

**A Study on Methods of Transferring Assets Outside China by Chinese
Corruptors and Monitoring Methods for this Problem**

- Bank of China -

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Source:

The Bank of China produced the report “A Study on Methods of Transferring Assets Outside China by Chinese Corruptors and Monitoring Methods for this Problem” in 2008. It was confidential and intended for internal use only. It was then accidentally published on the Bank of China website for a short period of time, during which journalists were able to download the report. What follows is an unofficial translated version of the report.

See:

<http://www.theaustralian.com.au/news/world/accidentally-released-report-reveals-embarrassing-extent-of-chinese-corruption/story-e6frg6so-1226076938605>

Author: Leo Lewis

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MORE than 10,000 corrupt Chinese officials collectively took \$120 billion out of the country in a 15-year spree of embezzlement, bribes and defections, with some of the money ending up in Australia.

The revelations, laid bare in a report by the People's Bank of China that was never intended to be released to the public, shine an embarrassing spotlight on Chinese corruption; a problem seen by some as an Achilles' heel for the world's second-largest economy.

The report appears to have been mistakenly uploaded to an official website after winning a prize for the quality of its research. Official corruption remains a source of disgust and frustration to the Chinese population at large.

The pervasiveness of money laundering outlined in the report offers a damning indictment of the government's wars on corruption in the run-up to the Communist Party's 90th anniversary on July 1.

A handful of prominent cases, including one that involved the Ministry of Railways, have rattled China since the beginning of the year - but just as destabilising is the constant, low-level corruption that blights the lives of ordinary Chinese.

This week at least eight new websites came online to offer increasingly infuriated Chinese the chance to vent their anger - from “gifts” to doctors to perform operations correctly to the rigging of trials.

The same angry online communities, riled by the palpably widening gulf between rich and poor, pushed last month for the death penalty to be given to Xu Maiyong, the former vice-mayor of Hangzhou who was convicted of taking more than \$30 million in bribes and embezzlement.

The research, whose revelations of corruption are breathtaking even by Chinese standards, estimates that between 16,000 and 18,000 officials may have fled the country with monumental hoards of ill-gotten money between the mid-1990s and 2008.

In one paragraph, the report, which had the words “internal data, store carefully” on the front page, cautioned that unchecked corruption was putting communist rule at risk. “It is a direct threat to the cleanpolitics structure of the Communist Party and harms the foundations of its power,” it said.

Large amounts of the money, along with the officials who amassed it, headed for Australia or the US. Hong Kong was highlighted as a favourite springboard from which more senior officials could first leave mainland China and then flee to Commonwealth countries.

The defectors, according to the report, exploited both Hong Kong's status as an international aviation hub and the historic privilege of allowing residents to apply for visas on arrival in Commonwealth countries.

Less ambitious escapees, usually lower-ranking malfeasants, made for South-East Asian countries such as Burma and Thailand, while the more senior bribe-takers would make for tax havens in the Cayman Islands and Bermuda.

The most elite officials, said the report, would aim for Western countries such as Canada and the Netherlands, possibly moving through a small African or Eastern European country while documents were forged and time elapsed after their escape.

Some, revealed the People's Bank of China's 67-page report, smuggled money to the former Portuguese colony of Macau where it emerged, laundered through an accommodating casino, ready to fund a defector's life of opulence in Russia or Mongolia. The trail of officials bearing bags of banknotes and crossing from Shenzhen was described in the report as “like ants moving houses”.

The report, which was compiled by the central bank's money-laundering analysts and called “The routes that our country's corrupt officials transfer assets abroad”, described eight main conduits for moving money out of China.

Methods ranged from the “high-risk” option of a suitcases full of cash and a dash to the border, to convoluted networks of foreign intermediaries.

Senior managers from listed companies or state-owned enterprises, it said, would disguise the illegal transfers beneath legitimate remittances, cloaking the process with forged contracts and other documents that were destroyed.

The three-year-old document appears to have made it, fleetingly, into the public domain this week because the research was deemed so good.

The report won first place in the China Society for Finance and Banking's annual awards for financial research and, despite the warnings that it was for internal central bank consumption only, was put online as the winner of the prize.

It was removed from the People's Bank website moments after domestic media spotted it and began publishing its findings.

Title: Research on Methods for Chinese Corruptors to Transfer Their Assets to Foreign Countries and the Relevant Methods to Monitor Corruption

Chapter I Brief Introduction

No. 1 Definitions

1. Corruptor

The implication of corruption covers various layers of meaning. According to “Brain Law Dictionary”, corruption refers to the deeds of a person who makes profits for himself or others by intentionally doing something which is contrary to his job duty or anything which is not correspond to his right; or refers to the deeds of a government official or trustee who gains interests for himself or others through violating the limit of his responsibility or right, illegally making use of his position or status. What mentioned above includes both the deeds of making money illegally and corruption. According to the rule of the UN’s “Anti-Corruption Protocol”, corruption refers to the deeds of bribing the home country’s government officials, other countries’ government officials and officials from international organizations; the government official’s deeds of illegally making money, borrowing money from his company or department or any other embezzlement of the assets which is not his; insider trading using a government official’s influence; the abuse of one’s right owing to his position; illegally increase one’s own property; bribe within any private section; any intentional deeds of illegally taking the money within the private section. Corruptor refers to anyone who does what mentioned above, who can be any natural person, or legal representative of a company or organization, or staff member who performs public services. Corruptor also refers to any section or organization or individual who provides private services. According to the Chinese legal law, the main portion of the persons who commit the crime of illegally taking money and bribing are government officials, that is, persons who work for the government departments, government-affiliated companies, state-owned enterprises; persons who have been sent by the government to work for the non-state-owned companies, or non-profit organizations; and persons who perform the

public services abiding by the Chinese law. Given China's current strategic goal of fighting against corruption and the government's performing focus, this paper will focus on analyzing the corruptors of the following kind-- Chinese high-ranking officials who have illegally made profits in the government departments, government affiliated companies, state-owned enterprises and state-owned non-profit organizations.

2. Assets

According to UN's "Anti-Corruption Protocol" and "Attacking the Cross-Country Organized Crime Protocol", "assets" refers to any property, no matter whether it is material or non-material, whether it is movable or non-movable, whether it is formable or non-formable, and also refers to any legal document or paper work which provides evidence to the above mentioned property right. UN's "International Protocol of Stopping Providing Help to Terrorists" stipulates: "money" refers to various kind of monetary assets, whether it is formable assets or non-formable assets, movable or non-movable, and no matter or how it is obtained. "Money" can be presented in any form, including any electronic or digital legal documents, or certificates which provide proofs to the existing assets. "Money" includes, but is not limited to, bank deposit, travelling check, bank check, postal check, stock, bond, financial securities, money order and letters of credit. It can be seen clearly that "assets", "property" and "money" can be referred to as the same thing. The above mentioned definition expresses its extended width and variety of its expressive form. Judging from its legal element, the assets referred in this paper not only includes the corruptor's illegal assets, but also the legal assets in his hand. What has been explained is particularly made for the following purposes. First of all, "assets", especially the cash and the monetary share and stock obtained through illegal channels, can easily be merged into a corruptor's legal assets. Therefore, there is no way to distinguish the corruptor's legal and illegal assets.

Secondly, given the complicated situation that what the corruptor criminally obtains has been mixed, swapped, or even transferred to others, the international protocol advocates the measures of value confiscation, mixed confiscation, and the substitute confiscation, in order to confiscate the corruptor's illegal gains to a greatest extent. The aim of monitoring the corruptor's transfer of his legal assets to foreign countries is to prevent him from leaving the country, to control his legal assets when it is difficult to get back his illegal gains, to get him punished, and to retrieve the lost of the country.

3. Transferring the Money

Transferring money carries two layers of meaning. First, transferring money not only includes transferring through illegal channels, but also through legal channels. Looking at the mode of doing this job: The Financial Special Acting Group points out ,in “Evaluating a Report on China’s Anti-money-laundry and Anti-giving-money-to-terrorists”, that there are four major ways of money laundry in China: First, illegally smuggling the cash out of the country; Second, laundering the money through legal financial businesses, such as through cash trade, account payment, overseas businesses, loan and other financial businesses, and sometimes even opening a bank account or remitting the money using the fake ID; Third, laundering the money under the name of international trade, that is, smuggling the money or products out of the country by providing the fake import and export contracts, fake shipping documents, fake custom declarations and other relevant fake documents; Fourth, smuggling the money out through underground banking or through legal banks by establishing a “shell company” in a foreign country, making it possible to transfer the money through legal trade businesses and investments. With the rapid development of modern technology and the development of new products, now it is possible for the corruptors to transfer his money to foreign countries through electronic money, online financial services, stock options, forward foreign exchange options, and other new financial derivatives. In the actual process, the corruptors often succeed in moving their money out of the country by combining different kind of methods, as well as intertwining legal and illegal channels.

Second, viewing from the transferred subjects, the corruptors sometimes just transfer their illegal gains to foreign countries, while sometimes transfer legal assets under their control to the foreign countries first, and then, use the money illegally or just take hold of the money illegally into their own possessions. In actual criminal cases, some corruptors first transfer the assets of the state-owned enterprises into foreign countries under the name of investment, and then turn the money into their own accounts eventually, carrying out the process of transforming the assets from state-owned to private, from legal to illegal, from inside the mainland to outside the country.

4. Outside the Country

Here “Outside the Country” refers to the concept of legal units, not a pure geological concept. Legal units points to an area which has its own independent lawful system. From this perspective, Chinese Mainland, Hongkong, Macao and Taiwan all have their own independent lawful systems, though some are affiliated to mainland China constitutionally, that is, “the law of the special administrative region” is set by the Chinese People’s Congress. However, the lawful systems of the four regions are paralleled, with Mainland, Hongkong, Macao and Taiwan belonging to four different legal units. Moreover, under the framework of the IMF, the frequent cross-border trade refers to the cross of monetary and customary border, but not the country’s border. In China, the Mainland area and Hongkong, Macao area belong to different monetary areas using different kinds of money, so the corruptors’ transferring money to Hongkong or Macao can also be defined as transferring money to the places outside the country.

NO. 2: The Status Quo of Corruptors’ Transferring assets to Foreign Countries and the Threats it Poses

1. International Situation

The capital flight is also called assets flight, or illegal transfer of assets. Usually capital moves from developing countries to developed countries. Therefore, economist Tonell (1992) views capital flight as “the fluid of productive recourse from poor countries to wealthy nations”. There are economic, political and other causes for the capital flight. However, in recent years, illegal gains of money and corruption have gradually become the focal point in the research of capital flight. The corruptors’ transfer of wealth to other countries has been generally acknowledged as a major part of capital flight, with its proportion increasing gradually in the overall amount of capital flight. Though currently it is impossible to calculate accurately how much capital flight is brought about by the corruptors’ smuggling the money out to other countries, it is still certain that illegal gains of money and corruption are the main causes for capital flight in emerging market countries.

On December 17, 2007, the World Bank and the UN Drug and Crime Issue Office held a ceremony of the “Friends of the Stolen Asset Recovery Initiative” in the New York UN headquarter. A set of numbers issued at the ceremony illustrates that the corruption gain is up to 20 to 40 billion US dollars in the developing countries or in the countries in transition, which equals to 20 to 40% of the foreign aid given to them by the other countries all over the world. And much of the corruption gain has been transferred to the developed countries.

On the ceremony, the current World Bank Director Robert B Zoellick revealed that in Africa 25% of the country’s GDP is lost due to corruption, with its figure soaring up to 148 billion US dollars. Moreover, this situation is not only limited to Africa. In Nigeria, the former president Sani Abacha illegally took hold of 3 to 5 billion US dollars during his presidency, while the federal government of the country’s spending on the health and education is less than 5 billion US dollars in 2006. The Philippine’s former president Ferdinand Marcos illegally gained 5 to 10 billion US dollars, whose negative impact on the country’s long-term development has far much surpassed its direct fiscal loss. What he did actually degraded the government’s public services,

negatively influenced the investment from foreign countries, poisoned the microeconomic environment, and destroyed the reputation of the country's financial institutions. Philippine used 18 years to get back only 620 million US dollars and needs to take much longer time to recover completely from its loss.

The Director of the UN Drug and Crime Issues office Antonia Maria Costa pointed out on the ceremony that only less than half of the lost money will remain in its own country, according to what have happened in the past, and most of the money will be transferred to other countries. Claiming the lost money back is a very sophisticated process, and will become more and more complicated with some financial intermediary agencies developing new business models. As soon as the embezzled money leaves its own country, it can be divided deftly and hid in different financial instruments, making it even more difficult to be found and reclaimed.

Currently, there is another issue of the corruptors' physical escape into foreign countries, together with the problem of the corruptors' capital flight. If the corruptor succeeds in leaving his own country, it will become more difficult for the relevant government to get its money back as well as to attack the financial crime in the country. There are only few countries which have already got their lost money back. The typical instances are as follows: Nigeria got back about 500 million US dollars Abacha transferred to a Swiss bank; During 2001-2004, Peru claimed back 180 million US dollars its ex-intelligence-head Vladimiro Montesinos deposited in Swiss, US and other countries; and in May 2007, US and Swiss helped Kazakhstan get back its 84 million US dollars lost money. Yet, comparing to the amount of the whole flight capital, what has been reclaimed is only a drop in the ocean.

2. The Status Quo of China

Chinese officials started to escape from China at the end of the 1980s due to committing economic crimes. Up till now there is still not a generally recognized figure well available on how many corruptors have fled outside the country and how much

capital they have transferred to foreign countries. The only thing this report can present is to use all the previous reports available to sketch out an approximate situation.

According to the data published by the Ministry of Public Security in May, 2006, China had arrested about 320 economic crime suspects who had fled overseas. The cases directly involve monetary assets of nearly RMB 70 billion. Based on the information from the Ministry of Public Security and other relevant departments, there are around 800 economic crime suspects still on the run. The potential economic losses and the actual amount of assets that they have transferred abroad could not be settled until these suspects have been arrested and censured.

According to a research report published by the Chinese Academy of Social Sciences, since the middle of the 1990s, the overall number of the escaped Party and Government cadres, officials in the judicial and public security branches, senior-level administrators in the state-owned enterprises, as well as staff in the Chinese institutions stationed abroad, added up to 16,000-18,000, and these corruptors have taken with them around RMB 800 billion.

Here are some examples revealed by the Chinese official press about corrupted officials escaping from China or transferring assets to foreign countries:

1. High-ranking Officials – Cheng Kejie, former Vice Chairman of the Standing Committee of the National People’s Congress, illegally collected a huge amount of money up to tens of millions of RMB, the majority of which was transferred to Hong Kong under the name of his mistress or was deposited in foreign banks. Gao Yan, the Delegate of the 15th Party Congress and a high-ranking official in charge of the field of electrical power, enjoying the privilege of a Secretary-level official, is still on the run. Other examples include Jiang Jifang, former head of the Tobacco Monopoly Bureau of the Henan Province, former manager and former Party Secretary of the province’s tobacco company; Lu Wanli, former Director of the Department of Transportation of the Guizhou Province; Lan Fu, former Deputy

Mayor of the Xiamen City; Yang Xiuzhu, former Deputy Director of the Department of Construction at the Zhejiang Province who also once served as Deputy Director of Wenzhou, in charge of the infrastructure projects of the city, among others.

