



Financial Action Task Force

防制洗錢金融行動工作組織

**RBA GUIDANCE FOR DEALERS IN PRECIOUS
METAL AND STONES**

貴金屬與寶石商的風險基礎方法指引

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**GUIDANCE ON THE RISK-BASED APPROACH TO COMBATING
MONEY LAUNDERING AND TERRORIST FINANCING**
打擊洗錢與資助恐怖份子風險基礎方法指引

**HIGH LEVEL PRINCIPLES AND PROCEDURES FOR DEALERS
IN PRECIOUS METALS AND DEALERS IN PRECIOUS STONES**
貴金屬商與寶石商的高層次原則與程序

**SECTION ONE: USING THE GUIDANCE -
PURPOSE OF THE RISK-BASED APPROACH**
第一節：使用指引 — 風險基礎方法的目的

Chapter One: Background and Context
第一章：背景資料

1. In June 2007 the FATF adopted Guidance on the Risk-Based Approach to Combating Money Laundering and Terrorist Financing: High Level Principles and Procedures, which includes guidance for public authorities and guidance for financial institutions. This was the culmination of extensive consultation between private and public sector members of an Electronic Advisory Group (EAG) established by the FATF.

1. 防制洗錢金融行動工作組織（FATF）於 2007 年採納防制洗錢及打擊資恐風險基礎方法：高階原則與程序，其包含政府機關指引和金融機構指引。此為 FATF 電子諮詢小組（EAG）公私部門成員之間進行的密集諮詢成果。

2. In addition to financial institutions, the FATF Recommendations also cover a number of designated non-financial businesses and professions (DNFBPs). At its June 2007 meeting, the FATF's Working Group on Evaluations and Implementation (WGEI) endorsed a proposal to convene a meeting of the representatives from the DNFBPs to assess the possibility of developing guidance on the risk-based approach for their sectors, using the same structure and style as the completed guidance for financial institutions.

2. 除了金融機構外，FATF 建議也提及一些指定之非金融事業或人員（DNFBPs）。於 2007 年 6 月的會議中，FATF 的評鑑及執行工作組（WGEI）簽署了一份提案，用以召集 DNFBP 代表人與會，藉此評估為 DNFBP 各領域擬定風險基礎方法指引的可能性；並使用與完成的金融機構指引相同的結構與形式。

3. This meeting was held in September 2007 and was attended by organisations which represent lawyers, notaries, accountants, trust and company service providers, casinos, real estate agents, and dealers in precious metals and dealers in precious stones. This private sector group expressed an interest in contributing to FATF guidance on implementing a risk-based approach for their sectors. The guidance for the DNFBPs would follow the principles of the risk-based approach already established by FATF, and would highlight risk factors specific to the DNFBPs, as well as suggest mitigation strategies that fit with the particular activities and businesses of the DNFBPs. The FATF established another EAG to facilitate the work.

3. 此會議於 2007 年 9 月舉行，並由代表包括律師、公證人、會計師、信託及公司服務業者、賭場、不動產經紀人、貴金屬商和寶石商的組織參加。這些私部門團體對於促成各領域執行 FATF

風險基礎方法指引表達關注。DNFBP 的指引將遵循 FATF 建立的風險基礎方法原則，並且特別強調 DNFBP 特有的風險因素，同時針對 DNFBP 的特殊活動與業務建議適合的風險降低策略。FATF 另外成立 EAG 以推動此工作。

4. The private sector group met again in December 2007 and was joined by a number of specialist public sector members. Separate working groups comprising public and private sectors members were established, and private sector chairs were appointed.

4. 此私部門團體於 2007 年 12 月再次召集會議，一些公部門專家也參加了此次會議。另外還成立了一個由公私部門代表組成的工作小組，並任命私部門代表為主席。

5. The EAG continued work until this guidance for dealers in precious metals and dealers in precious stones was presented to the WGEI. After further international consultation with both public and private sectors, the FATF adopted this guidance at its June 2008 Plenary. Guidance for each of the other DNFBP sectors is being published separately.

5. EAG 持續努力，直到此一適用於貴金屬和寶石商的指引提交給 WGEI。經與公私部門進行深入的國際諮詢後，FATF 於 2008 年 6 月召開的大會上採用此指引。目前正陸續出版個別 DNFBP 部門的指引。

Purpose of the guidance

指引的目的

6. The purpose of this Guidance is to:

6. 指引的目的為：

- Support the development of a common understanding of what the risk-based approach involves.
- 支持推動對風險基礎方法要素的普遍瞭解。
- Outline the high-level principles involved in applying the risk-based approach.
- 對風險基礎方法的高階適用原則提出概略說明。
- Indicate good practice in the design and implementation of an effective risk-based approach.
- 針對有效風險基礎方法的設計與執行提出優良實務。

7. However, it should be noted that applying a risk-based approach is not mandatory. A properly applied risk-based approach does not necessarily mean a reduced burden, although it should result in a more cost effective use of resources. For some countries, applying a rules-based system might be more appropriate. Countries will need to make their own determinations on whether to apply a risk-based approach, based on their specific ML/FT risks, size and nature of the DNFBP activities, and other relevant information. The issue of timing is also relevant for countries that may have applied anti-money laundering/counter-terrorist financing (AML/CFT) measures to DNFBPs, but where it is uncertain whether the DNFBPs have sufficient experience to implement and apply an effective risk-based approach.

7. 然而，應注意的是，是否採用風險基礎方法，並非強制要求。雖然正確執行風險基礎方法應能改善資源的使用成本效益，但即使如此也不表示能減輕負擔。某些國家可能較適合採用規範基礎系統。各國應根據其特有的洗錢/資恐風險、DNFBP 活動的規模與性質及其他相關資訊，自行決定是否使用風險基礎方法。對可能已經針對 DNFBP 採取洗錢防制/打擊資恐 (AML/CFT) 措施、但不確定 DNFBP 對於有效的風險基礎方法是否擁有足夠執行經驗的國家而言，採用風險基礎方法的時機也是個重要的議題。

Target audience, status and content of the guidance

指引的適用對象、情況與內容

8. This Guidance is written at a high level to recognize the differing practices of dealers in precious metals and dealers in precious stones (hereinafter referred to as “dealers”) in different countries, and the different levels and forms of monitoring that may apply. Each country and its national authorities should aim to establish a partnership with its dealers that will be mutually beneficial to combating money laundering and terrorist financing.

8. 此指引為高標準指引，承認各國貴金屬和寶石商（以下簡稱「交易商」）各有不同的做法，對各該交易商的監控程度與形式也各有不同。各國及其國家機關應與交易商建立合作關係，以利共同打擊洗錢與資恐。

9. The primary target audience of this guidance is dealers in precious metals and dealers in precious stones themselves, when they conduct activities which fall within the ambit of the FATF Recommendations, as described below. For purposes of this guidance, the term "dealer" encompasses a wide range of persons engaged in these businesses, from those who produce precious metals or precious stones at mining operations, to intermediate buyers and brokers, to precious stone cutters and polishers and precious metal refiners, to jewellery manufacturers who use precious metals and precious stones, to retail sellers to the public, to buyers and sellers in the secondary and scrap markets.

9. 此指引的主要對象在 FATF 建議的範圍內進行活動的貴金屬和寶石商。茲說明如下。根據此指引的宗旨，「交易商」一詞涵蓋所有從事貴金屬與寶石生意的人，從採礦生產貴金屬和寶石的人、中間買家與掮客、寶石切割與打磨和貴金屬提煉公司、使用貴金屬與寶石製造珠寶的製造商，到公開市場交易商、次級和廢品市場的買家與銷售商。

10. Recommendation 12 mandates that the requirements for customer due diligence, record-keeping, and paying attention to all complex, unusual large transactions set out in Recommendation 5, 6, and 8 to 11 apply to dealers in precious metals and dealers in precious stones when they engage in any cash transaction with a customer equal to or above USD/EUR 15 000.

