribed please assess the risk associated with the various types of financial institutions detailing their control and vulnerable features. **Table 1A (Annexure)**
15. Certain products are hybrid products i.e. they are a result of cross-over between securities market and other sectors such as banking, insurance etc. e.g. unit linked insurance plans, securitized debt, currency futures/currency options etc. Please list all such hybrid products in your jurisdiction and product-wise specify the name of the regulator. Please furnish details including risk rating in the following table: **Table 2 Annexure**
16. If bearer shares are permitted in your jurisdiction, please indicate number of cases that have been initiated where money has been laundered using bearer shares and also provide sample case study. Has any case involving bearer shares resulted in conviction? If so, provide number of such cases.

Payment, Distribution, Settlement Mechanisms and Risk Assessment

17. Describe the payment methods for settlement of transactions in securities in your jurisdiction (e.g., Cash, wire transfer, cheque, online systems, mobile phone systems etc.). Provide risk rating for each of the payment methods permitted for settlement of transactions in securities in the manner described in the following table: **Table 3 Annexure**
18. For the distribution channels/distributors identified for each product please provide a risk rating with the associated control and vulnerable if any. **Table 4 Annexure**
19. In case, settlement of securities is permitted through book entry (e.g. through dematerialization/immobilization), for exchange traded transactions, provide year-wise data of the % of transactions settled through book entry for last three years. **Table 5 Annexure**
20. Is any guidance on risk categorization (on products or financial institutions or payment or distribution channels) provided by the regulator/FIU/supervisory body/industry association? If so please attach a copy or provide a hyperlink of the same.

Customer Due Diligence

21. What are the measures in place to prevent the opening of anonymous /fictitious accounts?
22. How is the identity of the customer in the securities market (who is a natural person) verified?
23. How is the identity of a customer in the securities market that is a legal person/ arrangement verified?
24. Are omnibus/nominee/trust accounts permitted to open in your jurisdiction? If so, how is customer identity verification performed in such cases

Nominee accounts: An account under which a person, a nominee named by another, acts on his or her behalf often to conceal the identity of the nominator.

An omnibus account is an account established for an entity that is acting as an intermediary on behalf of multiple individuals or entities.

Trust accounts: An arrangement enabling property to be held by a person or persons (the trustees) for the benefit of some other person or persons (the beneficiaries). The trustee is the legal owner of the property but the beneficiary has an equitable interest in it.

Identification of Ultimate Beneficial Owner

25. Are financial Institutions/Intermediaries required to identify the ultimate beneficial owner in all cases?
26. What are the measures in place to understand the ownership and control structure of the customer?
27. What guidance is provided to intermediaries to identify the natural persons that ultimately own or control the customer?

Foreign Investment

28. Does your jurisdiction accept investments from overseas customers (“customer” is as defined in FATF Glossary) for investment in your securities market?
29. How is Customer Due Diligence {CDD} carried out for such overseas customers?
30. Does your jurisdiction accept investments only from customers in countries that apply FATF recommendations?
31. If not, does your jurisdiction require that the investing institution/customer be compliant with your AML/CFT law/regulation?
32. Do you require that all institutions/clients investing in your jurisdiction be regulated in their home country?

Non Face to Face Transactions

33. What are the various types of non face to face operations/transactions/customers permissible in your jurisdiction?
34. What are the measures put in place to address risks associated with non face to face operations/transactions/customers in the securities market?

Third Party CDD

35. Are financial institutions in your jurisdiction permitted to rely on third party in the CDD process within the meaning of FATF Recommendation No. 9?
36. Is third party reliance on CDD restricted only to the same financial group?
37. If not, is the third party subject to regulatory oversight and National AML/CFT requirements?
38. Does your jurisdiction permit the third party that performs the CDD process to be located outside your jurisdiction?
39. Who has the regulatory oversight of such third party when located outside your jurisdiction?

