

1

Background and Introduction

1.1 A Global Problem and Global Solutions

It is now over a decade since the first formal and concerted international action to combat money laundering was taken. At that time it was recognised that without effective international and regional co-ordination, there was little prospect of successful action to deprive criminals of the proceeds of their crimes. National economies also needed to be protected from the harmful effects of crime and its financial rewards. Global, regional and national initiatives and strategies all had their part to play in this concerted effort to combat serious crime.

Since the initial international initiatives were introduced, criminals have adapted, and money laundering methods and techniques have changed, in response to the counter-measures that have been introduced. As a consequence, the Financial Action Task Force, the principal international standard setting body, has fundamentally revised the 40 Recommendations that it drew up in 1990 and this has coincided with the revision by the Basle Committee of Banking Supervisors of its customer due diligence requirement for banks. In recognition of the way in which criminals have adapted to the international initiatives, the FATF Recommendations now extend beyond the financial sector to the legal and accountancy professions and to other designated business sectors.

In addition, since the events of 11 September 2001, the funding of terrorist activities has been seen as having many features in common with money laundering. In October 2001, the FATF issued its *Special Recommendations on Terrorist Financing*, containing eight additional special recommendations to supplement the FATF 40, and this was followed in April 2002 by a paper entitled *Guidance for Financial Institutions in Detecting Terrorist Financing*.

Most countries that had already established anti-money laundering measures have now added to their laws and regulations so that activities designed to provide funding of terrorist activities now come under the same level of potential scrutiny as money laundering activities.

As the Commonwealth Model of Best Practice inevitably draws heavily on the requirements of the FATF Recommendations and the Basle Due Diligence Principles for Banks, the Commonwealth Model has now been updated to reflect these changes to international standards.

1.2 Development of Commonwealth Anti-Money Laundering Strategies and Policies

The development of Commonwealth anti-money laundering strategies dates back to 1993 when the Commonwealth Model Law was drafted. However, at a meeting of senior finance officials in June 1995, it was recognised that legislation alone was not enough to combat money laundering. Criminals need to launder the proceeds of their crimes through the financial sector whose co-operation in combating money launder is essential.

Commonwealth Finance Ministers, at their meeting in Kingston, Jamaica in October 1995, endorsed the Report on Money Laundering Issues and actions produced by senior finance officials at their Colombo Meeting. Consequently, it was agreed to take action to follow up recommendations for the financial sector. Principal amongst these was the development of generic guidance notes setting out best practice in all areas covered by the legislation and offering examples of money laundering cases and potentially suspicious transactions.

Commonwealth Guidance Notes for the Financial Sector were first produced in 1996 and adopted at the Meeting of Commonwealth Finance Ministers held in October of that year.

It is recognised that for good practice guidance notes to be effective, they need to be reviewed on a regular basis to reflect changing circumstances and experience. Many changes in global anti-money laundering standards have taken place since 1996; while it is recognised that Commonwealth countries have progressed with the application of their legislation and financial sector guidance at different speeds, it is important that the *Commonwealth Guidance Notes* reflect current international standards. The Commonwealth Secretariat has therefore produced these revised *Guidance Notes* to reflect the changes that have taken place.

1.3 Purpose, Objectives and Status of the Model of Best Practice

Detailed best practice guidance for combating money laundering and terrorist financing can only be produced within the context of local national legislation and regulation and economic circumstance.

The approach to such legislation and regulation, which will reflect the local economic position, has a major impact upon the capability of the financial sector to play its required role. It is essential for the policy-maker to include the relevant parts of the private sector (together with all other parties involved) in the development of the legislation and regulation, and for the financial sector to make a full commitment to the success of the national anti-money laundering strategy.

This document therefore has two discrete but complementary purposes:

- Firstly, at a macro level, it is intended as a tool for policy-makers. It contains points of discussion for, and offers advice to, senior finance officials who, together with others,

such as senior law officials, are tasked with drafting and monitoring a strategy which effectively involves the financial sector. In this respect, the document draws on the developing strategies and issues that have been considered by senior finance officials and Finance Ministers over the past five years.

- Secondly, it seeks to provide guidance to individual institutions and businesses on how they might effectively protect themselves from the damaging impact of handling criminal money and fulfil their obligations as regards anti-money laundering and terrorist legislation. Of necessity, this part of the document is of a generic nature, and each country must adapt it to reflect local legislation and regulation. However, the FATF Recommendations provide the world standard against which all countries will be measured and these have therefore been used as a base.

1.4 How to Use the Model of Best Practice

As indicated above, this document is intended to serve two purposes, and has been structured so that both purposes can be easily met.

- Part I (Chapters 1–5) sets out the general global issues and strategies to prevent money laundering. It also provides introductory definitions, and background information, which will be of interest and relevance to both national policy-makers and individual financial institutions.
- Part II (Chapters 6–9) assists the policy-makers who are preparing legislation, regulation and setting a national policy.
- Part III (Chapters 10–14) sets out the basis for financial sector policies and procedures and provides the options for adaptation by any individual country to reflect local legislation and strategies.