10. 根據建議第 12 項，建議第 5、6 及 8 至 11 項有關客戶審查、紀錄保存以及注意所有複雜不尋常大筆交易的要求，適用於與客戶從事 USD/EUR 15,000 或更高金額現金交易的貴金屬和寶石商。

11. Recommendation 16 requires that FATF Recommendations 13 to 15 regarding reporting of suspicious transactions (see paragraph 132) and internal AML/CFT controls, and Recommendation 21 regarding measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendations, apply to dealers in precious metals and dealers in precious stones when they engage in any cash transaction with a customer equal to or above the applicable designated threshold (USD/EUR 15 000).

11. 建議第 16 項要求，FATF 建議第 13 至 15 項關於可疑交易的報告（參閱第 132 段）與內部防制洗錢／打擊資恐控制，以及建議第 21 項針對未遵守或未完全遵守 FATF 建議的國家採取的措施，皆適用於貴金屬和寶石商與客戶從事等值或現行指定門檻以上（USD/EUR 15,000）的現金交易。

12. The wider audience for this guidance includes countries, designated competent authorities and self regulatory organisations (SROs), which are considering how to apply AML/CFT measures to dealers. Countries need to identify the most appropriate regime, tailored to address individual country risks, which takes into consideration the idiosyncrasies and activities of dealers domestically. This regime should recognise the differences between the DNFBP sectors, as well as the differences between the DNFBPs and financial institutions. However, this guidance does not override the purview of national authorities.

12. 此指引的其他適用對象包括研究如何將防制洗錢/打擊資恐措施適用於交易商的國家、權責機關與自律團體（SROs）。各國應針對自己情況辨識最適合的制度處理各自風險，並應考量其國內交易商的特性與活動。此制度應承認各 DNFBP 領域的差異以及各 DNFBP 與金融機構的不同。然此，此指引未取代國家機關的權限。

Observation on the particular activities carried out by dealers

觀察交易商從事的特別活動

13. The following general observation about the different businesses carried out by dealers should help inform the approach. Consideration should also be given to the particular activities performed by dealers on a national basis.

13. 以下對交易商進行不同商業活動的全面觀察應有助於提供方法資訊。還應以全國性的角度考量交易商從事的特定活動。

14. Diamonds, jewels and precious metals have unique physical and commercial properties which carry value in small, easily transportable quantities. The worldwide trade varies from modern international transactions conducted through the financial system, to localized informal markets. Dealers range from very poor individuals in some of the most remote and troubled places on the planet, to the wealthiest individuals, to large multinational companies working in major financial centres. Transaction methods also range from anonymous exchanges of handfuls of stones or nuggets for cash, to exchange-based government-regulated deals.

14. 鑽石、珠寶和貴金屬具有獨特的物質和商業屬性，體積小且攜帶價值，而且數量易於運送。全球化貿易從透過金融體系之國際交易到地方性的非正式市場不等均屬之。交易商範圍從全球某些最偏遠、問題地區很貧困的個人，到最富有的個人，以及在主要金融中心營運的大型跨國公司。交易方式還包括以現金匿名交換少量寶石或貴金屬，到經政府監督的交易。

15. A risk assessment is familiar to dealers in diamonds, jewels and precious metals because of the risks of theft and fraud. Risks of money laundering and terrorist financing should be added to those traditional industry concerns, in a more formal structured program. Diamond dealers in particular will be familiar with such a program in the worldwide Kimberley Process¹ which is designed to ameliorate risks of conflict finance in rough diamonds.

15. 因為竊盜和詐欺風險，所以鑽石、珠寶和貴金屬交易商對風險評估並不陌生。在更正式的結構化方案中，洗錢與資恐風險應被傳統產業納入考量。特別是鑽石交易商應熟悉國際金伯利進程國際證書制度¹ 這樣的方案；此方案旨在改善裸鑽衝擊金融的風險。

¹ A worldwide regulatory scheme that governs the movement of rough diamonds across international borders, adding a certificate of the legitimacy of the trade of the diamonds and a statement of value to all rough diamonds traded across borders. It is supplemented by dealer warranties applicable to polished diamonds and jewelry containing diamonds covering each trade down to retail sales. The Kimberley Process includes all significant dealers and countries involved in diamond mining, trading and processing, and its tracking and valuation system.

¹ 規範國際裸鑽跨境移動的全球監管方案，要求所有跨境交易的裸鑽都須提供鑽石合法交易證書和價值聲明書。拋光鑽石和含有鑽石的珠寶售與交易商的每筆交易須另附經銷商保固書。金伯利進程國際證書制度涵蓋所有參與鑽石開採、交易與加工的重要經銷商和國家，以及該機制的追蹤與估價系統。

Chapter Two: The Risk-Based Approach – Purpose, Benefits and Challenges

第二章：風險基礎方法 – 目的、利益與挑戰

The purpose of the risk-based approach

風險基礎方法的目的

16. The FATF Recommendations contain language that permits countries to the degree specified to adopt a risk-based approach to combating money laundering and terrorist financing. That language also authorises countries to permit DNFBPs to use a risk-based approach in applying certain of their AML/CFT obligations.

16. FATF 建議提及了允許各國在防制洗錢及打擊資恐時，某程度地運用風險基礎方法。該建議亦授權各國允許 DNFBPs 在履行其特定防制洗錢／打擊資恐義務時使用風險基礎方法。

17. By adopting a risk-based approach, measures to prevent or mitigate money laundering and terrorist financing can be taken that are commensurate with the risks identified. This will allow resources to be allocated in the most efficient ways. The principle is that resources should be directed in accordance with priorities so that the greatest risks receive the highest attention. The alternative approaches are that resources are either applied evenly, or that resources are targeted, but on the basis of factors other than risk. This can inadvertently lead to a “tick-box” approach with the focus on meeting regulatory requirements rather than on combating money laundering or terrorist financing efficiently and effectively.

17. 採取風險基礎方法時，可採取與已辨識風險相當的措施來預防或減輕洗錢和資恐。此方法可確保以最有效率的方式分配資源。資源應按照優先順序原則分配，確保最大的風險得到最多的關注。相反的方法為平均分配資源，或在確定資源的分配對象時考量風險以外的因素。這種方法可能會在無意間變成「勾選方塊」方法，也就是著重於配合監管要求，而非以有效率及有效的防制洗錢或打擊資恐為主要考量。

18. A number of the DNFBP sectors are subject to regulatory or professional requirements which complement AML/CFT measures, e.g. in some countries dealers will be licensed and some of their activities will be overseen by government agencies. Where possible, it will be beneficial for dealers to devise their AML/CFT policies and procedures in a way that harmonises with other regulatory or professional requirements. A risk-based AML/CFT regime should help ensure that honest customers and counterparties can access the services provided by dealers, but creates barriers to those who seek to misuse these services.

18. 有些 DNFBP 領域適用監管或專業規範，而這些規範使防制洗錢／打擊資恐措施更加完善。例如有些國家的交易商由政府機關核准，且某些活動受到政府機關的監督。若可能，交易商可以用符合其他監管或專業規範的方法，使其防制洗錢／打擊資恐政策與程序呈現多元面貌，這對交易商是有益的。以風險為基礎的防制洗錢／打擊資恐制度應有助於確保誠實的客戶與相對方能獲得交易商提供的服務，同時建立屏障以阻止企圖濫用交易商服務的客戶。

19. A risk analysis must be performed to determine where the money laundering and terrorist financing risks are the greatest. Countries will need to identify the main vulnerabilities and address them accordingly. Dealers will need this assistance to help them to identify higher risk customers and counterparties, products and services, including delivery channels, and geographical locations. These are not static assessments. They will change over time, depending on how circumstances develop, and how threats evolve.