2. People in charge of the state-owned enterprises and financial departments – three branch managers at the Bank of China, Kaiping Branch in Guangdong Province --- Xu Chaofan, Yu Zhendong and Xu Guojun, fled with up to US \$ 483 million. Other examples include Cheng Sanchang, former Chairman of the Board of Yugang Company in Henan Province; Dong Mingyu, former general manager of the Henan Garment Import&Export Corporation; Luo Qingchang, former Chairman of the Board of Yunnan Tourist Group Corporation; Zhou Changqing, former general manager and former manager of the Department of Automobiles at the state-owned enterprise Xi'an Electromechanical Equipment Group Corporation; Chen Chuanbai, former Manager at the Kunming City Cigarette Factory, among others.

The destinations where these suspects would abscond are concentrated in the areas North America, Australia, and Southeast Asia. Typically, if the case involves a comparatively small amount of money and the corruptors are comparatively low-ranking officials, most of them will flee to China's neighboring countries, such as Thailand, Myanmar, Malaysia, Mongolia, Russia, among others. By contrast, if the case involves a large amount of money and the corruptor is a senior-level official, most of them will escape to the western developed countries, such as the United States, Canada, Australia, Netherlands, and so forth. Some corruptors who are unable to directly obtain visas to flee to Western Countries would conceal themselves first in the small countries in Africa, Latin America, and Eastern Europe, waiting for the chance to move to western countries. A fairly large number of corruptors use Hong Kong as a transit center, taking advantage of Hong Kong's position as an international air traffic hub and the convenience that Hong Kong residents can travel to former member nations of the British Commonwealth with "Visas on Arrival", to finally escape to other countries.

3. The Dangers

(1) Political Harms

1. Facilitate More Officials to Commit Crimes of Bribery and Embezzlement; Endanger the Legitimacy of the Communist Party's Ruling Over China

As corruptors transfer their assets to foreign countries, the phenomenon will foment more officials to conduct similar crimes and therefore harm the legitimacy of the Party. The Report of the 17th National Congress of the Communist Party of China points out that the characteristics and goals of the CCP have made it a destiny that the Party is incompatible with the phenomenon of corruption, as fire could not coexist with water. To punish and prevent corruption resolutely and effectively is now a critical duty of the government which the Party must necessarily pay specific attention to, since it is closely related to whether the Party could still receive enough support from the general public, which is a **life and death issue for the Party**. If corruptors could easily transfer assets abroad, it will provide a harbor for the corruptors and offer them a chance to make high profit-margin with low risks. It will in turn ignite and seduce more crimes of bribery and embezzlement, directly threaten the Party's goal of constructing a clean and honest government, and finally endanger the legitimacy of the Communist Party.

2. Increase the Difficulty and the Cost of Law Enforcement

As corruptors transfer assets to foreign countries, it increases the difficulty and the cost of law enforcement in China. Owing to the geographical, institutional and cultural factors, usually it is very difficult for countries to monitor, investigate, control, and recover the assets which have been transferred abroad. The cross-border transfer of the capital disguises the traces of such crimes as bribery and embezzlement, sets up impediments to the judicial branches, preventing them from discovering crimes, capturing the criminals and recovering the ill-gotten assets on time. Meanwhile, it also

allows the corruptors to enjoy their ill-gotten gains and shirk crackdowns. Moreover, failure to punish criminals effectively decreases the deterrence of the judiciary branch, and in turn will facilitate more corruptors to make a reckless move, forming a vicious cycle.

3. Seriously Damaging China's International Image

When corruptors transfer assets abroad, it will severely destroy China's international image. As the largest developing country and a member of the UN Security Council, China is at a critical juncture of continuing its reform and open up policy. If China could not effectively curb corruption and allows a large amount of corrupted assets to be transferred abroad, it will demonstrate to the international community that China is suffering from a series of problems such as having governmental corruptions, a defective legislative system, an unsound financial monitoring system, among others.

Particularly under the current complicated environment of international politics, there exist some political forces who always intentionally collect and fabricate negative news reports about China, trying to vilify China's political system. At this juncture, corruptors transferring assets to foreign countries will elicit a series of problems, such as political cleavage, law enforcement disputes and economic disputes, which will in turn result in a severe damage to China's international image.

(2) Economic Dangers

1. Result in a Wastage of Social Wealth, and Destroy the Fruit of Economic Development

When corruptors transfer assets abroad, it will elicit a wastage of social wealth, and destroy the fruit of economic development. Most of the assets which are transferred to foreign countries are difficult to discover and impossible to recover, leading to a huge loss of national wealth. It is reported that in New Zealand, the motor vehicle dealers selling high quality automobiles have already ranked young Chinese students who

study abroad as their highest-end customers, even ahead of the successful entrepreneurs in New Zealand, since these Chinese princelings frequently flaunt their wealth through purchasing extravagant cars with full payment up front. There is also breaking news in the U.S., in the Acadia District of Los Angeles, and in Manhattan, New York, that the influx of Chinese households with “unclear background” has driven up the overall housing prices in these areas. Many of these high-end consumers are the relatives of Chinese officials or of administrators of Chinese state-owned enterprises. The astonishing amount of wealth have been taken hold illegally in China, and then injected into the economic circulation system in developed countries.

2. Result in the instability and the distortion of the economy, the failure of economic regulation policies, and bring about negative impact on economic construction

First, the activity of transferring assets can elicit abnormal flows of capital, influence the formation of interest and exchange rates, disturb the financial markets and pose a threat to China’s implementation of macroeconomic policies. Second, the trade and investment activities aiming at transferring assets can result in relevant businesses be adjusted without following the market rules and the country’s industrial policy, which in turn will cause a deformed development of China’s economic structure and might elicit economic turmoil. Research has found that capital flight could augment China’s financial cost, decrease China’s employment opportunities, and in turn increase the inequality gap between the rich and the poor. After capital flees abroad, the government will shift its tax burden to low-liquidity assets (such as land and labor), which will therefore increase the income gap and decrease domestic consumption and the level of employment.

3. Increase Financial Risks and Threatens Financial Stability

When corruptors transfer assets abroad, it will increase financial risks and threaten the financial stability. From the international experience, severe capital flight could become a force that eventually results in the bankruptcy of a country. A greater cost is

that in the next few decades, the credit rating of a country will fall sharply compared to its peers in the international community. A typical example is Mexico: The IMF's investigation report indicates that the financial crisis broke out in Mexico in 1994 was induced by the outflow of capital from Mexican investors, rather than foreign investors dumping the (Mexican) pesos due to the instability of Mexican's political system, as was predicted by the market. Moreover, officials and staff inside the financial institutions receiving huge bribes, embezzling and transferring assets abroad will threaten the sustainability of the organization and the confidence from the general public, and even bring about an oscillation of the overall financial system. The Bank of China, Guangdong Kaiping Branch case and the case of Gao Shan of Harbin shocked the whole world, and pose a severely negative impact on the development of China's banking industry.

NO 3. The Legal Basis of Monitoring

When choosing monitoring strategies to keep an eye on the transfer of assets to foreign countries by corruptors, China adopts an anti-money-laundering strategy, having expanded its anti-corruption channels, and having strengthened its effectiveness. Hence, the legal basis for monitoring the transfer of assets abroad by corruptors must be launched within the framework of the anti-money-laundering system. Acknowledging that corruptors transferring assets abroad is one of the crimes of money-laundering is a necessary prerequisite to proceed to the stage of monitoring. Since monitoring is a core strategy and institutional innovation to fight against money-laundering, only when there is a suspicion of the crime of money-laundering could there be a valid basis to initiate the monitoring strategy. The system of discerning customer identities, of storing the records of preserving customer identities and transactions, of reporting large or suspicious transactions, and of reporting cross-border cash flows, are the pillars of the anti-money-laundering strategy. These systems provide crucial materials and information, and are the necessary components for the monitoring work to be done successfully. The financial intelligence agencies are the specialized agencies for receiving, analyzing and transferring suspicious transactions, and they are the "central

tissues” for mounting the monitoring strategy. Based on the analysis above, the discussion of the legal basis of the monitoring strategy towards corruptors transferring assets abroad will revolve around three major aspects: Initiating the monitoring process; implementing the monitoring process, and organizing the monitoring strategy. This report will look into the international laws, refer to the laws of foreign countries and analyze the relevant Chinese laws.

1. The International Legal Basis

(1) The necessity of launching a monitoring strategy —Corruptors transferring assets abroad is one of the types of the crime named “money laundering”

1. Corruption is a predicate offense of money-laundering

The motivation and goal of the corruption crime is to obtain illicit gains. In order to prevent ill-gotten gains from being revealed and confiscated, corruptors constantly try by every means to conceal, disguise, and transfer illegal assets, so as to legalize the gains superficially. Money-laundering activity is a continuation and extension of corruption behaviors. Meanwhile, cleaning up the corrupted capital is a major segment and integral component of every corruption crime. Money-laundering is an instinct demand for corruptors. Therefore, in order to fight against corruption, China must attack the money laundering behaviors. Many international conventions have made the corruption crime a predicate offense of money-laundering, bringing the existing anti-money-laundering legal regimes and enforcement mechanisms into the anti-corruption framework.

The United Nation’s “Convention Against Corruption” emphasizes, in its preamble, that the countries who have signed the Convention should “concerned about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money laundering”. Moreover, the Convention stipulates in Article 23 (Laundering of proceeds of crime), paragraph 2 (b), that “Each State Party

shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention.” In this Article, “at a minimum” is an obligatory demand for the countries who have signed the Convention, requiring those countries to adopt legislative measures to define corruption crimes such as “bribery of national public officials” as predicate offenses of money laundering.

The “United Nations Convention Against Transnational Organized Crime” Article 6 (Criminalization of the laundering of proceeds of crime) paragraph 2 (b) stipulates that “Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups.” In this Convention, article 8 refers to the “criminalization of corruption”. According to this obligatory requirement, every country who has signed the Convention should classify the corruption crime as a predicate offense to money-laundering.

2. Transferring ill-gotten gains abroad is an important manifestation of money-laundering

Taking an overview of the definitions of money-laundering in International Conventions, we could see that transferring illicit gains to foreign countries is an important manifestation of money-laundering. The United Nation’s “Convention Against Corruption” Article 23 paragraph 1 stipulates that each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally: (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate

offence to evade the legal consequences of his or her action; (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime. It means that each country who has signed the Convention should define and punish the crime of transferring ill-gotten gains, including the illicit gains from corruption, as equal to the crime of “money laundering”.

The “United Nations Convention Against Transnational Organized Crime” Article 6 paragraph 1 has the same requirement.

(2) The Detailed Implementation of the Monitoring Strategy

1. The Scope of Monitoring

The “Convention Against Corruption” Article 14 paragraph 1(a) requires that “each State Party shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions”; Paragraph 2 stipulates that “States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.” These two paragraphs put forth a comprehensive stipulation with respect to making use of the financial institutions or transfer assets abroad in the form of cash and negotiable instruments, as well as raising corresponding monitoring requirements. In this sense,

implementing a monitoring strategy on the transfer of ill-gotten gains from corruption should be included among the above-mentioned monitoring requirements.

2. Specific Requirements

The “**Convention Against Corruption**” Article 52 specifically regulates “Prevention and detection of transfers of proceeds of crime”. Paragraph 1 requests that “each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer”. Paragraph 2 requires that each state party should “issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and recordkeeping measures to take concerning such accounts”; Moreover, each State Party should, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify. The previous two paragraphs are concretely stipulated based on the principle of “understanding your customers” while mandating the request of severe checkup on influential government officials. Paragraph 3 requires each State Party implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving their customers,

which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner. Paragraph 4 stipulates that, With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group. Paragraph 4 further strengthen the importance of conforming to the “real name system” and the principle of due diligence. Paragraph 5 requires that each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with the Convention. This paragraph integrates the harsh bank account investigation system with the property reporting system for the government officials, providing accurate fundamental documents for monitoring the property status of government officials. All these are advantageous to the early and effective containment of the corruptors’ attempt to transfer their assets abroad. Paragraph 6 specifies that each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance. This paragraph requires government officials to issue reports with respect to their assets in the foreign

countries, or the assets controlled by them outside the country. It also obliges them to maintain the transaction records of the bank accounts.

Recommendation 6 in the “**Recommendations of the Special Task Force on (Money-Laundering) Financial Activities**” recommends that, with respect to the celebrities in governmental circles, apart from the implementation of dutiful routine inspections, financial institutions must also adopt risk-administration systems to determine whether their customers are **public political figures** or not. Meanwhile, they can only establish business relationships with this group of customers after they have obtained the approval from the high-ranking administration and supervision authorities, while adopting rational measures to define the sources of their property and capital, and adopting stricter measures to do afterward monitoring jobs on the business deals. According to the definition, “public political figures” refers to those who hold eminent public jobs at present or in the past, such as the head of a country, the number one government leader, the high-ranking politician, the high-ranking governmental, legal, or military personnel, the high-ranking administrative personnel of state-owned enterprises, or the important Party officials. Similar to the reputational-risk of the public political figures themselves, there are also the reputational-risk owing to the business relationship with their family members and their close colleagues.

These provisions all emphasize the importance of exercising the enforced inspection on prominent political figures and the sustainable monitor towards them, as this group of people is at high risk for committing money-laundering crimes. Therefore, conducting enforced investigation on their accounts and on the accounts of those who are related to them, while doing risk administration and exercising continual monitoring on them, are major components in the effective prevention against the transfer of assets abroad by corruptors.

(3) The organizational safeguard structures of monitoring — the essential responsibility of the financial intelligence institutions

The “**Convention Against Corruption**” Article 14 requires that all countries having signed the treaty are supposed to ensure that their administrative, management, law enforcement and other agencies aiming at anti-money-laundering (where the country’s own law permits, this can also include judicial institutions) are able to launch, at home and abroad, **cooperative exchange of information** about money-laundering activities conforming to their national laws. For this purpose, they are obliged to consider the setting up of financial intelligence institutions as the national centers for collecting, analyzing and passing on the potential information about the money-washing activities. Article 58, specifically under the heading of “**Financial Intelligence Institutions**”, stipulates that nations having signed the treaty must mutually cooperate with each other to prevent and attack the crimes of transferring illegal gains, set forth by this Convention, and to popularize the ways of how to retrieve the lost money. To that end, nations having signed the treaty should consider establishing financial intelligence institutions, so that they can be responsible for receiving, analyzing, and reporting to the offices in charge, the information about the suspicious financial transactions. “**United Nations Convention Against Transnational Organized Crime**” also has an equivalent provision.