40. When the third party performing the CDD process is located outside your jurisdiction, which jurisdictions national requirement's on AML/CFT is the third part required to comply with?
41. What are the ML vulnerabilities associated with this process (i.e. the process of third party performing the CDD) in your jurisdiction?
42. What are the control features associated with this process (i.e. the process of third party performing the CDD) in your jurisdiction?
43. How would you assess the risk of a third party performing the CDD process? Rate the risk as high, medium or low and furnish reasons (provide control and vulnerable features)

Suspicious Transaction Reporting

44. Whether any guidelines /circulars etc have been issued regarding suspicious indicators of money laundering/terrorist financing through the securities sector? If so, please provide comprehensive list of such suspicious indicators.
45. When is an entity required to file an STR? Whether any guidelines in this regard have been framed and if so, enumerate the guidelines? Within what time, a securities market intermediary should file an STR from the time of the suspicion?
46. How many STRs (product as well as institution wise) relating to securities transactions have been filed with the jurisdiction's FIU since the introduction of AML/CFT regulations in your jurisdiction. Please furnish details of number of STRs filed product wise and institution wise in the format prescribed in the following tables: **Tables 6 and 7 Annexure**
47. Do any of these STRs reveal areas of high risk or vulnerability in the securities industry? If so please discuss any trends or areas of risk/vulnerabilities demonstrated by STRs.
48. Based on STRs related to the securities industry or as a result of other information concerning the securities industry: how many referrals has the FIU made to law enforcement, how many ML/TF prosecutions have been commenced, and how many convictions have resulted? **Table 8 Annexure**
49. Whether regulated entities in the securities market in your jurisdiction are required to report all cash transactions above a certain threshold? If so, provide details when such transactions should be reported. The threshold mentioned may please be denominated in your local currency and also in USD.

Enforcement Action: Effectiveness

50. What are the criminal, civil or administrative sanctions that can imposed for non- compliance with AML/CFT requirements in the Securities Market in your jurisdiction. Enumerate these in detail
51. Who is the authority responsible for administering these sanctions?
52. Please provide data on the criminal/civil/administrative/ any other sanctions that have been applied for non-compliance with AML/CFT requirements in the Securities Market in your jurisdiction? **Table 9 Annexure**

[Note: The question relates to details of sanctions on account of AML/CFT violations other than violation arising from predicate offence. Also, provide sample case details and key enforcement actions for such high risk areas]

53. Provide year wise data on AML/CFT related actions (i.e. actions taken pursuant to a predicate offence having being committed) brought against financial institutions since 2008 in your jurisdiction in the format prescribed. Also, provide sample case details and key enforcement actions for such high risk areas. **Table 10 Annexure**

Market Entry

54. Are all financial institutions/intermediaries in the securities market of your country required to be licensed/registered **(Yes/No)**?
55. Describe the process of granting registration/license to the financial institution
56. Provide details in the table prescribed below on the number of entities applying for registration, the number of entities registered/licensed, and number of cases rejected in your jurisdiction for the last three years? **Table 11 Annexure**
57. What are the “fit and proper” standards adopted in your jurisdiction to ensure that financial institutions/supervisory bodies are not used as vehicles for ML/FT. Please provide standards adopted for market entry in your jurisdiction. How do you ensure that criminals are not the beneficial owner of the entities regulated by you?
58. Please provide details on the number of on-site AML/CFT inspections conducted since the commencement of national AML/CFT requirements in your jurisdictions. **Table 12 Annexure**

Typologies

59. Please attach or provide hyperlinks to any ML/TF typologies for the securities industry developed within your jurisdiction (such as documents that detail high risk securities products or method of distribution, as well as what caused initial suspicions in the securities industry, how assets were traced and the outcome of investigations/prosecutions). Where relevant, please indicate at which stage of the transaction(s) you consider that money laundering /terrorist financing took place.

ANNEXURE TO ORIGINAL QUESTIONNAIRE – TABLES**TABLE 1: PRODUCT ASSESSMENT SHEET (Q.14A)**

Product	FATF definition of activity (Please refer to FATF website for Glossary)	Is this treated as a security in your jurisdiction? (YES or NO)	If product is a security, type(s) of institutions involved in sale, advice, or distribution (e.g. broker-dealer/fund manager/bank)	Name of supervisory authority(ies) responsible for regulating AML/CFT compliance of applicable institution	Is this traded on Exchange (Yes/No)	Risk Rating (Low, Medium, High)	Reasons for Risk Rating	
							Control Features	Vulnerable Features
Equities	7(a), 9, 10, 11							

Bonds and similar debt instruments	7(a), 9, 10, 11							
Certificates of	7(a), 9, 10, 11							
Bills of	7(a), 9, 10, 11							
Unit trusts	7(d), 9, 10, 11							
Investment	7(d), 9, 10, 11							
Mutual funds	7(d), 9, 10, 11							
OEICs (open-ended company investment companies)	7(d), 9, 10, 11							
SICAVs	7(d), 9, 10, 11							
open-ended collective investment schemes								
Close-ended comp	7(d), 9, 10, 11							
Options	7(a), 7(b), 7(c),							
	7(e), 9, 10, 11.							