19. 應進行風險評估以確定洗錢及資恐風險最高的部分。各國須辨識最大的弱點，並做相應處理。交易商需要這項支援來協助辨識高風險客戶與相對方、產品與服務（包括交付管道），以及地理位置。這些並非靜態評估，而是會隨著時間改變的評估，端視環境的發展與威脅的變化而定。

20. The strategies to manage and mitigate the identified money laundering and terrorist financing activities are typically aimed at preventing the activity from occurring through a mixture of deterrence (e.g.

appropriate CDD measures), detection (*e.g.* monitoring and suspicious transaction reporting), and record-keeping so as to facilitate investigations.

20. 有關管理與減少經辨識的洗錢與資恐活動，其策略的目的主要在於透過調查的威嚇（例如適切的客戶審查措施）、偵查（例如監控和可疑交易報告）及紀錄保存等綜合措施以達到預防之效果。

21. Proportionate procedures should be designed based on assessed risk. Higher risk areas should be subject to enhanced procedures; this would include measures such as enhanced customer and counterparty due diligence checks and enhanced transaction monitoring. It also follows that in instances where risks are low, simplified or reduced controls may be applied.

21. 應根據評估的風險制定符合比例的程序。高風險地區應適用加強措施，包括對客戶及相對方加強審查，以及加強交易監控。此外，低風險個案適用簡化或較不嚴格的控制。

22. There are no universally accepted methodologies that prescribe the nature and extent of a risk-based approach. However, an effective risk-based approach does involve identifying and categorising money laundering and terrorist financing risks and establishing reasonable controls based on risks identified.

22. 尚無公認的通用方法描述風險基礎方法的性質與程度。然而，有效的風險基礎方法確實須對洗錢及資恐風險進行辨識與分類，並根據辨識的風險建立合理的控制。

23. An effective risk-based approach will allow dealers to exercise reasonable business and professional judgement with respect to customers and counterparties. Application of a reasoned and well-articulated risk-based approach will justify the judgments made with regard to managing potential money laundering and terrorist financing risks. A risk-based approach should not be designed to prohibit dealers from continuing with legitimate business or from finding innovative ways to diversify their business.

23. 有效的風險基礎方法允許交易商對其客戶與相對方進行合理的商業與專業判斷。合理明確的風險基礎方法，有助於正確判斷如何管理潛在的洗錢和資恐風險。風險基礎方法不應被用來禁止交易商繼續從事合法事業，或禁止其以創新方式多角化經營其業務。

24. Regardless of the strength and effectiveness of AML/CFT controls, criminals will continue to attempt to move illicit funds undetected and will, from time to time, succeed. They are more likely to target the DNFBP sectors if other channels become more difficult. For this reason, DNFBPs, including dealers in precious metals and stones may be more or less vulnerable depending on the effectiveness of the AML/CFT procedures applied in other sectors. A risk-based approach allows DNFBPs, including dealers, to more efficiently and effectively adjust and adapt as new money laundering and terrorist financing methods are identified.

24. 不論防制洗錢／打擊資恐控制的強度與效果如何，罪犯仍然會繼續嘗試轉移未被發現的非法資金，而且有的時候仍能成功達到目的。如果其他管道難度增加，他們很可能會以 DNFBP 為管道。因此，視其他領域防制洗錢／打擊資恐程序效果的不同，DNFBP（包括貴金屬和寶石商）可能會有程度不同的弱點。當新的洗錢和資恐方法被識別時，DNFBP（包括交易商）可藉由風險基礎方法，以更有效率的方式有效做好調整與調適。

25. A reasonably designed and effectively implemented risk-based approach will provide an appropriate and effective control structure to manage identifiable money laundering and terrorist financing risks. However, it must be recognised that any reasonably applied controls, including controls implemented as a result of a reasonably designed and effectively implemented risk-based approach, will not identify and detect all instances of money laundering or terrorist financing. Therefore, designated competent authorities, SROs, law enforcement, and judicial authorities must take into account and give due consideration to a well reasoned risk-based approach. In cases where there is a failure to implement an adequately-designed risk-based approach or failure of a risk-based programme that was not adequate in its design, regulators, SROs, law enforcement or judicial authorities should take action as necessary and proportionate.

25. 合理規劃且有效執行的風險基礎方法將提供適切有效的控制結構，用以管理可辨識的洗錢及資恐風險。然而，必須承認的是，任何合理的控制（包括因為合理規劃且有效執行的風險基礎方法而得以執行的控制）都無法辨別及偵查所有洗錢或資恐的事例。因此，指定權責機關、自律團體、執法機關和司法機關都應考慮合理的風險基礎方法，並給予應有的重視。若未執行規劃完善的風險基礎方法，或規劃出不盡完美的風險基礎方案，權責機關、自律團體、執法機關或司法機關應採取適當且必要的措施。

Potential benefits and challenges of the risk-based approach

風險基礎方法的潛在利益與挑戰

Benefits:

利益：

26. The adoption of a risk-based approach to combating money laundering and terrorist financing can yield benefits for all parties including the public. Applied effectively, the approach should allow a more efficient and effective use of resources and minimise burdens on customers and counterparties.

Focusing on higher risk threats should mean that beneficial outcomes can be achieved more effectively.

26. 用風險基礎方法防制洗錢和打擊資恐會為所有當事人（包括民眾）帶來利益。若能有效執行，風險基礎方法應能確保以更有效率的方式有效使用資源，並將客戶與相對方的負擔減至最輕。聚焦於較高的風險威脅意味著更有效地得到有利的結果。

27. For dealers, the risk-based approach allows the flexibility to approach AML/CFT obligations using specialist skills and responsibilities. This requires dealers to take a wide and objective view of their activities and customers and counterparties.

27. 交易商可藉由風險基礎方法以專業負責的態度，彈性運用專業技術履行 防制洗錢／打擊資恐義務。此做法要求交易商以寬廣的視野客觀看待其活動、客戶與相對方。

28. Efforts to combat money laundering and terrorist financing should also be flexible in order to adapt as risks evolve. As such, dealers will use their judgment, knowledge and expertise to develop an appropriate risk-based approach for their particular organisation, structure and business activities.

28. 防制洗錢和打擊資恐應保持彈性，確保隨著風險的發展調適。在此情況下，交易商可針對其特定組織、結構與商業活動，運用其判斷力、知識與專業技術擬定適切的風險基礎方法。

Challenges:

挑戰：

29. A risk-based approach is not necessarily an easy option, and there may be barriers to overcome when implementing the necessary measures. Some challenges may be inherent to the use of the risk-based approach. Others may stem from the difficulties in making the transition to a risk-based system. A number of challenges, however, can also be seen as offering opportunities to implement a more effective system.

The challenge of implementing a risk-based approach with respect to terrorist financing is discussed in more detail at paragraphs 42 to 46 below.

29. 風險基礎方法未必是容易的選項，在採取必要的措施時，可能會遇到需要克服的障礙。有些是使用風險基礎方法時產生的固有挑戰。其他有些可能是因為過渡至風險基礎制度時遇到困難而產生。然而，有些挑戰可視為提供實務更有效系統的機會。以下第 42 至 46 段將詳細討論執行風險基礎方法時在資恐方面遇到的挑戰。

30. The risk-based approach is challenging to both public and private sector entities. Such an approach requires resources and expertise to gather and interpret information on risks, both at the country and institutional levels, to develop procedures and systems, and to train personnel. It further requires that sound and well-trained judgment be exercised in the implementation of procedures and systems. It will

certainly lead to a greater diversity in practice which should lead to innovations and improved compliance. However, it may also cause uncertainty regarding expectations, difficulty in applying uniform regulatory treatment, and a lack of understanding by customers and counterparties regarding information required.