“The 40 Recommendations Special Task Force on (Money-washing) Financial Activities” Item 26 requires that “every country is supposed to establish a financial intelligence center to be the national center to receive (with permission, it can also ask for), to analyze and to transmit reports about suspicious transactions and other relevant information about money-laundering and financing activities of terrorists. The financial intelligence center needs to be able to directly and indirectly make use of the necessary financial, administrative, and law enforcement information in a timely manner, so that it can accurately execute its relevant role, including the role of analyzing the suspicious transaction reports.”

Financial intelligence institutions carry out the task of overall monitoring on the potential corruptive activities, relying on the reporting system on large-scale transactions and suspicious transactions. At the same time, they succeed in narrowing to important monitoring objects, through the strict censorship and continued monitoring on the bank accounts of prominent political figures. Financial intelligence institutions, as the platform and the hub for “developing cooperation and exchanging information between the nations worldwide”, are able to open up intelligence interactions with nationally-authorized counterpart organizations across borders, and to entrust investigations and track down the directions in which the assets corruptors have transferred. Furthermore, such activities **may not require MLAs, or criminal conviction etc., and neither do they require a bilateral treaty at the national level. Hence, intelligence interchange is a convenient shortcut, making it easy to maintain secrecy.** Tracing both inside and outside the country provides the feasibility to track down the entire flow pattern of the corruptors’ assets. In a word, financial intelligence institutions successfully implement a novel structure globally to prevent the corruptors from transferring assets outside the country, systematically, timely, actively, and foreseeably. It is a systemic innovation in the global campaign on fighting against corruption, supplying an organizational structure to ensure the effective monitoring of the transfer of assets abroad by corruptors.

3. The Domestic Legal Basis

In the midst of the anti-corruption campaign, China’s Party and Government have been extremely attentive to the problem of money-laundering. The **Chinese Communist Party Central’s outline** on “**Setting up Robust Education, Institution, Supervision and Prevention systems as well as harsh penalties on Corruption**”, published in 2005 specifically indicates that China intended to establish robust anti-money-laundering systems, and at the same time, to “build early-warning systems for effectively monitoring large-scale capital flow outside the country, and the systems for sharing financial information.” The work report of the fifth session of The Central Discipline Commission (Central Commission for Discipline Inspection of the Communist Party of

China) also clearly required that “China take a step forward in the strengthening of the system for reporting large-scale and suspicious capital transactions, and in improving the capital monitoring system, and in attacking the money-laundering activities.” It can be seen that anti-money-laundering has already been a component in the country’s anti-corruption task, becoming an important strategy in punishing and preventing corruption. The major demonstration of using anti-money-laundering mechanisms with respect to corruptors’ transferring assets abroad is found in the following laws:

(1) Criminal Law

1. Money-laundering Crimes — “Criminal Law Revised Draft Six”

The “People’s Republic of China Criminal Law Revised Draft Six” of June 2006 added the crimes of corruption and the financial crimes, and expanded the scope of predicate offenses related to money-laundering. According to this Article’s provisions, it is certain that assisting corruptors to transfer assets outside the country also constitutes a money-laundering offense.

2. Crimes of Concealing Foreign Assets

Article 359 of the criminal law stipulates that the country’s governmental officials are supposed to report their deposits outside the country to the offices in charge, in accordance with the national regulations. If the amount of overseas assets is comparatively large and is concealed and not reported, there will be a limited term of imprisonment for less than 2 years, or detention. If the violations of the law are comparatively minor, disciplinary actions will be left up to the unit where the governmental official works, or to the officials higher up the chain of command. Based on this Article, the properties of governmental officials must be reported according to regulations, no matter whether the assets are obtained legally, illegally, or criminally. All cases in which properties are not reported or under-reported have criminal

implications. This regulation provides a legal basis for using the criminal law to punish the transfer of assets overseas by corruptors.

(2) Anti-Money-Laundering Law

The provisions of the Anti-Money-Laundering Law that was officially implemented in January, 2007 provide a more explicit legal basis for conducting monitoring activities on corruptors who may transfer assets outside the country.

1. Bringing the prevention of crimes of corruption into the anti-money-laundering mechanism

The “Anti-Money-laundering Law” Article 2 is about the provisions that define what anti-money laundering is. According to the provisions of this Article, adopting corresponding measures of anti-money-laundering activities to prevent the disguising, or the hiding of gains from bribery and corruption, as well as to trace the sources and nature of illegal gains, is an important component of the anti-money-laundering practice. The goal of anti-money-laundering is to prevent anti-money-laundering activities. To curb money-laundering activities, it is not enough to simply relying on the criminal laws. It is crucial to set up and to improve necessary financial monitoring measures. Monitoring on the corruptors who may transfer their assets to the foreign countries helps to carry out the goal of prevention-based anti-money-laundering activities.

2. The basic anti-money-laundering system

The “Anti-Money-Laundering Law” Article 3 provides that all the financial institutions, and their subordinate institutions, established within the borders of the People’s Republic of China, as well as some special non-financial institutions, are supposed to implement specially mandated anti-money-laundering operations. That is, they must comply with the law in implementing prevention and monitoring measures, establishing

a sound system for determining customer identities, for maintaining the records of customer information and transactions, for reporting large-scale transactions and suspicious transactions to relevant offices in charge, and for implementing all their anti-money-laundering obligations. This Article is about the regulations with respect to the duty of anti-money-laundering and the basic systems of anti-money-laundering. Out of the three systems concerning distinguishing customer identities, reporting large-scale transactions and suspicious transactions, and maintaining data about customer identity and transactions, the first one is the most fundamental one, because only after the customer identity has been distinguished, can the financial institution decide what financial services the customers need; whether the flow of their account is consistent with their identities and professions; and whether the origins of their capital or the use of the said capital fall in the suspicious category. Articles 16-18 of this Law provide in detail the specific requirements of the system for distinguishing customer identity, and especially in provisions of Article 18, which recognizes that when the financial institutions are discerning the customer identity, they can verify, when necessary, the customer's relevant identity information from the Ministry of Public Security, or from such departments as the administration and management of industry and commerce department. Obtaining the relevant matching information from these departments is beneficial for more accurate verification of the identity of the person who is mainly doing the business. Meanwhile, the system for reporting large-scale transactions and suspicious transactions is the key to anti-money-laundering, while the collection, analysis, and reporting of data about transactions are the fundamental tasks in anti-money-laundering. If it (i.e., the task) departs from reporting transactions, it is not possible to discover the information about the suspected money-laundering transactions, resulting in the anti-money-laundering practice becoming invalid (just like the state of water without a source, and a tree without roots). Article 20 of this Law provides that financial institutions are supposed to report large-scale transactions and suspicious transaction to the China national anti-money-laundering monitoring and analysis center. According to the provisions described above, in the actual practice of distinguishing the identity of the customer, if it is found that the characteristics of the transactions are obviously inconsistent with the government officials' identities, then it is necessary to

report the said large-scale transaction or suspicious transaction to the China national anti-money-laundering monitoring and analysis center. If the China national anti-money-laundering monitoring and analysis center could not eliminate them from the suspicion of being involved in corruption or money-laundering, then the center should report the case to the investigative office.

3. The system of reporting cash flow across the borders

Carrying out cash and securities abroad is an important way for corruptors to transfer assets abroad. In order to monitor these behaviors comprehensively and effectively, it is necessary to collect information about that. The “Anti-Money-Laundering Law” Article 12 stipulates that when Customs discovers somebody entering or leaving the borders with cash or anonymous securities whose value exceeds the regulated amount, the customs should report the situation to the anti-money-laundering department in time.

4. The Strategy of Temporary Freezing

Through the monitoring strategy, when corruptors are discovered to be transferring assets abroad, relevant departments should adopt the freezing measures, so as to recover the losses of the country in a timely manner. This is also the aim of carrying out the monitoring strategy towards the capital transactions of corruptors. The “Anti-Money-Laundering Law” Article 26 requires that if the suspicion of money-laundering cannot be eliminated through investigation, the case should be reported to the investigative agencies that have administrative authority. If the customers seek to transfer abroad the capital in the accounts associated with the investigation, temporary freezing measures could be adopted after receiving approval from a responsible person in the anti-money-laundering department under the State Council.

5. International Cooperation to Fight Against Money-Laundering

The “Anti-Money-Laundering Law” Article 28 stipulates that the anti-money-laundering department under the **State Council**, based on the authorization from the State Council, should represent the Chinese Government to cooperate with foreign governments or with relevant international organizations to fight against money-laundering, and, according to the law, could exchange information and materials relevant to anti-money-laundering with anti-money-laundering institutions abroad. When corruptors transfer assets to foreign countries, inevitable they will leave behind some information about their transactions abroad. Against this backdrop, Exchanging intelligence information with the international community provides a possibility to acquire comprehensively the information of cross-border transactions of corruptors and to implement effective monitoring strategies.

6. The Anti-Money-Laundering Information Center

The “Anti-Money-Laundering Law” Article 10 requires the establishment of an anti-money-laundering information center by the anti-money-laundering department under the State Council. This center should be responsible for receiving and analyzing large-scale and suspicious transactions, for reporting the results of analysis to the anti-money-laundering department according to regulations, and fulfilling other responsibilities given by the anti-money-laundering department. This Article makes clear the position and responsibility of the China anti-money-laundering Monitoring and Analysis Center and offers an organizational protection to ensure the successful implementation of monitoring and analysis strategies. Article 11 specifies that in order to fulfill its anti-money-laundering obligation, the anti-money-laundering department can acquire necessary information from relevant departments and agencies in the State Council, and that certain relevant departments and agencies possess an obligation to provide the information. The anti-money-laundering department should report the progress of its anti-money-laundering work to the relevant departments and agencies in the State Council periodically. Monitoring the cross-border transfer of corrupted assets needs the cooperation and coordination of different forces. This Article provides a legal basis for different departments to coordinate with each other to fight against money-

laundering, as well as a legal basis for them to strengthen the information exchange and sharing.

(3) Other Laws and Regulations

In order to concretely implement the regulations in the “Anti-Money-Laundering Law” relevant to discerning customers’ identities, preserving the materials of the customers’ background and transaction records, and reporting large-scale or suspicious transactions, the People’s Bank of China, independently or along with other supervisory agencies, successively released a series of regulations, namely, “Financial Institutions Anti-money Laundering Provisions”, “Administrative Measures for the Financial Institutions’ Report of Large-sum Transactions and Suspicious Transactions”, “Measures on the Administration of Client Identity Identification and Materials and Transaction Recording of Financial Institutions”, among others. These regulations provide direct legal basis for relevant agencies to collect, monitor, and analyze large-scale and suspicious transactions of corruptors. Furthermore, regulations such as “The Provisions on the Real Name System for Personal Deposit Accounts”, “Commercial Banking Law”, “Insurance Law” “Securities Law”, among others, also provide, from different aspects, legal grounds to monitor the asset transfer to foreign countries by corruptors.

Chapter II The Major Channels of How China’s Corruptors Transfer Their Assets to Foreign Countries

No.1 Transferring assets through cash smuggling

The concept of money covers both its narrow and broad definitions. The “narrow money” refers to the cash widely circulated in an economy, which is issued by every respective country’s central bank conforming to the country’s law, including both notes and coins. It is usually called Mo. The broad definition of the money refers to the cash

in stock, bank deposits and other powerful paper proof which can be turned into money. The concept of “money” this paper will discuss only refers to its narrow definition, that is, Mo. Compared with other methods of account settlement, cash has its advantageous characteristic of carrying no record when trading, easy for common use, and being difficult to be traced back for any transaction record. That is why corruptors tend to make use of this way to transfer their money outside the country, as this often poses greater difficulties for the monitoring department to find and keep track of them.

There are two major ways for the corruptors to transfer their money outside the country. Firstly, they just put their money in their luggage, carrying them out by themselves directly. This method is easier and cost much less, compared to other methods. However, the amount of money the corruptors can transfer is limited while it may also incur high risk, as there is a possibility that they can be captured by the custom or border protection officers with the valid criminal evidence --- the cash in their bags. Secondly, the corruptors can rely on some agents (mainly underground banks) to do so. They usually hire some couriers in underground banks to move the money out, applying the means of “Ant Moving”, that is, bringing limited amount of money each time, but shuttling back and forth ample of times. What these agents often make use of are the bordering custom offices between Shenzhen, Hongkong, Zhuhai and Macao. When these agents have succeeded in getting the money out, they will deposit the money into the bank through some foreign currency exchange branches in Hongkong and Macao (usually they are affiliated to the underground banks). Though it is more bothersome and expensive (having to pay the underground banks) by resorting to this method, it incurs lower risk. Even if the couriers were captured when going through the customs with the money in their hands, it is nearly impossible for the relevant department to trace back to the underground banks. Moreover, even if the underground banks are discovered, it is extremely difficult to find out their trustees and the trustees’ identities, owing to their very strong sense of anti-scouting by destroying their business records regularly.

Case study: Wang Jie cash smuggling case

On October 4th, 1999, Wang Jie, the general manager of a certain restaurant in Xi'an, went through the customs with 80 thousand US dollars with him, without reporting to the U.S. Custom. He was detained by the U.S. Custom at the Detroit Airport. Against this backdrop, the U.S. side discovered another 124 thousand US dollars in the US banks under the name of Wang Jie, along with his wife, Wu Hong. Among this, \$75,000 was remitted to the U.S. through a Hongkong bank. Later, under inspection, Wang Jie was found to have usurped 1,310,000 RMB from the restaurant's assets when he was the manager of that restaurant. He acquired that amount of money mainly through creating a fake list of employees who actually did not exist while taking in "their salaries", as well as by privately gazette, counter balance the account using fake invoices, taking in sales commission illegally, issuing more invoices when doing business, etc. Wang also overdraw more than 10,000 RMB from the bank, making his overall illegal money up to about \$ 160,000. What Wang Jie brought out to the US is exactly the money he usurped by resorting to his position as the manager of that restaurant.

No.2: Transferring money outside the country by making use of the substitute remittance system

The substitute remittance system in China is represented mainly by underground banks, which is the commonly known name for illegal financial institutions, established without the legal permission from the nation's relevant financial administrative agencies. Underground banks are run mainly for the purpose of obtaining money illegally. Owing to the different geological environments and different market demands, the management patterns of underground banks differ from each other. They can be mainly categorized into three types: the first focuses on the illegal transactions of foreign currencies and illegal cross-border dollar exchanges; the major business of the second category is to illegally absorb deposits and issue loans; the third one concentrates on doing illegal pawn businesses and exercising illegal usuries. The Chinese substitute remittance system is mainly composed of the first category of

underground banks mentioned above. The underground banks this paper will discuss also refer to the first type.