Future	7(a), 7(b), 7(c),							
	7(e), 9, 10, 11.							
Swaps	7(a), 7(b), 7(c),							
	7(e), 9, 10, 11.							
Forward rate agreements	7(a), 7(b), 7(c),							
	7(e), 9, 10, 11.							
Commodity derivatives contracts	7(a), 7(e), 9, 10,							
	11							
Foreign exchange contracts	7(a), 7(b), 7(c),							
	9, 10, 11.							
Unit linked insurance products (where part of payment received is used for insurance while the rest is used								

<p>for investing in securities</p>								
<p>Bearer shares (Bearer shares refers to negotiable instruments that accord ownership in a corporation to the person who possesses the bearer share certificate)</p>								

Please detail any other product which is classified as a “security” in your jurisdiction (e.g., insurance products such as variable annuities).	Please describe the product listed as "others" in this column							

TABLE 1A: FINANCIAL INSTITUTION RISK ASSESSMENT (Q.14B)

Type of institution	Vulnerable Features	Control Features	Risk Rating
Stock Exchange			
Broker/dealer			
Sub-broker			
Fund manager			
Bank			
Asset Management Company/Mutual Fund			
Financial advisor			
Collective Investment Scheme provider			
Depositories			
Depository Participants			
Share transfer agents			
Bankers to an issue			
Trustees to trust deed			
Registrars to issue			
Merchant bankers			
Underwriters			
Portfolio managers			
Investment advisers			
Custodian of securities			
Foreign institutional investors			
Credit rating agencies			
Venture capital funds			
Others(Please specify)			

TABLE 2: HYBRID PRODUCTS- RISK ASSESSMENT (Q.15)

Product	Product Description	Risk Rating(High, Medium, Low)	Reasons for Risk Rating		Gaps in supervisory responsibility
			Vulnerable Features	Control Features	

TABLE 3: PAYMENT METHODS –RISK ASSESSMENT (Q.17)

Payment Method	Risk Rating	Reasons for risk rating	
		Vulnerable features	Control features
Cash			
Drafts/ cashier cheque			
Card payments			
Gift cards/certificates			
wire transfer			
cheque			
Internet Payment systems			
Mobile phone systems			
Prepaid Cards			
Third Party Payment			
Others (please specify)			

TABLE 4: DISTRIBUTION CHANNELS – RISK ASSESSMENT (Q18)

Distribution Channel	Risk Rating	Reasons for Risk Rating	
		Control Features	Vulnerable Features

TABLE 5: SETTLEMENT METHODS – BOOK ENTRY (Q19)

Year	% of transactions settled through book entry (for exchange traded transactions)
2008	
2009	
2010	
2011 (till March 31, 2011)	

TABLE 6: STR FILING IN THE SECURITIES MARKET PRODUCT WISE (Q.46)

Product	2008	2009	2010	2011 (as on March 31)
Equities				
Bonds and similar debt instruments				
Certificates of deposit				
Bills of exchange				
Unit trusts				
Investment trusts				
Mutual funds				
OEICs (open-ended investment companies)				
SICAV/Fs (an open-ended collective investment scheme)				
Closed-end company				
Options				

Future				
Swaps				
Forward rate agreements				
Commodity derivatives contracts				
Foreign exchange contracts				
Unit linked insurance products (where part of payment received is used for insurance while the rest is used for investing in securities)				
Bearer shares				
Please detail any other product which is classified as a “security” in your jurisdiction (e.g., insurance products such as variable annuities).				