30. 不論對公部門或私部門實體，風險基礎方法都是一項挑戰。此方法除了需要資源外，還必須具備在國家和組織層級蒐集與詮釋風險資訊所需的專業知識，如此才能制定程序、制度與訓練人員。此方法還要求在規劃及執行程序與制度時發揮訓練有素的穩健判斷力。風險基礎方法必然導致更多元的實務應用，進而帶來創新，並且改善法遵。然而，風險基礎方法可能會帶來不確定性、實施統一監管的困難性，而且客戶與相對方可能缺乏對所需資訊的瞭解。

31. Implementing a risk-based approach requires that dealers have a sound understanding of the risks and are able to exercise sound judgment. This requires the building of expertise including for example, through training, recruitment, taking professional advice and “learning by doing”. The process will always benefit from information sharing by designated competent authorities and SROs. The provision of good practice guidance is also valuable. Attempting to pursue a risk-based approach without sufficient expertise may lead to flawed judgments. Dealers may over-estimate risk, which could lead to wasteful use of resources, or they may under-estimate risk, thereby creating vulnerabilities.

31. 實施風險基礎方法的前提為交易商對風險須有清楚的認識，而且能做穩健的判斷。這需要培養專業知識，例如包括透過訓練、聘雇、採用專業建議，以及「從實踐中學習」。此過程將因為指定權責機關與自律團體之間的資訊共享而獲得助益。提供優良實務指引也是個好方法。若缺乏足夠的專業知識而實施風險基礎方法，可能導致錯誤判斷。交易商可能高估風險，以致浪費資源；也可能低估風險，以致產生弱點。

32. Dealers may find that some staff members are uncomfortable making risk-based judgments. This may lead to overly cautious decisions, or disproportionate time spent documenting the rationale behind a decision. This may also be true at various levels of management.

32. 交易商可能發現有些員工不太願意做風險基礎判斷。這可能導致做出過度謹慎的決定，或者花費太多時間記錄決定背後的原因。各管理階層都可能發生此問題。

33. However, in situations where management fails to recognise or underestimates the risks, a culture may develop that allows for inadequate resources to be devoted to compliance, leading to potentially significant compliance failures.

33. 然而，若管理階層不承認或低估風險，可能會發展出一種法遵資源分配不足的文化，以致可能發生重大法遵問題。

34. Designated competent authorities and SROs should place greater emphasis on whether dealers have an effective decision-making process with respect to risk-management, and sample testing should be used or individual decisions reviewed as a means to test the effectiveness of a dealer in precious metals or a dealer in precious stones overall risk management. Designated competent authorities and SROs should recognise that even though appropriate risk management structures and procedures are regularly updated, and the relevant policies, procedures, and processes are followed, decisions may still be made that are incorrect in light of additional information not reasonably available at the time.

34. 指定權責機關和自律團體應特別重視交易商有否制定有效的風險管理決策流程，並應進行抽樣檢查或應審查個別決策，以檢驗貴金屬和寶石商整體風險管理的有效性。指定權責機關和自律團體應承認，即使定期更新相關風險管理結構與程序，並且遵守相關政策、程序與流程，仍可能因為當時未合理的提供額外資訊，而做出不正確的決策。

35. In implementing the risk-based approach, dealers should be given the opportunity to make reasonable judgments with respect to their particular situations. This may mean that no two dealers in precious metals or dealers in precious stones or no two businesses within the same sector are likely to adopt the same detailed practice. Such potential diversity of practice will require that designated competent authorities and SROs make greater effort to identify and disseminate guidelines on sound practice, and may pose challenges to staff working to monitor compliance. The existence of good practice

guidance, training, industry studies and other available information and materials will assist the designated competent authority or an SRO in determining whether a dealer in precious metals or a dealer in precious stones has made sound risk-based judgments.

35. 實施風險基礎方法時，應給予交易商根據其特殊情況做出合理判斷的機會。這表示不同的貴金屬和寶石商，或此領域的不同業別，在實務細節上很可能不同。這種可能的多元實務現象導致指定權責機關和自律團體須付出更多心力，根據實務運作以辨識和宣導指引內容，而這將為負責監督遵循的員工帶來挑戰。優良實務指引、訓練、產業研究和其他可用的資訊與素材，能協助指定權責機關和自律團體確定貴金屬和寶石商是否做出穩健的風險基礎判斷。

36. Recommendation 25 requires adequate feedback to be provided to the financial sector and DNFBPs. Such feedback helps institutions and businesses to more accurately assess the money laundering and terrorist financing risks and to adjust their risk programmes accordingly. This in turn makes the detection of suspicious activity more likely and improves the quality of suspicious transaction reports. As well as being an essential input to any assessment of country or sector wide risks, the promptness and content of such feedback is relevant to implementing an effective risk-based approach.

36. 建議第 25 項要求對金融業和 DNFBP 提供充分的回饋。這些回饋協助各機構和業別更準確地評估洗錢和資恐風險，並對其風險計畫進行相應的調整。這些作為增加了察覺可疑活動的可能性，且能改善可疑活動報告的品質。回饋除了是評估國家或產業風險的必要元素外，其即時性及其內容對於執行有效風險基礎方法非常重要。

The potential benefits and potential challenges can be summarised as follows:

可能的優點與挑戰統整如下：

Potential Benefits:

可能的優點：

- Better management of risks and cost-benefits
- 更好的風險管理方式與成本效益。
- Efficient use and allocation of resources
- 有效率的資源利用與分配。
- Focus on real and identified threats
- 著重於已辨識的真實威脅。
- Flexibility to adapt to risks that change over time
- 彈性配合隨時間變化的風險而調整。

Potential Challenges:

可能的挑戰：

- Identifying appropriate information to conduct a sound risk analysis
- 辨識適合用於全面風險分析的資訊。
- Addressing short term transitional costs
- 處理短期過渡成本。
- Greater need for more expert staff capable of making sound judgments
- 為了做出穩健的判斷而需要更多更專業的人才。
- Developing appropriate regulatory response to potential diversity of practice
- 針對可能的多元做法制定適切的監管政策以為回應。

Chapter Three: FATF and the Risk-Based Approach

第三章：FATF 與風險基礎方法

37. The varying degrees of risk of money laundering or terrorist financing for particular types of DNFBPs, including dealers, or for particular types of customers and counterparties, or transactions, is an important consideration underlying the FATF Recommendations. According to the Recommendations, with regard to DNFBPs, there are specific Recommendations where the degree of risk is an issue that a country either must take into account (if there is higher risk), or may take into account (if there is lower risk).

37. 對於特定類型的 DNFBP（例如交易商）、客戶與相對方，或特定交易，洗錢或資恐之風險程度各異，這些都是 FATF 建議的重要考量因素。根據建議內容，在 DNFBP 方面，當風險程度在某個國家境內是個必須考慮的問題（風險較高）、或可以將之納入考慮（風險較低）時，就會提供特定的建議。

38. The risk-based approach is either incorporated into the Recommendations (and the Methodology) in specific and limited ways in a number of Recommendations, or it is inherently part of or linked to those Recommendations. For instance, for DNFBPs, including dealers, risk is addressed in three principal areas (a) Customer Due Diligence (R.5, 6, 8 and 9); (b) businesses' internal control systems (R.15); and (c) the approach of oversight/monitoring of DNFBPs, including dealers (R.24).