Taking the currency exchange between the RMB and foreign currencies as an example: Underground banks process the swap between the RMB and foreign currencies indirectly and remit indirectly as well, without resorting to the normal direct money exchange procedure. In this way, it is not necessary for the RMB to flow out of China, while foreign currencies are also not necessary to flow in for the purpose of currency swap. Each of the two exchanged currencies can be circulated correspondently in their respective countries. At the same time, the operation of the foreign currency funds is controlled and circulated outside the country by the substitute remittance institutions inside the country. Therefore, their customers' remittance process can be operated directly outside the country without going through any domestic procedure. For instance, when their domestic customer is in need of foreign currency, the substitute remittance institutions will take in RMB inside the country first, and then ask their agents outside the country to deposit the relevant amount of foreign currency into the designated account in the foreign country. Similarly, when their foreign customer needs RMB, the substitute remittance institutions will ask the customer first to deposit the foreign currency into the designated accounts in certain banks they control in the foreign countries, and then they will pay RMB inside the country. The operation of the funds are divided into two parts, namely, inside the country and outside the country. In both parts, the substitute remittance institutions establish their respective networks, or different branch networks. Resorting to this means of operation, they manage to circulate the money inside the country and outside the country separately and hedge the money properly. As a result, it is possible for the RMB to circulate inside the country, while foreign currencies not necessary to inflow from the outside, which is commonly called "hit the number (*Dashu*)".

If a domestic customer wants to remit money to a certain person outside the country through a substitute remittance institution, he should go through the following procedure as illustrated by graph one (remitting money from foreign countries to

persons inside the country will go through the same procedure, only in the opposite direction).

Inside the country: Payer → pay the money (authorizing the code) → to a certain substitute remittance institution through fax, e-mail, or telephone (authorizing the code)

Outside the country: certain substitute remittance institution → pay the money (authorizing the code) → Beneficiary (person who collects the money)

The main body of people who make use of this way to conduct cross-country money transaction is quite complicated. Apart from the corruptors and high-ranking administrators the state-owned enterprises who resort to this method to transfer their illegally gained money and state assets (for the purpose of usurping into their own pocket later) to foreign countries, some overseas workers and students also use this way to remit money, as its fee is comparatively low and its process is also comparatively simple. Moreover, some companies also resort to this method to do cross-border business, transferring their “grey income” into foreign countries, as they intend to evade the tax as well as to enjoy the privilege the government gives to the foreign investors. Meanwhile, some smugglers, drug traffickers and terrorists usually rely on this way to transfer their black money.

No 3: Transferring the assets to foreign countries by taking advantage of the business deals under the current account

1. Pay in advance the import loans while extending to collect the export remittance

Usually corruptors succeed in achieving the aim of letting part of the funds remain in the foreign countries for a long time, by making use of this specific business deal of paying in advance the import loans while extending to collect the export remittance. China exercises the import payment in foreign exchange verification and the export

payment in foreign exchange write-off system. Some criminals utilize the weakness of the online verification procedure, achieving the aim of transferring the assets to foreign countries, by adopting the measures of questionable verification, delayed verification, or simply evade the verification.

The corruptors, who resort to this method to transfer the assets, are mostly high-ranking administrators in certain enterprises, who usually are able to influence both their own enterprises and their international trade partners, or are capable of exerting impact on their counterparts through their own enterprises, or sometimes even can establish “shell companies” in the foreign countries, which are connected to their own enterprises inside China.

Case study: Song Jianping’s Suspected Corruption Case

On January 28, 2008, Song Jianping, the so-called “number one corruptor” in Shanxi Province, was convicted and sentenced to life imprisonment on the first trial, owing to corruption and other criminal deeds. He was also be deprived of his life-long political rights, and all his personal properties were confiscated.

Song Jianping was the ex-manager of the Shanxi Dadian Trade and Business Company, which is a famous import and export company in Shanxi, ranking first as far as its import and export volume is concerned in Shanxi.

Of what Song Jianping has been accused, one of the stories people pay most attention to is: from March to June in 2004, Song succeeded in hiding 17.98 million US dollars (equaling to about 150 million RMB according to the exchanging rate then) in foreign countries, out of the exporting businesses of coke between Dadian Trade and Business Company and Swiss International Metallurgy Resource Company. When the case was discovered, that amount of money had not been remitted to the account of Dadian Company, still in the account of that Swiss company.

2. Remitting money to foreign countries through forging commissions and other service trade accounts

Remitting money outside through counterfeiting or falsely increasing the amount of commissions, consultancy fees, technological patent fees, advertisement fees and other service charges under the service trade account, is the commonly used means to illegally transfer assets into foreign countries. It is very difficult for relevant departments to verify the authenticity of the certificates of these service trade deals. For example, as far as the commission is concerned, it is possible for institutes inside China to forge commission contracts, naming any country, any district, any company, or any individual as the collector of the commission, as long as the institute possesses the import and export contract and the bank receipts of remittance. Against this backdrop, the institute can remit the money to foreign countries under the name of the commission, fulfilling the goal of transferring the assets illegally into foreign countries.

Case study: Huang Hongsheng conspired to Steal the Listed Companies' Assets and Swindle money from Relevant Listed Companies.

On July 7, 2006, Huang Hongsheng, the former Chairman of the Board of Directors of the Skyworth Digital Holdings Co Ltd (code in Hongkong stock exchange: 0751), together with his brother Huang Peisheng, the former acting-director of the Skyworth Digital Holdings Co Ltd, were convicted in Hongkong District Court due to their conspiring to steal the listed companies' assets as well as to swindle money from relevant listed companies.

In January 2001, Huang Hongsheng issued a check of 500,000 Hongkong Dollars out of the account of Skyworth Corporation Ltd, a wholly owned subsidiary of Skyworth Digital, to his employee Wang Peng, under the name of consultant fee. This amount of money was later transferred dispersedly several times into Huang Hongshen's mother, Luo Yuying's account, and into Wanhai Developing Corporation Ltd and Zhongyao Developing Corporation Ltd, whose Directors were Huang hongsheng and his mother.

From November 2000 to October 2004, Huang Hongsheng and his brother Huang Beisheng issued a check of 2,210,000 Hongkong Dollars to Wang Peng, under the name of "commissions" out of the account of Skyworth Photoelectric Technology Corporation Ltd, a subsidiary of Skyworth Digital. Eventually, this amount of money

was transferred to Huang Hongsheng and Huang Beisheng's bank accounts which were controlled directly or indirectly by the two brothers. During this period, the two brothers used the same method issuing nine checks to Wang Peng, paying him the "commissions". Overall, they draw out 48,380,000 Hongkong Dollars from the Skyworth Corporation Ltd, the subsidiary of Skyworth Digital.

The inspection discovered that Skyworth Digital rarely had business in Macao, but it opened an account in HSBC Macao. Macao has turned out to be the two brother's transit spot to steal the money from the listed companies. They first transferred the assets into their company's Macao accounts, and then transferred the money from the company's account into Wang Peng's private account in Macao, and eventually into Huang Hongsheng, Huang Beisheng, and Luo Yuying's bank accounts, which were directly or indirectly controlled by the three.

3. Transferring the assets into foreign countries through connected transactions between enterprises

Enterprises inside China purchase raw materials and products with very high prices from their affiliated enterprises outside the country, or offer big bonus to the enterprises outside the country, and even forge business deals with these enterprises. By doing so, they are able to remit their assets into foreign countries. As soon as the assets goes out of the country, part or all of the amount of the remitted money will be immediately controlled and taken by the corruptors.

The corruptors resorting to this way of transferring assets out of the country are usually the administrators of the affiliated enterprises, or some persons who have special relationship with the affiliated enterprises, for instance, the government officials in the monitoring department, or the bankers who possess long term relationship with the affiliated enterprises, etc. In the case of Bank of China at the Guangdong Kaiping branch, which has shocked the people both inside and outside the country, Xu Chaofang, together with other persons, transferring a large amount of money into foreign countries through different channels, such as controlling several enterprises both inside and outside the country at the same time; making use of the chances of the capital flow between enterprises; forging business deals or by carrying out connected transactions.

4. Cheating the foreign currency administrative office to get the permission to remit foreign currencies outside the country by supplying fake import and export contracts

Corruptors forge fraud import and export contracts without any actual business deals, so that they could get the permission to remit foreign currencies outside the country and transfer their corrupted income through a superficially legal process, taking the advantage of their own enterprises or the enterprises with which they have special relationship with. The corruptors, adopting the above-mentioned method to remit money outside, are usually the persons who can easily dominate the enterprises who

perform import and export businesses frequently. They either are the administrators of these enterprises, or possess a very close relationship with these enterprises.

Case study: Dai Chengwen's case of bribery and embezzlement

In April, 2007, Dai Chengwen, the former director and general manager of Tianjin Buohai Chemical Industry Group Corporation, was sentenced to eleven years in prison by the Tangshan District People's Court, owing to his accepting 2,150,000 RMB bribery money as well as his embezzling the amount up to US \$5,080,000 public funds.

Between 1995 and 1999, Dai Chengwen was the director and general manager of Tianjin Buohai Chemical Industry Group Corporation, and was also the director and general manager of Tianjin Buohai Chemical Industry Group Corporation Limited, enjoying a status parallel to the Deputy Secretary of China.

According to the introduction from the persons who dealt with this case, Dai Chengwen, closing to his retirement age in 1997, registered to establish a new company named Hongkong Bohua Corporation together with Song Baogui, the controller of the Netherland O'jiahua Company, under the name of Buohai Chemical Industry Corporation. The registration never receives the unanimous approval from the management group of Buohai Chemical Industry Corporation. According to Hongkong's legislative rules, there is no limit to the capital injection for registered companies. In fact, Buohua was a "shell company", but Dai and Song still signed a contract: Dai possessed 60% of Buohua Company's shares, while Song Baogui had 20% of the company's shares, and Song's wife also controlled 20% of the shares. Dai Chengwen admitted that the establishment of Buohua Company is for the purpose of prearranging a "retreating path" for the life after his retirement. On the very day of its establishment, Song revealed that it was impossible for Buohua Company to do business as it did not have enough capital to start and run the business. Therefore, Dai Chengwen planned to move \$ 5,080,000 from Buohai Chemical Industry Corporation to Buohua Company. Dai Chengwen at first intended to remit that amount of money to Hongkong under the name of Buohai Chemical Industry Corporation investing in a foreign country, but he failed to achieve that, as the restrictive check on the transaction of that amount of money by the Foreign Currency Administrative Office prevented him from remitting the money outside the country. Against this backdrop, Dai Chengwen conspired with Song Baogui, and signed a fake trade contract of Buohai Chemical

Industry Corporation importing the raw material Naphthol from a certain company in a foreign country. Therefore, it became possible for them to remit that amount of money outside the country through the Industrial and Commercial Bank of China, Tanggu Branch under the name of business transactions. Later, it was proved that the money was immediately transferred from Hongkong to Song Baogui's account in the U.S. and was soon spent extravagantly by Song.

5. Declaring less on export products while claiming more on import commodities

Many enterprises which have import and export businesses cheat the relevant governmental departments by “declaring more on imported goods, but claiming less about their export products”. When doing import businesses, they usually report a higher than usual price on their imported instruments or raw materials, and then ask the foreign suppliers to give them commissions, which will be divided between the relevant persons. The illegally gained money mostly will be deposited in the foreign banks. When doing export businesses, they typically reduce the products' prices to the lowest level possible, or simply provide fake receipts with lower prices on them than the actual trading prices. The difference of that will be deposited into the domestic suppliers' bank accounts in the foreign countries by the foreign businessmen who imported the products from China. Some corruptors have their own bank accounts in the foreign countries.

No.4: Transferring assets outside the country through investment

The characteristic of resorting to this way of transferring assets to foreign countries is that the process is basically legal as far as its format is concerned. Typically, corruptors remit money to foreign countries through the normal procedure of enterprises conducting overseas investment. The change of the nature of the capital happens in the foreign country, with the money illegally taken and embezzled overseas by the corruptors. The persons, who take advantage of this way of transferring assets, are mostly high-ranking administrators or managers who are responsible for some specific businesses in large state-owned enterprises. Cases study demonstrates that mostly there

are institutional weaknesses in these enterprises. The power of some leaders and staff members is not being supervised effectively. Corruptors abuse their power, taking hold of the state property or the general public's assets, by making full use the fact that company's headquarters in China could not monitor the use of the capital for overseas investment efficiently. What happens in the foreign countries is not very clear to the headquarters far away.

Case study: Li Huaxue's case of bribery and corruption

Li Huaxue, former deputy general manager of Beijing Urban and Rural Construction Group Ltd, and the general director of the Hengwan Industrial Corporation Ltd(enjoying the status of a Chinese Deputy Director), illegally took hold of 11,450,000 RMB, receive bribery of 680,000 RMB and embezzled 500,000 RMB, when he was in charge of the real-estate development business in Australia of the Urban and Rural Construction Group and when he was the general director or the Hengwan Corporation. On April, 2003, he was sentenced to life-long imprisonment by the Beijing Supreme Court on the final trial, and was deprived of his political right for the rest of his life.

In July, 1995, Urban Construction Group started to expand its oversea business, and Li Huaxue was assigned to be responsible for dealing with the Australia real estate project. However, immediately after the Urban Construction Group sent its 27,000,000 RMB to Australia, that amount of money was under the absolute control of Li Huaxue and his brother Li Huaming (Australian Chinese). During his stay in Australia, Li Huaxue never reported to the company's headquarters inside the mainland about how he made use of the money. When he was inquired about this, Li would even make out various kinds of reasons to cheat the company. In fact, the company had already lost control of that huge amount of money. In order to disguise the truth, Li Huaxue first used part of that amount of money to buy a slot of land in Sydney for developing the real estate businesses under the name of his brother Li Huaming's "shell company". After that, he applied a loan from an Australian bank for further development, using that slot of land and the houses built on that as the collateral. Meanwhile, the rest of that large amount of money was swapped into 1,030,000 US dollars, deposited into his personal account in New Zealand separately in two times. In September, 1999, after the project of

building the villa in Australia had been completed, Li registered the villas in his own name, though it was a joint project between Urban Construction Group and his brother Li Huaming. What should be Urban Construction Group's property, namely the real estate worthing 8,000,000 RMB, was swallowed by Li Huaxue trickily.