TABLE 7: STR FILING BY FINANCIAL INSTITUTIONS FOR TRANSACTIONS EMANATING IN THE SECURITIES MARKET (Q.46)

Type of filing institution	2008	2009	2010	2011 (as on March 31)
Stock exchange				
Broker/dealer				
Sub-broker				
Fund manager				
AMC/Mutual fund				
Bank				
Financial advisor				
Collective Investment Scheme provider				
Portfolio Manager				
Depositories				
Depository Participants				
Share transfer agents				
Bankers to an issue				
Trustees to trust deed				
Registrars to issue				
Merchant bankers				
Underwriters				
Portfolio managers				
Investment advisers				
Custodian of securities				
Foreign institutional investors				
Credit rating agencies				
Venture capital funds				
Others Please specify				

TABLE 8: STR REFERRALS BY FIU (Q.48)

Year	Number of Referrals	Number of Prosecutions	Number of Convictions
2008			

2009			
2010			
2011(till) March			
Year	Entities Applying	Accepted	Rejected

**TABLE
9:
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**ACTION FOR AML/CFT IN THE SECURITIES MARKET (OTHER THAN PREDICATE OFFENCE)
(Q.52)**

Year	Number – only civil	Monetary Penalty		Number criminal only	Number – administrati ve	Number- any other sanction
		Amount in USD	Number			
2008						
2009						
2010						
2011 (till March 31,						

TABLE 10: PREDICATE OFFENCE INVESTIGATIONS IN THE SECURITIES MARKET (Q.53)

Year	Investiga tions initiated for ML	Inv. Completed for ML	Inv. Initiated for TF	Inv. Completed for TF	Fines in (USD) imposed for ML	Fines in (USD) imposed for TF	Convictio ns for ML (Number)	Convicti ons for TF (Numbe r)
2008								
2009								
2010								
2011 as on Marc h 31								

TABLE 11: REGISTRATION/LICENSING DATA (Q.56)

2008			
2009			
2010			
2011 (as on March 31)			

TABLE 12: NO: OF ON-SITE INSPECTIONS (Q.58)

Year	Number of On-site Inspections
2008	
2009	
2010	
2011 (as on March 31)	

8.2 ANNEXURE 2

Revised and simplified questionnaire

1. Who is the supervisor/regulator for the:

A) Securities market

B) AML/CFT requirements in the securities market?

Jurisdiction	Supervisor/regulator for securities market	Supervisor/regulator for AML/CFT requirements in securities market

2. Please provide Data of Gross Domestic Product (GDP) and Volume of Transactions on Stock Exchanges. (in USD)

Jurisdiction	GDP in USD Billion (2010 figures)	Volume of Transactions on Stock Exchange in USD Billion (2010 figures)	Volume of Transactions on Stock Exchanges as a % of GDP

3. Whether securities market offences, such as, insider trading, market manipulation and securities fraud have been designated as Money Laundering (ML) offences (Yes/No)?

Jurisdiction	Whether Insider Trading is designated as ML offence (Yes/No)?	Whether Market Manipulation is designated as ML offence (Yes/No)?	Whether Securities Fraud is designated as ML offence (Yes/No)?

4. Payment methods accepted for securities markets transactions:

A) Whether cash is accepted as a mode of payment for securities markets transactions (Yes/No)?

B) Are there any regulations/rules that restrict acceptance of payments made from bank account(s) of other than those belonging to the client (i.e. third party payments) for securities markets transactions (Yes/No)?

Jurisdiction	Whether cash is accepted as a mode of payment (Yes/No)?	Any regulations/rules that restrict acceptance of third party payments (Yes/No)?

5. What is the mode of settlement for securities transactions – physical securities mode or electronic mode?

Jurisdiction	What is the mode of settlement for securities transactions?	
	Physical mode (Yes/No)	Electronic Mode (Yes/No)

6. Whether there are rules/regulations for Know Your Client / Client Due Diligence (KYC/CDD) which require securities market intermediaries to collect and verify Proof of Identity and Proof of Address at the time of account opening for a client (Yes/No)?

Jurisdiction	Whether mandatory to collect and verify Proof of Identity at time of account opening for a client (Yes/No)?	Whether mandatory to collect and verify Proof of Address at time of account opening for a client (Yes/No)?