38. 風險基礎方法或以明確且有限的方式納入某些建議（及方法論），或為建議的固有或相關部分。例如，DNFBP（包括交易商）的風險分成下列三個主要領域處理：(a) 客戶審查（建議第 5、6、8 及 9 項）；(b) 業務的內部控制制度（建議第 15 項）；及 (c) DNFBP（包括交易商）的監督／監控方法（建議第 24 項）。

Customer and counterparty due diligence (R. 5, 6, 8 and 9)

客戶與相對方審查（建議第 5、6、8 及 9 項）

39. Risk is referred to in several forms:

39. 風險以不同的形式提及：

- a) Higher risk – under Recommendation 5, a country must require its DNFBPs, including dealers, to perform enhanced due diligence for higher-risk customers and counterparties, business relationships and transactions. Recommendations 6 (politically exposed persons) is an example of this principle and is considered to be a higher risk scenario requiring enhanced CDD.
- a) 高風險 – 根據建議第 5 項，各國必須要求 DNFBP（包括交易商）對高風險的客戶與相對方、業務關係及交易執行強化的客戶審查。建議第 6 項（重要政治性職務人士）為此原則的範例，被視為高風險情境而需執行加強客戶審查。
- b) Lower risk – a country may also permit its DNFBPs, including dealers, to take lower risk into account in deciding the extent of the CDD measures they will take (see Methodology criteria 5.9). Dealers may thus reduce or simplify (but not avoid completely) the required measures.
- b) 低風險 – 各國可允許其 DNFBP（包括交易商）在決定將採取何種程度的客戶審查措施時，將較低的風險納入考量（參閱評鑑方法論 5.9 項次）。如此一來，交易商便可減少或簡化（但不能完全避免）須採取的措施。
- c) Risk arising from innovation – under Recommendation 8, a country must require its DNFBPs, including dealers, to give special attention to the risks arising from new or developing technologies that might favour anonymity.
- c) 因創新衍生的風險–根據建議第 8 項，各國也必須要求 DNFBP（包括交易商）應特別注意有利於匿名的新技術或開發中技術產生的風險。

- d) Risk assessment mechanism – the FATF standards expect that there will be an adequate mechanism by which designated competent authorities or SROs assess or review the procedures adopted by dealers to determine the degree of risk and how they manage that risk, as well as to review the actual determinations themselves. This expectation applies to all areas where the risk-based approach is applied. In addition, where the designated competent authorities or SROs have issued guidelines on a suitable approach to risk-based procedures, it will be important to establish that these have been followed. The Recommendations also recognise that country risk is a necessary component of any risk assessment mechanism (R.5 & 9).
- d) 風險評估機制 – FATF 標準預期建立適當的機制，由指定權責機關或自律團體循此機制評估或審查交易商採取的程序，以確定風險程度及交易商如何管理該風險，同時審查交易商所做的實際判斷。此預期適用於採取風險基礎方法的所有領域。此外，若指定權責機關或自律團體就執行風險基礎程序的適切方法提出準則，即應確定已遵守該準則。FATF 建議亦承認國家風險是任何風險評估機制的必要元素(建議第5及9項)。

Internal control systems (R.15)

內部控制制度 (建議第15項)

40. Under Recommendation 15, the development of “appropriate” internal policies and training and audit systems will need to include a specific, and ongoing, consideration of the potential money laundering and terrorist financing risks associated with customers and counterparties, products and services, geographic areas of operation and so forth. The Interpretative Note to Recommendation 15 makes it clear that a country may allow DNFBPs, including dealers, to have regard to the money laundering and terrorist financing risks, and to the size of the business, when determining the type and extent of measures required.

40. 根據建議第15項，制定「適切」內部政策、訓練和稽核制度時，對於客戶與相對方、產品與服務、營運地理區域等相關因素，應具體明確地持續考量潛在洗錢與資恐風險。建議第15項的註釋明確指出，各國得允許其 DNFBP（包括交易商）在判定應採取何種類型與程度的措施時，考量洗錢與資恐風險以及業務規模。

Regulation and oversight by designated competent authorities or SROs (R.24)

指定權責機關或自律團體的監管與監督 (建議第24項)

41. Countries should ensure that dealers are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. In determining whether the system for monitoring and ensuring compliance is appropriate, regard may be had to the risk of money laundering or terrorist financing in a given business, i.e. if there is a proven low risk then lesser monitoring measures may be taken.

41. 各國應確保交易商適用有效的監控制度，並確保遵守 防制洗錢／打擊資恐 要求。在判斷監控與確保遵循制度是否適切時，得考量特定業務的洗錢或資恐風險；也就是說，若證實為低風險，則可採取較低的監控措施。

Applicability of the risk-based approach to terrorist financing

風險基礎方法對資恐的適用性

42. There are both similarities and differences in the application of a risk-based approach to terrorist financing and money laundering. They both require a process for identifying and assessing risk. However, the characteristics of terrorist financing makes its detection difficult and the implementation of mitigation strategies may be challenging due to considerations such as the relatively low value of transactions involved in terrorist financing, or the fact that funds can be derived from legitimate as well as illicit sources.

42. 風險基礎方法對資恐和洗錢的適用具有相似性，但也有不同之處。兩者都需要風險辨識與

評估流程。然而，資恐因其特性而難以偵查，而且因為考量諸如資恐涉及的交易價值相對較低，或資金可能來自合法及非法管道等因素，所以執行降低風險措施時可能面臨挑戰。

43. Funds that are used to finance terrorist activities may be derived from criminal activity or may be from legal sources, and the nature of the funding sources may vary according to the type of terrorist organisation. Where funds are derived from criminal activity, then traditional monitoring mechanisms that are used to identify money laundering may also be appropriate for terrorist financing, though the activity, which may be indicative of suspicion, may not be identified as or connected to terrorist financing. It should be noted that transactions associated with the financing of terrorism may be conducted in very small amounts, which in applying a risk-based approach could be the very transactions that are frequently considered to be of minimal risk with regard to money laundering. Where funds are from legal sources it is even more difficult to determine if they could be used for terrorist purposes. In addition, the actions of terrorists may be overt and outwardly innocent in appearance, such as the purchase of materials and services to further their goals, with the only covert fact being the intended use of such materials and services purchased. Therefore, while terrorist funds may be derived from criminal activity as well as from legitimately sourced funds, transactions related to terrorist financing may not exhibit the same traits as conventional money laundering. However in all cases, it is not the responsibility of dealers to determine the type of underlying criminal activity, or intended terrorist purpose, rather the dealer's role is to identify and report the suspicious activity. The FIU and law enforcement authorities will then examine the matter further and determine if there is a link to terrorist financing.

43. 資恐的資金可能來自犯罪活動或合法管道，而資助來源的性質也可能因為恐怖組織的類型而有所不同。若資金來自犯罪活動，雖然該活動只是可疑無法確認或與資恐有關聯，傳統用來辨識洗錢的監控機制也可適用於資恐。應注意的是，涉及資恐的關聯交易金額可能非常小，在適用風險基礎方法時，這類交易在洗錢方面很可能被視為風險極低的交易。若資金來自合法管道，將更難判斷該資金是否用於資恐。此外，恐怖分子的活動可能公開進行而且表面上難以察覺，例如為達到目的而購買材料與服務，而唯一隱瞞的是該材料與服務的預定用途。因此，恐怖分子的資金可能來自犯罪活動與合法管道，而與資恐有關的交易可能也未顯露如傳統洗錢般的線索。然而，不論何種情況，交易商皆無承擔判斷背後犯罪活動的類型或預定恐怖用途的責任。交易商的角色在於辨識和回報可疑活動。金融情報中心和執法機關接著將深入調查此事，並確定是否與資恐有關。

44. The ability of dealers to detect and identify potential terrorist financing transactions without guidance on terrorist financing typologies or without acting on specific intelligence provided by the authorities is significantly more challenging than is the case for potential money laundering and other suspicious activity. Detection efforts, absent specific national guidance and typologies, are likely to be based on monitoring that focuses on transactions with countries or geographic areas where terrorists are known to operate or on the other limited typologies available (many of which are indicative of the same techniques as are used for money laundering).