No.5 Using credit cards to transfer assets to foreign countries

Corruptors, or their appointed specific connectors, transfer their assets to foreign countries through using credit cards to draw cash from the banks in foreign countries, or through credit card consumption outside the country, usually consuming huge amounts of money. Currently, China does not have a strict foreign currency limit or spending control measures over this kind of frequent personal payments or consumption in the foreign countries. As to the institutions which issue credit cards, they do not pose any limitations as to how much amount of money a single card has been drawn out or cashed altogether, as long as the credit card holder does not surpass the spending limit and can return the money in time (Currently, most credit card issuing institutions do not charge foreign transaction fees for outside country spending. Meanwhile, though they charge a certain amount of fee over outside country cash withdraw, this does not pose any actual hindering threats to money launderers). The above arrangement has provided golden chances for the corruptors to transfer assets to foreign countries through credit cards. On one hand, they can directly use credit cards to spend large amounts of money, or simply withdraw cash in the foreign countries; On the other hand, they simply use the money they bribe or take hold of illegally inside the countries to return to the banks as credit card payments. As most credit cards provide the function of swapping different currencies instantaneously, the credit card holders can directly use the RMB to return the money to the banks without taking the trouble of exchanging the money from one currency to another. At the same time, China's credit card market is booming in recent years. Every bank tries its best to expand its credit card business, adopting various kinds of methods to increase the credit card issuing volume, and even out-sourcing its credit card issuing businesses. The necessary job of administering the application and usage of the credit cards (especially on discerning the

credit card applier's identity) seriously lays behind the swelling volume of card issuance. All these make it more convenient for the corruptors to commit crimes.

In September, 2004, Macao officially started the UnionPay business in the mainland, more than two hundred Macao shops accepted the payment of the visitors from mainland through UnionPay credit cards. And the credit card holders could withdraw cash from one hundred and twenty-five ATM machines in Macao. At present, the Unionpay credit card market in Macao has reached a considerable scale. Up to the end of March, 2007, there are 2170 business units cooperating with UnionPay, 2999 POS ends and 207 ATM machines in Macao. In 2007, the first quarter's overall business deals were up to 4.44 billion Macao Yuan. While UnionPay credit card is providing convenience for people from mainland to visit, travel and consume in Macao, it also makes it easier for the corruptors to do cross-border transactions for the purpose of transferring assets outside the country.

Case study

Zhang Jian, the "extravagant gambling mayor" from Haimen, Jiangsu Province, obtained a huge amount of gambling money, taking advantage of his position. From July, 2003 to August, 2005, he went to gamble in Macao forty-eight times, losing altogether 18 million RMB there. Zhang Jian usually brought a bank credit card with him to withdraw cash in Macao, spending it on gambling. And then, he would embezzle the "taxpayer's money" to fill what he had drawn out from the bank, after he had returned to the mainland. Another example is about a female cashier from a certain company in Zhongshan, Guangdong Province. She made use of the chance of administrating the company's huge capital in bank accounts, and went to Macao several times to gamble, losing more than 1 million RMB, 95% out of which was the money she embezzled from the company's account.

No.6: Transferring the assets to foreign countries through offshore financial centers

Offshore financial center, also called the “offshore center”, refers to the financial markets aiming at foreign currency transactions (both depositing money and providing loans) with non-residents as their major clients. It is opposite to the onshore financial markets, which tackle the financial businesses between residents, or between residents and non-residents. Some offshore financial centers, such as London, New York, Hongkong, Singapore, among others, have very sound legal systems and strict monitoring systems, making it quite difficult for the corruptors to take advantage of any loopholes. What we discuss here is mainly about the ones with very loose monitoring systems and low transparency, also known as the “paradise of tax avoidance” and the “paradise of money laundering”, such as those well-known offshore financial centers: British Virgin Islands, Cayman Islands, Samoa, Bermuda, among others which are located on the Caribbean Sea or on the Pacific Ocean. In these areas, there are no relevant monitoring systems on tax collection or on capital flow. The loose financial monitoring system basically does not set any limit for the establishment of financial institutions. The doors are also open to those who intend to establish “shell companies”, “letter-box companies” and other anonymous companies. Money launderers are able to deposit non-identifiable money and establish anonymous companies, so that it becomes very difficult for their illegal gains to be discovered or traced.

China’s corruptors often take advantage of the above mentioned offshore financial centers to transfer money, or to take hold of the state-owned assets. Those who manage to conduct the deals are mostly high-ranking administrators from the state-owned enterprises or from the listed companies. They mainly adopt the following procedures to fulfill their aims.

The first step is to transfer the enterprises’ assets. The enterprises’ high-ranking administrators conspire with the companies outside the country to “empty” the assets of the enterprises inside the country, through the tricky ways of “buying high while selling low”, or “only listing the amount on the accounts receivable”. In the past, these foreign enterprises outside the country were usually set up by the foreign businessmen who conspired with the domestic enterprises’ administrative level staff. However, nowadays many mainland enterprises or the enterprises’ administrative layers have

already had their own “briefcase companies (offshore companies)” outside the country. “Buying high while selling low” refers to the process of purchasing raw materials and instruments at the price which is much higher than the market price from the offshore company, while selling goods and products to the offshore company at the price which is far lower than the market price. Resorting to this method, the assets of the mainland enterprises can be transferred to foreign countries through what looks like the normal trading channel. “Listing the amount on the accounts receivable” refers to another method of transferring assets to foreign countries through offshore financial centers --- When the export enterprises inside the country sell their products to offshore companies outside the country, they do not collect loans, just listing on their accounts the debit amount of “accounts receivable”. By doing so, the enterprises are able to avoid the supervision from the foreign currency administrative office, as well as to fulfill the aim of swallowing up the enterprises’ assets. On the other hand, the offshore financial centers, known as the “paradise of tax avoidance”, typically do not levy taxes on the listed companies there. Meanwhile, their monitoring systems are extremely loose. Hence, the offshore companies established by the corruptors can enjoy the ill-gotten high profits comfortably there.

The second step is to destroy the evidence and “purify” the corruptors themselves. After the corruptors have transferred the companies’ assets or state-owned assets to the foreign countries through the above-mentioned first step, there is the possibility that their illegal behaviors be discovered by the monitoring department or the next generation administrative groups of the enterprises. Therefore, they will resort to the second step, namely, purposely making the enterprise go bankrupted, and then using a little amount of capital to purchase the enterprise. Of course, if they use the enterprises inside China to conduct the merger and acquisition process, it is quite easy for this tricky dealing process to be noticed or discovered by the monitoring department. Therefore, it is safer to use foreign companies, especially offshore companies, to achieve their nasty aim. Meanwhile, the actual controllers of the offshore companies are usually anonymous, owing to the offshore financial centers preserving confidentiality of their customers. As a result of that, when an offshore company makes itself up and go onto the stage, it may be the company “which has already made

piles of money” in the past, and it may also be a newly registered company. By doing so, the corruptors can openly reap the remaining assets of the victim enterprises, while wiping out completely their “pilfering” behaviors from the first step.

No.7 Collecting money directly in the foreign countries

There is the possibility that the corruptors do not need to transfer money outside the country from the mainland, they simply directly accomplish the whole process of bribery and illegally taking hold of the money in the foreign countries. For example, when the incidence company purchases something in the foreign country, the corruptor with actual power to conduct the business is able to obtain huge amounts of commissions through “underground dealing”. The commissions will not be transferred back into the mainland. Instead, it will be directly deposited into the corruptor’s account in the foreign country, or can be exchanged into immovable property outside the country, such as houses or other things. The more hidden process does not relate to cash, just asking the opposite side to arrange their children to study overseas in the foreign countries. Though superficially, the corruptive activity of this kind does not directly relate to the transferring of assets to foreign countries, it is still the trade between money and power. Behind the trade, it is the abuse of power, reaping huge profits at the cost of the country, or at the interest of certain collective groups. Persons who resort to this kind of bribery and taking hold of illegal money are mostly high-ranking governmental officials, or the administrators of some large-scale state-owned enterprises. They have the power at hand to perform the “rent-seeking” process. Usually, they cannot, or will not, transfer the assets out of the country by adopting other methods, such as carrying the cash out with them when passing the customs, getting the help from underground banks, setting up companies outside the countries, etc., owing to their strong sense towards the strict limitations of the country’s legislative regulations, or the enterprises’ internal rules.

No.8: Transferring the assets outside the country through their special connections in the foreign countries

The big bribery and corruption cases discovered and accused in recent years demonstrate that there is a new trend for the corruptors to transfer assets outside the country, that is, transferring assets through their special connections in the foreign countries. The Supreme Court and The Supreme People's Procuratorate define the "special connections" as "a person who is the close relative of a government official, or who is the mistress or the mister of a government official, and other persons who share common interests with a government official". This kind of special connections, who participate in the business of transferring assets into foreign countries, have all obtained the legal identities in the foreign countries. They are either persons who study in the foreign countries, or are the permanent residents of other countries, or are citizens of other countries. The corruptors inside the country, on the one hand, can rely on their special connections to get the money outside the country legally, or remit the assets out in a legal way. On the other hand, these special connections are able to make use of their foreign identities to register enterprises in the foreign countries, and in turn open branch institutions in China under the name of foreign investment. In this case, they can openly transfer assets out into foreign countries, adopting the form such as connected transaction.

Case study: Xu Fangming's bribery case

On November 10, 2006, Xu Fangming, former Director of the Financial Office of the Ministry of Finance, was sentenced to thirteen years in prison by the Beijing Supreme Court, owing to his receiving a huge amount of bribery money. From 1999 to 2001, Xu Fangming accepted the request from Liu Ming, an employee from a renowned foreign enterprise, to help that enterprise which Liu was in to make profit, taking advantage of his position as the Deputy Director of the Bond Financial Office, as well as the Director of the Financial Office of the Ministry of Finance. According to what Liu Ming admitted, approximately at the end of 1990s, Xu Fangming implied, when talking with Liu, that his salary was comparatively low, so Liu suggested that he could offer Xu money. Later, in June 1999, August 1999 and August 2000, Liu transferred three times altogether \$128,000 (equaling to 1,050,000 RMB) into an account in a foreign country,

appointed by Xu Fangming, under the name of providing financial support for Xu Fangming's son's further study in the foreign country.

Chapter 3 The Behavioral Characteristics of Persons Who Are Transferring Their Assets into Foreign Countries

No. 1: Transferring assets outside the country and person fleeing away do not happen at the same time and towards the same direction

The flight of the corruptors can be regarded as a closely connected process with corruptors transferring assets into foreign countries (cross-border money laundering). This is mainly because, on the one hand, corruptors need to transfer what they have taken hold of illegally from the state-owned property or the collective assets into foreign countries, which are thought to be the comparatively safer places, through cross-border money laundering activities. On the other hand, in order to safely spend the material wealth they have embezzled, the corruptors eventually will abscond to foreign countries. During the whole process, the corruptors make use of the differences of legislative regulations in different territorial legal units. In fact, they intend to avoid the punishment from their own country's laws.

Looking at the time frame, the process of transferring asset is usually separated from the process of corruptors fleeing to other countries. The two processes usually do not happen at the same period. Transferring assets comes first, while personnel flight goes after that. It is because that only those who are in certain positions, may have the chance and power to be bribed, or corrupted. Meanwhile, many countries set limitations to how much money or properties a single person can bring into the respected country each time. Against this backdrop, it is nearly impossible to flee the country with a large amount of money at hand. Therefore, it is usually the common practice of corruptors to transfer their illegal gains gradually into certain safe places outside the country beforehand, through some special financial transactions or business activities (For instance, before fleeing the country, Gao Shan spend several years and

took several times to transfer the customers' deposits into his bank account in Canada). Only after they have finished their money transaction process, can the corruptors initiate their flight plans. This provides the possibilities for the anti-money-laundering asset monitoring department to discover the questionable money transaction activities and report the case cues in time to the relevant offices before the corruptors flee to the foreign countries, in order to stop the corruptors' successful flight.

From a geographical perspective, the transferring of assets and the personal flight usually do not go towards the same direction. This is because that in the era of financial globalization, assets can be transferred quickly and directly to any places outside the country, through modern financial transaction mechanisms or through business activities, while the choices of where the corruptors could go are limited. It is represented by the fact that after corruptors have transferred their assets to their final destinations, typically they personally do not go to the places where their properties are located. They tend to stay at a third-party country, or a fourth-party country first, and eventually move to the country where their assets are deposited (the place they will migrate to) when it is the right time for them to do so. Of course, there exists one factor explaining the corruptors' behaviors, that is, the corruptors intentionally hide their flight directions in order to shun the possibilities of being traced.

No.2: The Concrete Behavioral Characteristics

1. Relatives (lovers) go first

Most corruptors will first move their relatives or lovers to foreign countries before they finally flee from the country. They tend to purchase some immovable properties, cars, and other assets in the foreign countries. The extravagant life of some corruptors' relatives in the foreign countries has incurred very awful impact on the local area. In order to let their relatives mingle into the local society, corruptors usually ask their relatives, especially their children, to study or work in the places where they live, or to help their relatives set up companies there.

Case study:

Dong Mingyu, the former general manager of the Garment Import & Export Company, Henan Province, established for himself the business relationship in the U.S. before he fled from China, taking advantage of the company's business connections. He asked his wife and son to deal with his businesses in the U.S. and obtained the US green card (right of permanent residency in the U.S.). Cheng Kejie first managed to let his mistress live in Hongkong, and then transferred a huge amount of illegally gained money into his mistress's account in Hongkong. Jiang Jifang, former Director of the Henan Tobacco Bureau, arranged his wife and children to settle down in the U.S., before he himself slipped away from China.

2. Preparing the relevant documents to go through the customs

In order to leave or enter the customs and border protection smoothly, the fled corruptors generally prepare the relevant documents to enter the border customs, typically preparing genuine passports by using forged identities. In this case, it becomes very difficult for the customs to list their activities when entering or leaving the borders with authentic records. Moreover, when they have moved to foreign countries, the fake documents will make it easier for the corruptors to change their names and disguise themselves safely.

Case study:

Yang Xiuzhu had possessed a US green card for many years, but the name on the green card is not her actual name. When Yang herself and her family left the country, the names on all their documents were actually not theirs. Hu Changqing and his family members all use identifications and passports with pseudonyms. Cheng Xing, an ex-staff member of the Industrial and Commercial Bank of China, Jiulong Branch, Chongqing, fled the country with 40,000,000 RMB state-owned money in his pocket. During his 68 days escape, he stopped and stayed at many foreign countries, using altogether twenty-nine different forged identifications. Hu Xing prepared a non-official passport and left the country without notifying the relevant governmental department (as a director-level carder, his passport for public affairs is supposed to be placed at the province's foreign affairs office, according to the pertinent regulations).

3. Establishing special institutions in foreign countries while personally shuttling frequently between the mainland and the foreign countries

Before their flight, some corruptors tend to establish special branch institutions in foreign countries (such as, administrative offices or branch companies).

Meanwhile, they themselves will regularly shuttle between the mainland and the foreign countries for a pretty long period, making use of their legal identities by the name of doing business. Once they have sensed that the legal executive offices will adopt actual actions to arrest them, they would choose to directly slip away from the country, no longer coming back to the mainland.