7. Whether there are rules/regulations which require securities market intermediaries to:

- C) Identify Beneficial Ownership (BO) details of the clients who are legal persons like companies, trusts, partnerships, etc. (Yes/No) and
D) Collect documents to identify the BO of legal persons (Yes/No)?

Jurisdiction	Whether mandatory to identify BO details for clients who are legal persons (Yes/No)?	Whether mandatory to collect documents to identify BO of clients who are legal persons (Yes/No)?

8. Whether there are rules/regulations which require securities market intermediaries to apply enhanced due diligence measures for high risk customers including Politically Exposed Persons (PEPs) (Yes/No)?

Jurisdiction	Whether enhanced due diligence measures to be applied for high risk customers (Yes/No)?	Whether enhanced due diligence measures to be applied for PEPs (Yes/No)?

9. Whether there are record keeping rules/regulations which require securities market intermediaries to maintain client due diligence documents and transaction details. (Yes/No). If yes, what is the period for which these records are to be maintained?

Jurisdiction	Whether there are record keeping rules/regulations for maintenance of client due diligence documents and	Period for which client due diligence documents and transaction details to be maintained

	transaction details. (Yes/No).	

10. **Whether any guidance has been issued to securities markets intermediaries regarding suspicious transaction triggers/indicators on Money Laundering/Terrorist Financing (ML/TF) through the securities markets (Yes/No)?**

Jurisdiction	Jurisdictions which have provided a list of specific suspicious transaction triggers/indicators

11. **Please provide data of Suspicious Transaction Reports (STRs) (product as well as financial institution such as, stock broker, mutual fund, CIS etc.).**

Jurisdiction	Product	Financial Institution
	2010	2010

12. **Whether the supervisor/regulator for securities markets checks compliance of KYC and AML/CFT norms during inspections of securities market intermediaries (Yes/No)?**

Jurisdiction	Whether compliance with KYC and AML/CFT norms is checked during inspections conducted by securities market supervisor/regulator (Yes/No)?

13. **Please provide a few examples of case studies, in brief, if any, in a separate sheet that is based on ML offences in securities markets and on STRs for the securities markets.**

8.3 ANNEXURE 3

Suspicious Indicators associated with ML/TF predicate offences

Suspicious Indicators Associated with Insider Trading

1. The customer makes a large purchase or sale of a security, or option on a security, shortly before news is issued that affects the price of the security;
2. The customer is known to have friends or family who work at or for the securities issuer;
3. The customer's purchase does not correspond to his or her investment profile. For example, the customer may never have invested in equity securities, but does so at an opportune time;
4. The customer's account is opened or significantly funded shortly before a purchase; and
5. The customer sells his or her position in a security in conjunction with a significant announcement about the security.

Suspicious Indicators for Market Manipulation

1. The customer engages in large or repeated trading in securities that are illiquid, low priced or difficult to price;
2. The issuing company has no apparent business, revenues or products or has experienced frequent or continuous changes in its business structure and/or undergoes frequent material changes in its business strategy or line of business;
3. The officers or insiders of the issuing company are associated with other low priced, illiquid or low volume companies;
4. The issuing company has failed to make required regulatory disclosures or has been the subject of a prior trading suspension;
5. A customer's transactions show a pattern of receiving physical securities or receiving incoming shares transfers that are then sold, with the proceeds wired out of the account;
6. The customer deposits physical securities together with a request to transfer the shares into multiple accounts that do not appear to be related, or to sell or otherwise transfer ownership of the shares;
7. One party purchases securities at a high price and then sells them at a considerable loss to another party;
8. A customer transfers securities between unrelated accounts for no apparent business reason; and
9. A customer engages in prearranged or other non-competitive securities trading, including wash or cross trades of illiquid or low priced securities.

Securities market related Fraud Indicators

1. The customer opens numerous accounts for different legal entities that the customer controls;
2. The customer receives many incoming cheques or wire transfers from unrelated third parties;
3. The customer allocates incoming third-party deposits among numerous accounts;
4. The customer makes numerous outgoing payments to third parties close in time to when the customer receives many incoming third-party cheques or wire transfers;
5. The customer's profile does not suggest a legitimate business reason for receiving many third party deposits; and
6. The cheques or wire transfers note that the funds are for an investment.

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