44. 與潛在洗錢及其他可疑活動相比，在缺乏資恐態樣指引或專責機關未提供明確情報作為行動依循的情況下，交易商偵查與辨識潛在資恐交易的能力將受到更多挑戰。在缺乏明確的全國性指引與態樣的情況下，對已知恐怖分子活動國家或地理區域進行的交易監控，或其他有限的態樣（其中許多皆透露與洗錢相同的技術），很可能會變成偵查的依據。

45. Particular individuals, organisations or countries may be the subject of terrorist financing sanctions, in any particular country. In such cases a listing of individuals, organisations or countries to which sanctions apply and the obligations on dealers to comply with those sanctions are decided by individual countries and are not a function of risk. Dealers may commit a criminal offence if they undertake business with a listed individual, organisation or country, or its agent, in contravention of applicable sanctions.

45. 在特定國家境內，特定個人、組織或國家可能成為資恐制裁的對象。在此情況下，是否就受到制裁的個人、組織或國家編列名單，以及交易商遵守制裁的義務，皆由個別國家決定而與風險無關。若交易商違反制裁而與名單上的個人、組織或國家或其代理人有商業往來，恐涉及犯罪。

46. For these reasons, this Guidance has not comprehensively addressed the application of a risk-based process to terrorist financing. It is clearly preferable that a risk-based approach be applied where reasonably practicable, but further consultation with key stakeholders is required to identify a more comprehensive set of indicators of the methods and techniques used for terrorist financing, which can then be factored into strategies to assess terrorist financing risks and devise measures to mitigate them. DNFBPs, including dealers, would then have an additional basis upon which to more fully develop and implement a risk-based process for terrorist financing.

46. 因此，此指引未就資恐的風險基礎流程適用提出廣泛說明。在合理的情況下適用風險基礎方法總比不適用要好。然而，應與重要利害關係人進行深入諮詢，以發掘更具全面性且可用於資恐的方法和技術指標，並將此納入資恐風險的評估策略與降低風險措施的多元化策略。此時，DNFBP（包括交易商）將因而擁有更多適用依據，能更全面地針對資恐制定與執行風險基礎流程。

Limitations to the risk-based approach

風險基礎方法的限制

47. There are circumstances in which the application of a risk-based approach will not apply, or may be limited. There are also circumstances in which the application of a risk-based approach may not apply to the initial stages of a requirement or process, but then will apply to subsequent stages. The limitations to the risk-based approach are usually the result of legal or regulatory requirements that mandate certain actions to be taken.

47. 在某些情況下，可能無法適用風險基礎方法，或其適用受到限制。也有些情況可能導致無法在要求或流程的初始階段適用風險基礎方法，但可在後續階段適用。風險基礎方法的限制通常是因為法律或監管規範要求必須採取某些措施所導致。

48. Requirements to freeze assets of identified individuals or entities, in countries where such requirements exist, are independent of any risk assessment. The requirement to freeze is absolute and cannot be impacted by a risk-based process. Similarly, while the identification of potential suspicious transactions can be advanced by a risk-based approach, the reporting of suspicious transactions, once identified, is not risk-based. See paragraphs 132 and 133.

48. 實施凍結特定個人或實體之資產的國家，此凍結要求並非取決於任何風險評估。此凍結要求具有絕對性，不受風險基礎流程的影響。同樣的，雖然風險基礎方法對潛在可疑交易的辨識可能有所幫助，但可疑交易一旦辨識完成後，其報告便不再以風險為基礎。參閱第 132 及 133 段。

49. There are several components of customer and counterparty due diligence – identification and verification of the identity of customers and counterparties and their beneficial owners, obtaining information on the purposes and intended nature of the business relationships, and conducting ongoing due diligence. Of these components, the identification and verification of identity of customers and counterparties are requirements which must be completed regardless of the risk-based approach. However, in relation to all other CDD components, a reasonably implemented risk-based approach may allow for a determination of the extent and quantity of information required, and the mechanisms to be used to meet these minimum standards. Once this determination is made, the obligation to keep records and documents that have been obtained for due diligence purposes, as well as transaction records, is not dependent on risk levels.

49. 客戶與相對方之客戶審查包含幾個要素：分辨及確認客戶、相對方及其實質受益人的身分、取得與業務關係之目的與用途有關的資訊，以及持續執行客戶審查。在這些要素中，不論是否採用風險基礎方法，皆應分辨及確認客戶與相對方的身分。然而，在所有其他客戶審查要素方面，合理執行的風險基礎方法有助於判定所需的資訊範圍與數量，以及為符合這些最低標準應採用的機制等。完成此判斷後，為客戶審查目的而取得的紀錄與文件，以及各項交易紀錄的保存義務，皆與風險程度無關。

50. Countries may allow dealers to apply reduced or simplified measures where the risk of money laundering or terrorist financing is lower. However, these reduced or simplified measures do not

necessarily apply to all aspects of customer and counterparty due diligence. Moreover, where these exemptions are subject to certain conditions being met, it is necessary to verify that these conditions apply, and where the exemption applies under a certain threshold, measures should be in place to prevent transactions from being split artificially to avoid the threshold. In addition, information beyond customer and counterparty identity, such as customer and counterparty location, may be needed to adequately assess risk. This will be an iterative process: the preliminary information obtained about a customer or counterparty should be sufficient to determine whether to go further, and in many cases customer and counterparty monitoring will provide additional information.

50. 若洗錢或資恐的風險較低，各國得允許交易商採用減少或簡化的措施。然而，這些減少或簡化的措施未必適用於客戶與相對方審查的所有面向。若這些豁免係以滿足某些條件為前提，則應驗證已符合這些條件；若豁免係以特定門檻為前提，則應採取措施，避免刻意分割交易以避開門檻。此外，可能還需要客戶及相對方身分之外的資訊（如客戶與相對方的所在地點），才能適當地評估風險。這將是一個反覆的過程：獲得和客戶與相對方有關的初步資料，應足以決定是否與其建立進一步的關係，而且很多時候，監控客戶與相對方有助於提供額外的資訊。

51. Some form of monitoring is required in order to detect unusual and hence possibly suspicious transactions. Even in the case of lower risk customers and counterparties, monitoring is needed to verify that transactions match the initial low risk profile and if not, trigger a process for appropriately revising the customer's risk rating. Equally, risks for some customers and counterparties may only become evident once a relationship with a customer or counterparty has begun. This makes appropriate and reasonable monitoring of customer and counterparty transactions an essential component of a properly designed risk-based approach. However within this context it should be understood that not all transactions, accounts or customers and counterparties will be monitored in exactly the same way. Moreover, where there is an actual suspicion of money laundering or terrorist financing, this could be regarded as a higher risk scenario, and enhanced due diligence should be applied regardless of any threshold or exemption.

51. 須採取某些形式的監控，以偵查不尋常的潛在可疑交易。即使在客戶與相對方風險較低的個案，也需要透過監控證明交易符合初步低風險概況，否則將啟動流程，以適切改變客戶的風險評比。同樣的，有些客戶與相對方的風險須在與其他客戶或相對方建立關係後才會變得明顯。這使得對客戶與相對方交易的適切合理監控變成正確設計風險基礎方法的必要元素。然而，在此背景下應瞭解，並非都能用完全相同的方式監控所有交易、帳戶或客戶與相對方。若確實發生可疑的洗錢或資恐活動，可將此懷疑視為高風險情境，而且不論任何門檻或豁免，都應執行加強客戶審查。

Distinguishing risk-based monitoring and risk-based policies and processes 風險基礎監控和風險基礎政策與流程的區別

52. Risk-based policies and processes should be distinguished from risk-based monitoring by designated competent authorities or SROs. There is a general recognition within monitoring practice that resources should be allocated taking into account the risks posed by individual firms or businesses. The methodology adopted by the designated competent authorities or SROs to determine allocation of monitoring resources should cover the business focus, the risk profile and the internal control environment, and should permit relevant comparisons between firms or businesses. The methodology used for determining the allocation of resources will need updating on an ongoing basis so as to reflect the nature, importance and scope of the risks to which individual firms or businesses are exposed. Consequently, this prioritisation should lead designated competent authorities or SROs to focus increased regulatory attention on firms or businesses that engage in activities assessed to present a higher risk of money laundering or terrorist financing.