Case study

Gao Shan once went to visit Canada 18 times, by using the excuse of governmental officials “going abroad on a study tour”, yet in fact he went there to do the preparations for his later flight to that country, trying to know more about that country as well as to plan his life in Canada. Yu Zhengdong, ex-chief of Bank of China, Kaiping Branch, Guangdong Province, transferred assets to Hongkong continually for as long as eight years, resorting to the means of setting up a branch company there, habitually traveling between the Mainland and Hongkong. Cheng Sanchang, ex-general manager of the Henan Yukang Company, founded in Hongkong by the Henan provincial government, established some administrative offices or branch companies outside the country for many years, through which he transferred huge amounts of assets to the foreign country in a hidden way. During that long period, he himself frequently shuttled between the mainland and foreign countries. Eventually, he and his mistress settled down in New Zealand bringing with them a huge amount of money in their pockets.

4. Gambling outside the country

From the end of 1980^s, lottery has developed with a tremendous speed all over the world. Till 2002, the gross income of the lottery industry from the countries worldwide had been up to more than 900 billion US dollars, becoming the 4th of world’s biggest enterprises, according to the “GDP” calculation. Currently, an

enormous outside country “gamble net” is looming up around the areas bordering the mainland, from Macao, Philippines, Malaysia, Thailand, Burma, North Korea, Russia, even expanding to Australia and some countries in Europe and North America. Many casinos outside the country regard the Chinese government officials and the high-ranking administrators from the state-owned enterprises as their main source of customers. These officials and high-ranking administrators from state-owned enterprises are able to spend gigantic amounts of money overnight, as they are not using their own money, but the money from the public. During the past few years, dozens of mainland government officials and high-ranking administrators from the state-owned enterprises have been dictated and arrested owing to their extravagant gambling behaviors outside the country. The typical cases are: Ma Xiangdong, ex-deputy mayor of Shenyang City; Li Jingfang, ex-secretary of the financial office, Shenyang City; Ning Xianjie, ex-chief of the construction office, Shenyang City; Ye Defan, ex-deputy mayor of Hangzhou City.

Some corruptors and high-ranking administrators from state-owned enterprises adopt the form of gambling outside the country to transfer assets into foreign countries (such as first swap the money into gambling coins, and then change the gambling coins back into money, and finally transfer the money into their personal accounts in the foreign banks, making their corrupted gains into superficially legal income in the foreign countries). This is one of the preliminary preparation steps they take for their final abscond into foreign countries.

As to how corruptors can succeed in getting gigantic amounts of money to cross the customs and gambling really big outside the country, it is closely connected with a special group of people --- “watering persons”, namely people who help others do certain illegal jobs. Through the activities of “watering persons”, for instance, the transferring of assets outside the country before the corruptors cross the border, the flux of personnel, the gambling arrangement, and the liaison works between the mainland corruptors and the gambling corporations outside the country, it becomes possible for the corruptors to transfer assets outside the country successfully, doing money laundering across the border.

5. Selling the property inside the country without being noticed

Those corruptors, who have decided to flee from China, habitually will sell their properties inside the country secretly. For instance, they may sell their personal immovable properties, valuable stuffs, and even sell the public assets surreptitiously, making it their own assets. Meanwhile, they will transfer the money into foreign countries after that, well prepared for their ultimate escape.

6. Usurping material interests regardless of consequences

For those corruptors, who have swallowed state-owned assets and have determined to escape from the country, they generally do not pay attention to their works. Rather, they will concentrate on how to seize more material interests for their luxurious life later in the foreign countries. Therefore, the corruptors who intend to flight usually will try to usurp as much material profits as possible, regardless of consequences, getting maximum corrupted income before they are discovered or arrested.

7. Suddenly quitting their jobs and leaving the country without any reason

Corruptors habitually may select a proper time to quit their jobs resorting to certain excuses without any real reason and then leave the country, after they have planned laboriously the above mentioned flight preparations. For example, Jiang Jifan, the ex-secretary of Henan Tobacco Patterned Company, abruptly interrupted his attendance of the carder training project and left the country from Shanghai, after his economic criminal behaviors had been revealed and reported by the general public, drawing the attention from the discipline checking department. Cheng San Chang, ex-general director of the Henan Yugang Company, founded by the Henan provincial government in Hongkong, left Hongkong without any previous notification. Liang Fuzhao, ex-district deputy secretary and the general deputy mayor of FoShan Chan City, embezzled the public money and then disappeared after asking for leave from his superior leader under the excuse of doing business in Beijing. He then moved from one place to another, and eventually settled down in Cambodia.

Chapter 4: analysis methods for monitoring

section 1: principles of monitoring

one: focus on two key phases of criminal activity – the “acquisition of illegal assets” period and the “transfer of assets outside the border” period

From the perspective of criminology and criminal psychology, corruption and absconding with ill-gotten gains are premeditated crimes. The criminal intent in such cases has its own unique pattern. The People’s Bank should focus its attention on monitoring the two keys phases of this type of criminal activity, (i) acquiring illegal assets and (ii) the transfer of assets outside the (PRC) border, because the Bank can only play a realistic interventionist role during these two stages. During other stages of these criminal acts, the People’s Bank has little role to play.

two: make full use of “large amount transaction” and “suspect transaction” report databases

The People’s Bank is not an authority in the same sense which the Party Discipline Inspection departments, the Police, and the Procuratorates and the Judiciary are authorities, where for example, the power to detain and investigate is invested. Hence, when monitoring cross border money transfers by corruptors the Anti-Money Laundering Monitoring Analysis Centre of China¹ attached to the People’s Bank, employs different methods from those employed by the Party Discipline Inspection departments, the Police, and the Procuratorates (“the Anti-corruption Authorities”). The People’s Bank provides the Anti-corruption Authorities with relevant transaction information and information on suspects through the analysis of large amounts of suspicious transaction data.

At present, the Anti-money Laundering Monitoring Analysis Centre of China has successfully collected data on large amount transactions and other suspicious transactions reported by commercial banks, foreign banks operating in China, city credit cooperatives, country credit cooperatives, China Post savings banks, etc.. They have also gathered information from non-banking financial institutions such as securities and fund management companies and insurance companies. Using the information reported by financial institutions, supported by

¹ The Chinese Financial Intelligence Unit.

information supplied by relevant law enforcement and administrative authorities, we can not only find and track cross-border asset transfer clues but we can also find corruptors through transaction relationships.

three: strengthening the monitoring of important regions, industries, specific people, and specific consumption patterns

(A) important regions

The most popular destinations to which assets were transferred, or gateway regions for the transfer of assets, have been understood as important regions which demand special attention:

1. Neighboring countries and some closed countries: Thailand, Myanmar, Singapore, Malaysia, Mongolia, Russia etc.,
2. Developed countries : The US, Canada, Australia, and the Netherlands etc.,
3. Certain African, Latin American, and East Europe countries which have not yet established anti-corruption laws and countries which have not signed extradition treaties with China such as Fiji, Ecuador , etc.,
4. Transit regions such as Hong Kong and Macau
5. Offshore financial centres: British Virgin Islands, Cayman Islands, Samoa, Bermuda etc.

(B) sensitive sectors

1. **Financial sector:** some cases involving large amount of assets have occurred in this sector. Three general managers of Kaiping Office, Guangdong, Bank of China have fled china with large amount of assets. Gao Shan and Li Dongzhi are suspects in the fraud case at He songjie branch, Haerbing, Bank of China, and have fled to Canada. Huang qingzhou, former deputy general manager of the Hong Kong office of Guangdong International Trust

and Investment Corporation, embezzled more than HKD 1.3 billion (approximately USD 120 million) and fled to Thailand.

2. **State-owned monopolies:** Chen Chuanbo, former head of Kunming cigarette company, embezzled USD 16 million and fled China. Zhu Shijian, former Chairman of Yunnan Hongta Corporation , was caught by border police when he was fleeing the country.
3. **Transportation, land authority, and construction sector:** in recent years, heads of the transportation department of Yunnan Province and Guizhou Province have been involved in economic crimes and fled china. Three heads of the transportation department of Henan Province have been involved in corruption and fled China with stolen assets.
4. **Tax authority, international trading and investment:** for example, Ding, former deputy project manager of Sinotrans Ltd, accepted USD 1.7 million from a HK shipping company and in return gave many shipping contracts to the HK company. Ding saved the money in his personal banking account in HK and later transferred the money to China. Ding purchased a house and luxury cars using the money he accepted.

(C) Specific groups of people

People in the list of names of the Party Discipline inspection commissions, police, Procuratorates for cooperation in investigation; close relatives of party and government officials at different levels; major leaders, department managers and financial/accounting staff in sensitive sectors; senior management officials and their close relatives in state-owned companies and other public organizations.

(D) Specific consumption style

Payment by UnionPay bank (a Chinese bank card) card or withdrawing cash by UnionPay card outside China's borders.

four: use both self-analysis and cooperation analysis in monitoring

There are two types of analysis: (i) cooperative analysis and (ii) independent self analysis by the People's Bank.

- (1) Cooperative analysis is conducted when receiving information from anti-corruption authorities concerning corruption suspects. The People's Bank will establish a warning mechanism in the National Anti-Money Laundering database after the receiving suspects name list. When suspects on the watch list conduct transactions, an alarm will be triggered and the source of the assets in the transactions will then be traced, providing evidence helpful for a more effective fight against corruption.
- (2) Independent self analysis is conducted by the People's Bank on its own initiative. Based on Anti-Money Laundering analysis data and relevant information contained in other databases, we examine the features of suspicious transactions involving embezzlement and bribery, especially cross border assets transfer, and establish monitoring standards. Computer tracking programmes will automatically identify transactions which satisfy these monitoring standards. Then, the staff will further examine highly suspicious transactions from the cases flagged by the software to gauge trends and locate clues on assets transfer sources and report the information to anti-corruption authorities. Combined with other monitoring methods, suspected individuals and organizations can be identified for legal and administrative investigation.

section two: flow monitoring

Monitoring flow refers to the various activities employed to find and respond to suspicious transactions (especially cross border asset transfers). These monitoring activities are largely based on the China Anti-Money Laundering Monitoring Analysis Centre's large amount transaction data and suspicious transaction data. A flow chart showing the suspicious transaction data gathering process is appended below:

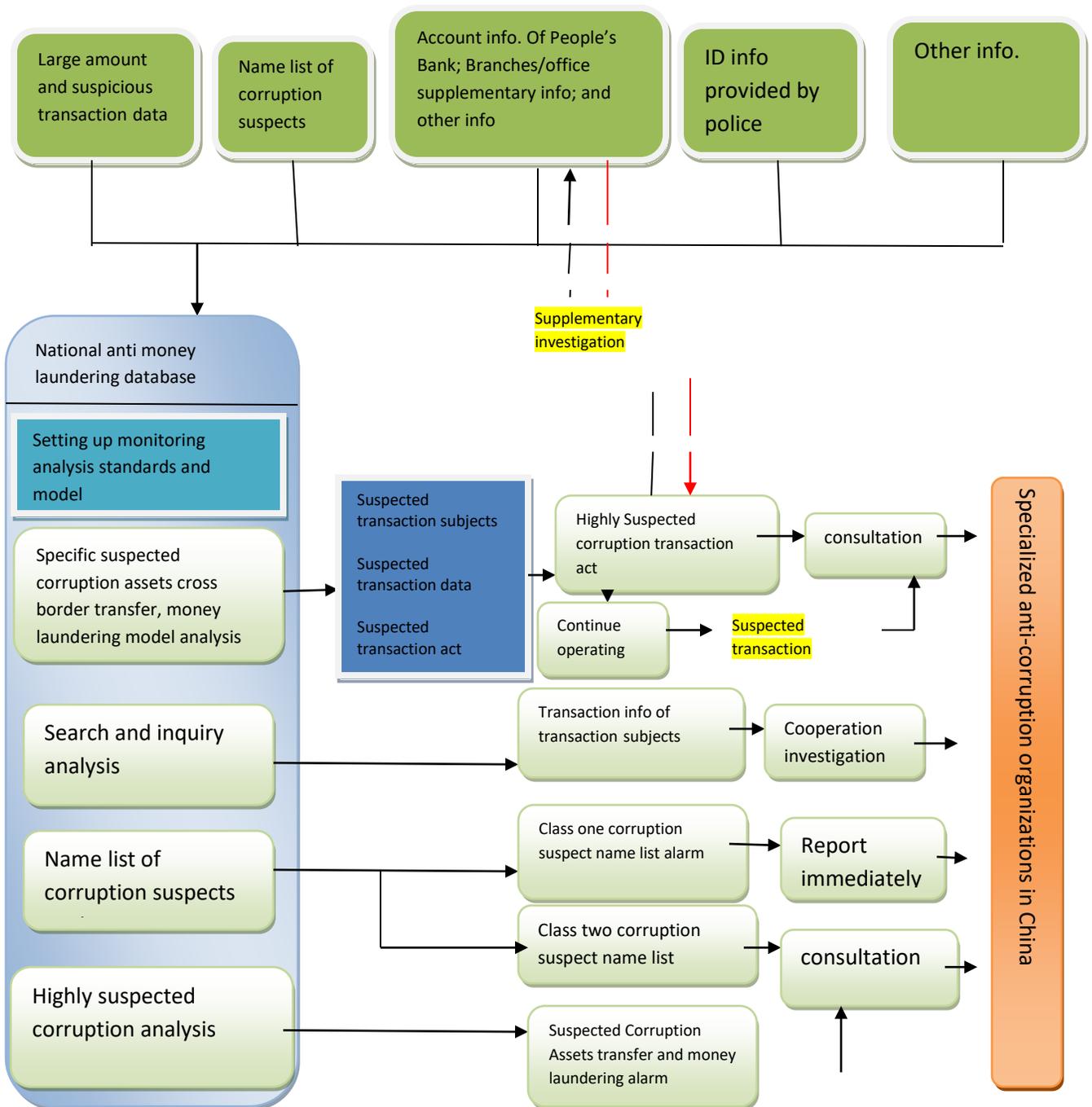


Chart explanation

Detailed flow monitoring includes the following four situations:

Flow one: the AML Centre builds up specific monitoring standards against cross-border money transfer and money laundering by corruptors by a comprehensive study of corruption cases at all times and in all lands. The computer will produce a list of suspected cross border asset transfers and money laundering by corruptors through enquiring, relating, matching, comparing, testing, tracking, filtering etc. Suspect clues can be generated through computer-human interaction on information evaluation and processing. This is done on the Centre's initiative and the clues generated from the above process will require a further consultation process before they are reported to relevant departments. If transaction data or other information is considered insignificant and no report is made, the data will be kept in the Centre's database for further monitoring.

Flow two: after receiving the cooperative investigation name list required by the Central Party discipline inspection commission, the Ministry of Supervision, the Procuratorates, and other anti-corruption authorities, the person in charge at the Centre will assign the work to a specific analyst(s) at the Centre for monitoring analysis and submit a cooperative investigation report to the respective anti-corruption authority after completing the analysis.

Flow three: the corruption suspects name list data are entered into the China Anti Money Laundering Monitoring analysis centre database and the names are arranged into different classes. Class one are those suspects who directly participate in corruption. Class two are subjects² with relationships to class one suspects. Running a cross-border asset monitoring analysis software against the China Anti-Money Laundering databases, transactions by people in the list are identified. The system will then automatically trigger an alarm and analysts will be assigned to analyze suspicious transaction. If the suspect involved in the transaction is listed as a class one name, the transaction will be immediately reported to relevant departments. If the subject is listed as class two, an urgent consultation will be conducted and

² In this report, the term "subject" is used interchangeably with "suspect".

the transaction will be reported if it is determined to be suspicious based on certain threshold criteria.

Flow four: real-time cross-border asset transfer and money laundering monitoring software identifies highly suspicious transactions and assigns them to specific analysts for analysis. If suspicion cannot be confirmed immediately, an urgent consultation will be made and the transaction may be reported based on the analysts' recommendation.

section three: monitoring different suspect situations

Cross border asset transfer monitoring software is a data recognition programme which satisfies certain pre-determined criteria. The criteria are based on parameters determined by the China Anti-Money Laundering database and other information. When target data is input into the operation process, the software will output a specific operation result according to the criteria. Cross border assets transfer monitoring s/w will further process data based on various operational standards. The model can weight various results and generate a grading profile of suspicious transactions and list suspects in from the most suspected to least suspected. These reports are then further examined by analysts.

Standards employed by the model are designed based on earlier monitoring experience of the AML Centre and specific anti-corruption needs. In practice, the selection of parameters, choice of coefficients, and definition of algorithms in a standard format that will be adjusted from time to time to achieve the best results. Standards will become more mature and will increase in effectiveness as the model is improved gradually.

Below we enumerate the monitoring standards whose design is based on the AML Centre's monitoring experience and its study of the major methods of transferring assets outside China by corruptors.

one: early warning - tracking transactions of individuals on suspected persons list

key role: monitoring capital transaction activities of subjects in the corruption suspects name list.

Principle: enter name list of corruption suspects into the China Anti-Money Laundering database and operate name list monitoring module. Once capital transactions by suspects in the name list are matched, the software will trigger an alarm and analysis.

Databases: large amount transaction database, suspicious transaction database, name list of corruption suspects

Items included in the data sets: date, account name, account number, document title and type, document number, bank name, transaction amount, designated use of money.

two: monitoring corruption assets and transactions performed by illegal private banks

Key role: identify illegal private bank activity which is suspected of providing transfer services for corruption capital and submit reports to relevant government departments.

Principle: establish criteria to identify specific persons of interest and illegal private banks to enable the system to determine the owners of the illegal private banks. The criteria include: subjects of transactions of illegal private banks who are public officials; apparent transaction features of illegal private banks such as---multiple transaction parties, equal capital in and out, large accumulated transaction amounts, real trading non-existent, origination of transaction e.g. Eastern seaboard coastal cities etc,.

Database: large amount transaction database, suspected transaction database, and citizen identity database

items in the data sets: account name, account number, region of transaction, time of transaction, document title & type and document number, bank name, transaction amount, transaction frequency, use of money, household register information.

Monitoring formula:

$$\left\{ \begin{array}{l} p \in P \\ q \in Q \\ Z_p \rightarrow Z_q \\ A(Z_q) \geq a \\ M(Z_q) \geq m \\ T(Z_q) \geq t \end{array} \right.$$

Where:

“p” refers to specific transaction subjects

“P” refers to a set of transaction subjects who are public officials

“q” refers to a set of transaction subjects with illegal private banks. Features include individual accounts and company accounts.

“Q” refers a set of name lists meeting the criteria for illegal private banks.

$Z_p \rightarrow Z_q$ expresses transactions in which capital in public officials’ accounts is transferred to suspected illegal private bank accounts (info derived from monitoring capital flow to and from flagged accounts)

$A(Z_q) \geq a$ expresses situation where the number of accounts of subjects of illegal private bank transaction exceeds the threshold in the system for monitoring purposes (monitoring quantity of accounts)

$M(Z_q) \geq m$ expresses situations where the transaction amount of clients of illegal private banks is greater than the threshold amount in the monitoring system (monitoring the sum of transaction amounts)

$$T(Z_q) \geq t$$

expresses situations where the frequency of transactions of subjects of illegal private bank is greater than the frequency threshold in the monitoring system (monitoring transaction frequency)

The transactions of public officials are taken to include transactions of close relatives.

three: monitoring suspected behaviors of transaction parties

key role: based on the corruption suspects name list and other supporting information, monitoring parameters are set up to filter suspected transactions.

Principle: selecting suspected transactions meeting standards and parameters set up from the database

Database: large amount transaction database, suspected transaction database, citizen identity database, corruption suspect name list

Items in the data sets: account name holders (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document numbers related to the transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency, the number of agents, nationality of the subjects of transaction, number of accounts held by transaction parties, household registration information of transaction subjects.

Monitoring formula:

$$\left\{ \begin{array}{l} F(x) \geq m \\ G(x) \geq n \\ H(x) \geq p \\ J(x) \geq q \\ K(x) \geq s \\ L(x) \geq a \\ M(x) \geq b \\ N(x) \geq c \end{array} \right.$$

Where:

$F(x) \geq m$: expresses situations where the frequency of transactions of a transaction party (total number of transactions during a given monitoring period) > trigger parameter for transaction frequency

$G(x) \geq n$ expresses situations where a transaction party employs many agents (number of agents) > trigger parameter for agent quantity

$H(x) \geq p$ expresses situations where a transaction party has multiple passports (number of passports) >> trigger parameter for passport quantity

$J(x) \geq q$ expresses situations where a transaction party is using many documents³
(number of documents) > trigger parameter for document quantity

$K(x) \geq s$ expresses situations where multiple transaction subjects are using the same documents⁴ > trigger parameter for repeated document usage

$L(x) \geq a$ expresses situations where transaction suspects making capital transactions which cross many regions or borders (the number of countries and regions crossed in a given transaction) > trigger parameter for multiple jurisdictions.

$M(x) \geq b$ expresses situations where residents and non-residents are using multiple accounts in transactions (the number of accounts used) > trigger parameter for account quantity.

$N(x) \geq c$ expresses situations where large amount transactions (transaction quantum) > trigger parameter for transaction quantum.

The above prerequisite data sets can form various groups.

four: multiple reports are received on suspected transaction parties and amount and account critical parameters trigger monitoring

key role: establish parameters relevant to suspects of suspicious transaction and sift databases to identify suspect actions.

principle: select suspicious transactions from database which satisfy above noted parameters and requirements.

Items in database: account name (all parties of the transaction), account number (all parties of the transaction), bank name, transaction amount, transaction time, transaction place,

³ It is not clear what type of documents are referred to here.

⁴ See note 3.

purpose of transaction, transaction frequency, number of transactions satisfying reporting criteria, times reported.

monitoring formula:

$$\left\{ \begin{array}{l} p \in P \\ R(x) \geq a \\ M(x) \geq t \\ A(x) \geq m \end{array} \right.$$

Where:

$p \in P$ expresses situations where the subjects of suspected transactions are public officials

$R(x) \geq a$ expresses situations where the subjects of cross border capital transaction are reported repeatedly by reporting organizations during a given monitoring period > the trigger parameter for report incidents

$M(x) \geq t$ expresses situations where the subjects of cross border capital transactions did transactions amounting to sums larger than the threshold (transaction amount > trigger parameter)

$A(x) \geq m$ expresses situations where the subjects of cross border capital transaction open multiple accounts during a given monitoring period (number of accounts > trigger parameter)

five: monitoring those who carry cash when crossing border

key role: to track residents or non-residents living in border areas or important ports who frequently cross borders with cash during a specific period; and, to identify instances where the accounts of residents and non-residents have transaction relationships with the accounts of public officials or accounts of state-owned companies; and where capital flows out from the accounts of public officials or the accounts of state-owned companies and flows into the accounts of residents or non-residents who reside in border areas and who cross the border frequently with cash.

principle: identifying suspicious transactions which satisfy parameters and requirements from database in the system.

database: large amount transaction database, suspected transaction database, citizen identity database, corruption suspect name list and name list of residents or non-residents who frequently cross the border with cash as reported by China Customs.

items in database: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency, the number of agents involved, the nationality of the subjects of the transaction, household registration information.

elements of data:

a: monitoring time periods (a week, a month, a season, half a year, a year);

b: accounts of residents or non-residents frequently crossing border with cash

c: subjects of relationship transaction are public officials, their accounts or state-owned company accounts

monitoring formula:

$T \geq t, t \in$ monitoring period (a week, a month, a season, half a year, a year);

$P_1 \in$ public officials (including their close relatives), State-owned companies (including related companies)]

$P_2 \in$ residents or non-residents who frequently cross the PRC border with cash

$f(P_1) \rightarrow f(P_2)$

$A(P_2) \geq N(C_1, C_2, L L, C_i)$

Where:

$f(P_1) \rightarrow f(P_2)$ expresses situations where the direction of the capital flow, flows out from the accounts of public officials or state owned companies and into the accounts of residents or non-residents who frequently cross border with cash

$A(P_2)$ expresses the sum of cash carried by the transaction subjects when crossing the border

$N(C_1, C_2, \Lambda \Lambda, C_i)$ expresses the monitoring warning criteria deployed in the monitoring system

C_i expresses currency denominations

The name list of residents or non-residents crossing the border with cash is provided by the China Customs to China AML monitoring analysis centre.

six: monitoring enterprises that have not yet had their import and export verified and written off

key role: monitor state-owned companies (or other trading companies) which have not had their import and export accounts verified and written off by the foreign exchange authority, and specifically in instances where these companies, before starting their import and export businesses, had transactional relationships with state-owned companies.

principle: identifying suspicious transactions which satisfy the parameters and requirements using databases in the system.

database: large amount transaction data, suspected transaction data, citizen identity database, name list of suspect companies that have not yet had their import and export accounts verified and written off and information about the import and export activities of these companies as provided by China Customs.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency.

data elements:

a: export account audit information provided by PRC foreign exchange authority and information about export declarations provided by customs

b: monitoring period (a week, a month, a season, half a year, a year)

c: subject of transaction (state-owned companies or other trading companies which had transactional relationships with state-owned companies)

d: export and import settlement means

e: delay in payment collection for export, cash only collection, or export without collection of foreign exchange.

F: import of goods without declaration at customs

monitoring formula (1) export without account audit

$T \geq t, t \in$ expresses time period (a week, a month, a season, half a year, a year)

$E \in$ expresses suspect entity (state-owned companies or other trading companies which had transactional relationships with state-owned companies)

$S \in$ expresses transaction instrument (remittance, collection, letter of credit, etc.)

$RAt \geq N, \text{ or } RAt \rightarrow \infty$

Where:

S expresses export settlement means

RAt expresses actual collection time of receivables for exporting companies

N expresses critical monitoring point

$RAt \rightarrow \infty$ expresses collection of receivables during a monitoring period with a trend towards ∞

monitoring formula (2) importing without writing off

$$\left\{ \begin{array}{l} T \geq t, t \in \text{expresses time period (a week, a month, a season, half a year, a year)} \\ E \in \text{expresses suspect entity (state-owned companies or other trading companies} \\ \text{which had transactional relationships with state-owned companies)} \\ f(x) \rightarrow f(y) \\ S \in \text{expresses transaction instrument (remittance, collection, letter of credit,} \\ \text{etc,)} \\ RXt \geq N, \text{或} RXt \rightarrow \infty \end{array} \right.$$

$f(x) \rightarrow f(y)$ expresses transactional relations between state-owned companies and international trade agents where capital flows out from state-owned company accounts into accounts of international trade agents.

S expresses export settlement means

RA_t expresses actual collection time of receivables for exporting companies

N expresses critical monitoring point

$RA_t \rightarrow \infty$ expresses collection of receivables during a monitoring period with a trend towards ∞

In the above formula, the list of companies that have not yet had their import and export accounts audited and information about customs declarations confirmed shall be provided to the China AML monitoring analysis Centre

seven: monitoring capital flight through fake commission or other cross border service trade

key role: monitoring capital flight of state-owned companies through fake commissions or other bogus service trade, or capital flight of state-owned companies through common foreign trade company accounts. Typically, foreign trade companies make frequent foreign exchange payment to foreign countries in the name of commissions or service trade. However, many foreign trade companies, before payment, have arranged contacts where illicit payments are made to the accounts of public officials or officials of state-owned companies.

principle: identify suspected transactions from system databases which satisfy the parameters and requirements.

database: large amount transaction database, suspected transaction database, citizen identity database, name list of companies which pay foreign exchange to foreign countries in the name of commissions or service trade in an abnormal manner.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency.

data elements:

- (1) Name list of suspects of capital flight through fake commissions or other service trade provided by the foreign exchange authority
- (2) Monitoring period (a week, a month, a season, half a year, a year)
- (3) Transaction subjects (state-owned companies, other foreign trade companies which have transactional contacts with public officials or state-owned companies)
- (4) Settlement means is outward remittance

- (5) Outward remittance is made in the name of commission or other service trade
- (6) Turnover of Commissions or other service trade of foreign exchange agent and their annual importing business turnover
- (7) Value of Commissions or other service trade of foreign exchange agent and their annual importing business value

monitoring formula:

$$\left\{ \begin{array}{l}
 T \geq t, t \in \text{expresses time period (a week, a month, a season, half a year, a year)} \\
 E \in \text{expresses suspect entity (state-owned companies or other trading companies} \\
 \text{which have transactional relationships with state-owned companies)} \\
 f(x) \rightarrow f(y) \\
 S \in \text{expresses transaction instrument (remittance, collection, letter of credit,} \\
 \text{etc.)} \\
 l(y) / L(y) \geq m \\
 g(y) / G(y) \geq n
 \end{array} \right.$$

Where:

$f(x) \rightarrow f(y)$ expresses transactional relations between state-owned companies and international trade agents where capital flows out from state-owned company accounts into accounts of international trade agents.

$l(y)$ expresses turnover of commission or other service trade business of foreign exchange agents

$L(y)$ expresses annual import turnover of foreign exchange agents

$l(y) / L(y) \geq m$ expresses the ratio of commissions or other service trade business against the annual import turnover of foreign exchange agents

$g(y)$ expresses total value of commission or other service trade business of foreign trade agents

$G(y)$ expresses annual import value of foreign trade agents

$g(y) / G(y) \geq n$ expresses the ratio of commissions or other service trade business against the annual import turnover of foreign trade agents. If the ratios above are too large, this indicates that the foreign trade agent should be highly suspected of arbitrage or evading foreign exchange reporting rules.