52. 指定權責機關或自律團體應區分風險基礎政策與流程和風險基礎監控。監控實務上有一普遍認知，即分配資源時，應考量個別公司或企業的風險。指定權責機關或自律團體用來確定如何分配監控資源的方法應涵蓋主要業務、風險概況與內部控制環境，並應允許公司或企業之間進行相關比較。須持續更新用來確定資源分配的方法，以反映個別公司或企業面對的風險性質、重要性與範圍。因此，若公司或企業涉及經評估認為具高洗錢或資恐的活動，此優先順序排列應促使指定權責機關或自律團體更重視對這類公司或企業的監管。

53. However, it should also be noted that the risk factors taken into account to prioritise the designated competent authorities' or SROs' work will depend not only on the intrinsic risk associated with the activity undertaken, but also on the quality and effectiveness of the risk management systems put in place to address such risks.

53. 然而，應注意的是，在針對指定權責機關或自律團體進行重要性分級時，考量的風險因素不僅應取決於與從事活動有關的固有風險，還應取決於這類風險相關風險管理系統的品質與有效性。

54. Since designated competent authorities or SROs should have already assessed the quality of risk management controls applied throughout dealers industries, it is reasonable that their assessments of these controls be used, at least in part, to inform money laundering and terrorist financing risk assessments conducted by individual firms or businesses.

54. 因為指定權責機關或自律團體應已評估適用所有前述交易商各產業的風險管理控制品質，所以採用其針對這些控制所做的評估結果，至少在各業別執行洗錢和資恐風險評估時可提供一部份合理的參考資訊。

Summary box: A risk-based approach to countering money laundering and terrorist financing at the national level: key elements for success

摘要表：國家層級防制洗錢與打擊資恐風險基礎方法：成功關鍵因素

- Dealers, designated competent authorities or SROs should have access to reliable and actionable information about the threats.
● 交易商、指定權責機關或自律團體應有權取得可靠且可執行的威脅資訊。
- There must be emphasis on cooperative arrangements among the policy makers, law enforcement, regulators, and the private sector.
● 必須強調政策制定者、執法機關、監管機關與私部門間的合作安排。
- Authorities should publicly recognise that the risk-based approach will not eradicate all elements of risk.
● 機關應公開承認風險基礎方法無法根除所有風險因素。
- Authorities have a responsibility to establish an atmosphere in which dealers need not be afraid of regulatory sanctions where they have acted responsibly and implemented adequate internal systems and controls.
● 各機關有責任建立一種氛圍，讓交易商無需在負責任地採取行動並實施相關內部制度和控管後，害怕會遭受法規制裁。
- Regulators' or SROs' staff must be well-trained in the risk-based approach, both as applied by designated competent authorities/SRO and by dealers.
● 監理機關或自律團體人員應就指定權責機關／自律團體和交易商採用的風險基礎方法接受完整的訓練。

SECTION TWO: GUIDANCE FOR PUBLIC AUTHORITIES

第二節：公部門指引

Chapter One: High-Level Principles for Creating a Risk-Based Approach

第一章：建立風險基礎方法之指導原則

55. The application of a risk-based approach to countering money laundering and the financing of terrorism will allow designated competent authorities, SROs and dealers to use their resources most effectively. This chapter sets out five high-level principles that should be considered by countries when designing a risk-based approach. They could be considered as setting out a broad framework of good practice.

55. 風險基礎方法在防制洗錢和打擊資恐方面的應用將允許指定權責機關、自律團體和交易商以最有效的方式使用資源。本章提出五個指導原則，各國在設計風險基礎方法時應考慮這些原則。這些原則可視為初步建立的優良實務概括架構。

56. The five principles set out in this paper are intended to assist countries in their efforts to improve their AML/CFT regimes. They are not intended to be prescriptive, and should be applied in a manner that is well-considered and is appropriate to the particular circumstances of the country in question.

56. 五個原則旨在協助各國改善其防制洗錢／打擊資恐制度。這些原則不具規範性，應在全盤考量後實施，特別適合用於相關國家發生的特定情況。

Principle one: understanding and responding to the threats and vulnerabilities: a national risk assessment

原則一：瞭解並回應威脅與弱點：國內風險評估

57. Successful implementation of a risk-based approach to combating money-laundering and terrorist financing depends on a sound understanding of the threats and vulnerabilities. Where a country is seeking to introduce a risk-based approach at a national level, this will be greatly aided if there is a national understanding of the risks facing the country. This understanding can flow from a national risk assessment.

57. 是否能成功執行風險基礎方法以防制洗錢和打擊資恐，須視是否能全盤瞭解威脅與弱點而定。各國尋求在國家層級上導入風險基礎方法時，若能先瞭解國家面對的全國性風險，將能提供很大的助益。此瞭解可從國家風險評估開始。

58. National risk assessments should be tailored to the circumstances of each country. For a variety of reasons, including the structure of designated competent authorities or SROs and the nature of DNFBPs, including dealers, each country's judgements about the risks will be unique, as will their decisions about how to implement a national assessment in practice. A national assessment need not be a single formal process or document. The desired outcome is that decisions about allocating responsibilities and resources at the national level are based on a comprehensive and current understanding of the risks. Designated competent authorities and SROs, in consultation with the private sector, should consider how best to achieve this while also taking into account any risk associated with providing information on vulnerabilities in their financial and non-financial systems to money launderers, terrorist financiers, and other criminals. Such consultation will be seen by such dealers as increasing their own knowledge of AML/CFT issues, as enhancing cooperation with the public sector, and as promoting consistency and a fair and level playing field within their industries.

58. 應針對各國環境設計專屬的國家風險評估。基於不同的原因，包括指定權責機關或自律團體的結構以及 DNFBP（包括交易商）的性質，各國對風險的判斷具有獨特性，針對全國性風險評

估執行方式所做的決定，在實務上也各不相同。全國性評估不須是單一正式流程或文件。其預期的結果為：各國以其對風險的最新全盤瞭解為基礎，在國家層級上決定責任與資源的分配。指定權責機關與自律團體應在諮詢私部門後，考量如何最有效地達到此期望，並應考量其金融與非金融制度的洗錢、資恐及其他犯罪的弱點資訊所連結的所有風險。交易商應視此諮詢為增加其防制洗錢／打擊資恐議題知識、加強與公部門合作，以及促進一致性並在其產業建立公正平等發展平台的機會。

Principle two: a legal/regulatory framework that supports the application of a risk-based approach

原則二：支持採用風險基礎方法之法律／監管架構

59. Countries should consider whether their legislative and regulatory frameworks are conducive to the application of the risk-based approach. Where appropriate the obligations imposed should be informed by the outcomes of the national risk assessment.

59. 各國應考量其立法與監管架構是否有助於實施風險基礎方法。若可行，國家風險評估結果應顯示應履行的義務為何。

60. The risk-based approach does not mean the absence of a clear statement of what is required from the DNFBPs, including dealers. However, under the risk-based approach, dealers should have a degree of flexibility to implement policies and procedures which respond appropriately to their own risk assessment. In effect, the standards implemented may be tailored and/or amended by additional measures as appropriate to the risks of an individual business. The fact that policies and procedures, in accordance to the risk levels, may be applied flexibly to different products, services, customers and counterparties and locations does not mean that policies and procedures need not be clearly defined.