The name list of agents that transfer capital through false commissions or other bogus service trade should be provided by the foreign exchange authority to the China AML monitoring analysis centre.

eight: monitoring capital flight through transactions between related companies

key role: monitoring capital flight through transactions between related companies. There are two categories: (1) state-owned companies transferring capital to foreign subsidiaries through transactions where the capital is then onward transferred to other accounts; (2) state-owned companies where capital is first transferred to other private Chinese companies' accounts, where these companies later transfer this capital to their foreign subsidiary companies and the capital is then onward transferred to accounts controlled by the SOE corruptors.

principle: identify suspected transactions from system databases which satisfy the parameters and requirements.

database: large amount transaction database, suspected transaction database, citizen identity database, a name list of SOE's with foreign subsidiaries which pay foreign exchange to foreign countries in the name of commissions or service trade in an abnormal manner, and a name list of SOE's with transactional relationships to private Chinese companies with foreign subsidiaries.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency.

data elements:

a: monitoring period (a week, a month, a season, half a year, and a year)

b: transaction subjects are state-owned corporate groups or other private Chinese corporate groups which, before transferring capital outside China, have transactional contacts with public officials or state-owned companies

c: cross border transactions of the suspected accounts

monitoring formula:

$$\left\{ \begin{array}{l} T \geq t, t \in \text{expresses time period (a week, a month, a season, half a year, a year)} \\ E \in \text{expresses suspect entity (state-owned companies or other trading companies} \\ \text{which had transactional relationships with state-owned companies)} \\ e \in \text{expresses foreign subsidiary companies of state-owned corporate group} \\ f(E) \rightarrow f(e) \\ M(E) \geq a \\ M(E) / T(E) \geq \pi \end{array} \right.$$

Or

$$\left\{ \begin{array}{l} T \geq t, t \in \text{expresses time period (a week, a month, a season, half a year, a} \\ \text{year)} \\ E \in \text{expresses suspect entity (state-owned companies or other trading} \\ \text{companies which had transactional relationships with state-owned companies)} \\ N \in \text{expresses other private corporate groups in China} \\ n \in \text{expresses foreign subsidiary companies of other private Chinese corporate groups} \\ f(E) \rightarrow f(N) \\ f(N) \rightarrow f(n) \\ M(N) \geq b \\ M(N) / T(N) \geq \omega \end{array} \right.$$

Where:

$f(E) \rightarrow f(e)$ expresses capital flow out from Chinese state-owned companies to their foreign subsidiaries;

$f(E) \rightarrow f(N)$ expresses capital flow from state-owned corporate groups to other private corporation groups;

$f(N) \rightarrow f(n)$ expresses capital flow from accounts of other private corporate groups to their foreign subsidiary companies

$M(E) \geq a$ 、 $M(N) \geq b$ expresses a situation where transaction times and amount are greater than system's monitoring criteria threshold

$M(N)/T(N) \geq \omega$ 、 $M(E)/T(E) \geq \pi$ expresses a ratio of the frequency and volume (total value) of cross border transaction to the frequency and volume (total value) of all of the subject's transactions. The higher the ratio, the more attention the company deserves.

nine: monitoring those who violate annual audit regulations for overseas investments

key role: create a name list of companies which violate the annual audit regulations for overseas investments and enter this into the China AML monitoring analysis centre database. Source information on suspects is derived when suspects are found by the foreign exchange authority during routine annual offshore investment inspections. The system will screen suspects to identify specific suspicious transactions.

principle: identify suspected transactions from system databases which satisfy the parameters and requirements.

database: large amount transaction database, suspected transaction database, citizen identity database, name list of companies which violate the annual audit regulations for overseas transactions when discovered by the foreign exchange authority in routine annual offshore investment inspections.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency.

data elements:

a: monitoring period (a week, a month, a season, half a year, and a year)

b: name list of companies which violate the annual audit regulations for overseas transactions when discovered by the foreign exchange authority in routine annual offshore investment inspections.

c: cross border transactions of suspected accounts

ten: monitoring capital flight through offshore financial centers

key role: monitoring state-owned companies and public officials who transfer assets outside China through offshore financial centers

principle: identify suspected transactions from system databases which satisfy the parameters and requirements.

database: large amount transaction database, suspected transaction database, citizen identity database, a name list provided by the anti-corruption authority.⁵

⁵ It is not clear whether the authors are referring to the Chinese Anti-corruption authorities or the Anti-corruption authorities in offshore financial centers or both.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency.

monitoring requirements:

a: monitoring period (a week, a month, a season, half a year, a year)

b: transaction subjects are state-owned corporate groups and their affiliated enterprises, or public officials and their close relatives.

c: the principals of transactions which have a cross border capital transaction record; the principals of transactions in which capital has been transferred to illegal private banks and where payments have been remitted outside mainland China via illegal private banks.

d: capital flows to offshore financial centers (e.g. British Virgin Islands, Cayman Islands etc.)

Monitoring formula:

$$\left\{ \begin{array}{l} T \geq t, t \in \text{year} \text{ represents the monitoring period (a week, a month, a season, half a year, a year)} \\ E \in \text{their close relatives} \text{ represents state-owned corporate group and } P \in \text{represents public officials or their close relatives} \\ \left[\begin{array}{l} f(E) \\ f(P) \end{array} \right] \rightarrow \Omega \end{array} \right.$$

$f(E)$ represents a transactions from the accounts of a state-owned corporate group

$f(p)$ represents a transaction from the accounts of public officials and their close relatives

Ω represents the place to which capital flow is an offshore financial centre

$$\begin{pmatrix} f(E) \\ f(p) \end{pmatrix} \rightarrow \Omega$$

represents transactions where state-owned corporate groups or public officials and their close relatives transfer capital to offshore financial centres

Or

$$\left\{ \begin{array}{l} T \geq t, t \in \text{year} \text{ represents the monitoring period (a week, a month, a season, half a year, a year)} \\ E \in \text{represents state-owned corporate group and } p \in \text{represents public officials or their close relatives} \\ \begin{pmatrix} f(E) \\ f(p) \end{pmatrix} \rightarrow f(N) \\ f(N) \rightarrow \Omega \end{array} \right.$$

Where:

$$\begin{pmatrix} f(E) \\ f(p) \end{pmatrix} \rightarrow f(N)$$

represents transactions where state-owned corporate groups or public officials and their close relatives transfer capital to accounts in China's illegal private banks

$f(N) \rightarrow \Omega$ represents transactions where illegal private Chinese banks transfer capital to offshore financial centers

eleven: monitoring cross border assets transfer through UnionPay bank card transactions

key role: monitoring public officials' assets transfer actions through UnionPay bank card transactions outside China.

principle: identify suspected transactions from system databases which satisfy the parameters and requirements.

database: large amount transaction database; suspected transaction database; citizen identity database; a name list provided by the anti-corruption authority⁶; updated listing of UnionPay bank card transactions outside China.

items in data: account name (all parties of the transaction), account type, account number (all parties of the transaction), bank name, document number of the subjects of transaction, transaction amount, transaction time, transaction place, purpose of transaction, transaction means, transaction frequency, updated datalist of UnionPay bank card transactions outside China.

database: large amount transaction database, suspected transaction database, citizen identity database, name list provided by anti-corruption authority, updated listing of UnionPay bank card transactions outside China.

data elements:

a: monitoring period (a week, a month, a season, half a year, a year)

b: the subjects of transactions are state-owned companies and their affiliated enterprises or public officials and their close relatives

c: the subjects of transactions made in foreign countries made via UnionPay bank cards

d: instances where, prior to making transactions in foreign countries, transactions were made in one large amount in China via UnionPay bank cards or via several small transactions.

⁶ It is not clear whether the authors are referring to the Chinese Anti-corruption authorities or the Anti-corruption authorities in offshore financial centers or both.

e: transactions occurred in developed countries with established gambling industries such as Singapore, Macau, Australia or the US.

monitoring formula:

$$\left\{ \begin{array}{l} T \geq t, t \in \text{year} \text{ represents monitoring period (a week, a month, a season, half a year, a year)} \\ p \in \text{represents public officials or their close relatives} \\ f(p) \geq \alpha \\ F(p) \in C_i, i = 1, 2, L, n; C_1 = \text{Macau}, C_2 = \text{Hong Kong} \\ L L \\ F(p) \geq \beta \\ \alpha \lambda \approx \beta \end{array} \right.$$

Where:

$f(p) \geq \alpha$ represents the total transaction amount and transaction frequency of a suspect's transactions before they exit the border of Mainland China

$F(p) \in C_i$ represents the number of foreign countries and/or regions where a suspect made transactions

$F(p) \geq \beta$ represents suspects' total overseas transaction value and frequency

α represents value of RMB transactions in domestic accounts

λ ; represents the exchange rate for transactions in foreign currencies

β represents the value of overseas transactions with a UnionPay bank card

$\alpha \approx \beta$ represents a situation where the overseas transaction value is approximately equal to the domestic transaction value

Chapter five: work recommendations

It is a critical task for the Anti-Money Laundering monitoring unit of the People's Bank to monitor cross border assets transfers by corruptors. However, the AML monitoring unit can only realize its potential when an information sharing system between itself and other relevant departments has been established through building up cooperation work mechanism between the People's Bank, the Police, the Procuratorates and, the discipline supervision departments. Hence, we suggest:

one: anti-corruption information sharing through cooperation agreements

The creation and use of name lists of individuals and organizations suspected of corruption is the most important information tool and represents a breakthrough point for monitoring the cross border transfer of ill-gotten assets. To ensure the accuracy and effectiveness of the name lists, the lists should include: name, document type and number, identity information, account information, origin of the name list itself (e.g. where the list is from - which agency or authority, and who – which analysts, compiled it). In order to effectively fight against the cross border transfer of corrupt assets and the absconding of corruptors, the People's Bank (under the authority of the Anti-Money Laundering Monitoring Analysis Centre) as the State Council's administrative authority for anti-money laundering, should sign cooperation agreements or instruments with relevant anti-corruption organizations in China. While adhering to security, confidentiality, and efficiency, anti-corruption organizations should regularly provide the People's Bank with electronic information conforming to the format and content requirement as agreed. In doing so, security, timeliness, and analysis efficiency can be improved and at the same time cost can be reduced. For example, the agencies responsible for enforcing the US's financial crime laws get information online and offline by signing Memoranda of Understanding with the national crime information centre, the FBI, etc.

two: establishing special exchange mechanism between official anti-corruption organizations and financial information organizations

Anti-corruption organization staff can better understand the flow of capital monitoring analysis in the People's Bank, usage of analysis methods and tools through special exchanges with financial information organizations. More importantly, mutual understanding and coordination between different departments can be strengthened. On the other hand, a better understanding of the needs and working procedure of anti-corruption organizations can help financial information organizations determine the centre of gravity for their work. Moreover, direct and close staff cooperation can reduce intermediate links in the work flow, which can facilitate the exchange of anti-corruption information in a more timely and confidential manner.

In practice, we suggest that it should be considered to send liaison personnel to the People's Bank by the Ministry of Public Security. The Central Commission for party discipline inspection, the Supreme Procuratorates and other official anti-corruption organizations can also send staff to the AML unit of the People's Bank to collaborate on anti-money laundering. In so doing, the potential for capturing large amount transaction data and suspicious transaction data can be further advanced.

three: sharing money laundering related information with customs

The (PRC) Anti Money Laundering Law stipulates that customs shall provide the State Council's anti money laundering administration authority with relevant information such as under-reported cross border cash importation or exportation, details of bearer instruments etc.. In order to effectively monitor cross border cash movements, it is very critical to urgently to establish reporting and submission procedures for this information. We suggest establishing proper mechanisms with customs officials to acquire data on cash and notes carried by individuals when exiting and entering the national and regional (SAR – Special Autonomous Regions) borders.

For the instances where cash or equivalents are transported across Chinese borders, where the declaration criteria requirements have been met and declarations have been made by

individuals on their own initiative, the China AML monitoring analysis center should be provided access to this information through internet when doing analysis work. This would serve to eliminate the need to input this information into the national anti-money laundering database. This kind of information includes identities of bearers, the amount of cash or equivalents carried, the intended destinations, and the name of the customs post where the individual enters or exits a Chinese border. For suspected money laundering cases, customs shall promptly report all possible cases to the anti-money laundering administration authority so that the information can be entered into the national anti-money laundering database.

four: information sharing between different braches/departments of the Central Bank (People's Bank of China)

Internal information of the People's Bank should be further integrated and disseminated between different departments of the Bank. The first purpose of this directive is to encourage and achieve internal information sharing. The China AML monitoring analysis centre shall be granted the power to access the online account inquiry information system (which includes information obtained for account opening as well as up to date account status details), credit information on companies and individuals (including general information about the individuals and companies, current and historical credit assessments, and the operational status of companies), information on the foreign exchange accounts of individuals and companies, settlement and sales information, balance of payment information, and UnionPay transaction information.

At the same time, anti-money laundering information sharing between the China Anti-Money Laundering Monitoring Analysis Centre and the anti money laundering regulatory department in the People's Bank must be enhanced so that the information in anti-money laundering databases can be fully accessed and anti-money laundering work in the People's Bank can be conducted in a more integrated, cooperative manner. This approach will help solve the time lag problem by supplementing information acquired through traditional means. For important clues relating to cross- province/region or international border transfers, a cooperation

analysis mechanism between the China AML monitoring analysis centre and branches and offices of the People's Bank shall be formed to finally achieve success both in monitoring analysis work and anti-money laundering regulation work.

five: strengthening information exchange with foreign FIUs

The establishment of China's financial information organization (financial intelligence unit), the China Anti-Money Laundering Monitoring Analysis Centre, opens new doors for tracing and investigating ill-gotten gains transferred to foreign countries by corruptors.

The potential value of the work by the China AML monitoring analysis centre should be given special attention. Financial information organizations, within the scope of delegated authorization by the state, can share information with corresponding foreign organizations through bilateral or multilateral agreements and memoranda of understanding, where the exchange of information is based on mutual benefit, and is done through proper regional or international organizations. At the same time, financial information organizations can request foreign FIUs to undertake overseas investigations. According to the Interpretive Notes on the Forty Recommendations⁷: "FIUs should be able to make inquiries on behalf of foreign counterparts where this could be relevant to an analysis of financial transactions." At a minimum, inquiries should include:

- (1) a search of the FIU's own databases, which would include information related to suspicious transaction reports.
- (2) The searching of other databases to which it may have direct or indirect access, including law enforcement databases, public databases, administrative databases and

⁷ Referring to the [Forty Recommendations on Money Laundering](http://www.fatf-gafi.org/pages/0,3417,en_32250379_32236920_1_1_1_1_1,00.html) issued by the FATF in 1990 and updated in 1996 and 2003. See: http://www.fatf-gafi.org/pages/0,3417,en_32250379_32236920_1_1_1_1_1,00.html and <http://www.bankersacademy.com/regulations/fatf-interpretative-notes.php>.

commercially available databases. “...furthermore, the member state should not refuse cooperation by reference to legal provisions which require financial institutions to maintain confidentiality.”

Thus, we should strengthen cooperation in information exchanges with foreign FIUs.