60. 風險基礎方法並不表示未明確聲明對 DNFBP（包括交易商）的要求。然而，實施風險基礎方法時，交易商在實施與其本身風險評估適當對應的政策和程序時應有一定程度的彈性。事實上，若針對個別業務風險而採取適切的額外措施，則可根據這些措施制定及／或修改執行的標準。雖然政策與程序可能根據風險程度而彈性適用於不同產品、服務、客戶與相對方及地點，但並不表示不需要明確定義政策與程序。

61. Basic minimum AML requirements can co-exist with a risk-based approach. Indeed, sensible minimum standards, coupled with scope for these to be enhanced when the risk justifies it, should be at the core of risk-based AML/CFT requirements. These standards should, however, be focused on the outcome (combating through deterrence, detection, and reporting of money laundering and terrorist financing), rather than applying legal and regulatory requirements in a purely mechanistic manner to every customer and counterparty.

61. 對防制洗錢的最低基本要求可與風險基礎方法並存。事實上，切合實際的最低標準以及根據風險而採取的合理加強措施及其範圍，應為風險基礎防制洗錢／打擊資恐要求的核心項目。然而，應重視的是這些標準的成果（透過嚇阻、偵查和通報洗錢與資恐），而非機械式地將法律與監管要求套用於所有客戶與相對方。

Principle three: design of a monitoring framework to support the application of the risk-based approach

原則三：設計監控架構，支持風險基礎方法的應用

62. Where designated competent authorities or self regulatory organisations (SROs) have been assigned responsibility for overseeing AML/CFT controls, countries may wish to consider whether such authorities and SROs are given the necessary authority to implement a risk-based approach to monitoring. Barriers to this may include inappropriate reliance on detailed and prescriptive requirements in the designated competent authorities' or SROs' rules. These requirements may in turn stem from the laws under which the competent authority exercises its powers.

62. 若指定權責機關或自律團體已獲指派負責監督防制洗錢／打擊資恐控管時，各國可能會想要考量權責機關或自律團體是否擁有執行風險基礎方法進行監控的必要的職權。為此，遇到的障礙

包括不當地仰賴指定權責機關和自律團體規則中具有規範性的細節要求。這些要求可能源自主管機關行使權力時須遵守的法律。

63. Where appropriate, designated competent authorities and SROs should seek to adopt a risk-based approach to the monitoring of controls to combat money laundering and terrorist financing. This should be based on a thorough and comprehensive understanding of the types of activity carried out by dealers, and the money laundering and terrorist financing risks to which these are exposed. Designated competent authorities and SROs will probably need to prioritise resources based on their overall assessment of where the risks in the dealers' industry are.

63. 若可行，指定權責機關與自律團體應尋求採用風險基礎方法來監控用以防制洗錢和打擊資恐的控制措施。此做法應以對交易商執行的活動類型有透徹全面的了解，及交易商所面對的洗錢與資恐風險為依據。指定權責機關與自律團體可能須根據其對交易商所處產業的全面風險評估做好資源優先順序排列。

64. Designated competent authorities and SROs with responsibilities other than those related to AML/CFT will need to consider these risks alongside other risk assessments arising from the competent authority's or SRO's wider duties.

64. 指定權責機關與自律團體若負有防制洗錢／打擊資恐以外的其他責任，需根據該更廣泛的義務所衍生出來的風險評估結果，一併考慮這些風險

65. Such risk assessments should help the competent authority or SRO choose where to apply resources in its monitoring programme, with a view to using limited resources to achieve the greatest effect. A risk assessment may also indicate that the competent authority or SRO does not have adequate resources to deal with the risks. In such circumstances, the competent authority or SRO may need to obtain additional resources or adopt other strategies to manage or mitigate any unacceptable residual risks.

65. 此類風險評估應有助於指定權責機關或自律團體選擇是否在其監督計畫內配置資源，以期利用有限資源實現最大效果。風險評估亦得彰顯指定權責機關或自律團體並無處理這些風險所需的適當資源。遇到這種情況時，指定權責機關或自律團體可能需要取得更多的資源，或採用其他策略，才能管理或降低任何無法接受的剩餘風險。

66. The application of a risk-based approach to monitoring requires that designated competent authorities' and SROs' staff be able to make principle-based decisions in a fashion similar to what would be expected from dealers' staff. These decisions will cover the adequacy of the arrangements to combat money laundering and terrorist financing. As such, a designated competent authority or SRO may wish to consider how best to train its staff in the practical application of a risk-based approach to monitoring. This staff will need to be well-briefed as to the general principles of a risk-based approach, the possible methods of application, and what a risk-based approach looks like when successfully applied.

66. 實施風險基礎方法進行監控時，指定權責機關與自律團體的人員須有能力以類似交易商員工會採用的方式，做出原則性的決定。此決定應涵蓋在充分的安排下防制洗錢與打擊資恐。為此，指定權責機關或自律團體可能會想考量，在風險基礎監控的實務應用方面，如何將其人員訓練至最優程度。這類人員應就風險基礎方法的一般原則、可能的應用方法，以及風險基礎方法的成功應用實例，做完整的簡報。

Principle four: identifying the main actors and ensuring consistency

原則四：分辨主要行為者並確保一致性

67. Countries should consider who the main stakeholders are when adopting a risk-based approach to combating money laundering and terrorist financing. These will differ from country to country. Thought should be given as to the most effective way to share responsibility among these parties, and how information may be shared to best effect. For example, consideration may be given to which body or bodies are best placed to provide guidance to dealers about how to implement the risk-based approach to anti money laundering and counter-terrorist financing.

67. 各國應考量在採取風險基礎方法防制洗錢和打擊資恐時，誰是主要利害關係人。答案視國家而有所不同。應思考各利害關係人之間最有效的責任分擔方法，以及如何以最有效的方式分享資訊。例如，可能需考慮哪個或那些機關最適合提供交易商指引，協助交易商執行風險基礎方法以防制洗錢和打擊資恐。

68. A list of potential stakeholders may include the following:

68. 潛在利害關係人清單可能包括：

- Government – this may include legislature, executive, and judiciary.
- 政府 – 包括立法、行政、司法機關。
- Law enforcement agencies - this might include the police, customs and similar agencies
- 執法機關 – 包括警察、海關及類似的機關。
- The financial intelligence unit (FIU), security services, other similar agencies.
- 金融情報中心 (FIU)、保安勤務和其他類似的機關。
- Designated competent authorities/SROs
- 指定權責機關／自律團體。
- The private sector – this might include dealers’ firms, national and international trade bodies and associations, financial institutions that specialize in these industries and businesses, etc.
- 私部門 – 包括交易商的公司、國內與國際貿易機構與協會、專門以這些產業和公司為服務對象的金融機構。
- The public – arrangements designed to counter money laundering and terrorist financing are ultimately designed to protect the law-abiding public. However these arrangements may also act to place burdens on customers of dealers’ firms.
- 社會大眾 – 設計用以防制洗錢和打擊資恐的安排，最終是為保護守法的社會大眾而設計。然而，這些安排也可能為交易商的客戶帶來負擔。
- Others – those who are in a position to contribute to the conceptual basis underpinning the risk-based approach, such stakeholders may include academia and the media.
- 其他 – 係指能為風險基礎方法的概念基礎提供助益的人，包括學術單位與媒體。

69. Clearly a government will be able to exert influence more effectively over some of these stakeholders than others. However, regardless of its capacity to influence, a government will be in a position to assess how all stakeholders can be encouraged to support efforts to combat money laundering and terrorist financing.

69. 政府對某些利害關係人的有效影響能力顯然高於其他利害關係人。然而，政府不論有何影響力，都能評估如何鼓勵所有利害關係人支持防制洗錢和打擊資恐。

70. A further element is the role that governments have in seeking to gain recognition of the relevance of a risk-based approach from designated competent authorities or SROs. This may be assisted by relevant authorities making clear and consistent statements on the following issues:

70. 政府在尋求指定權責機關或自律團體承認風險基礎方法的重要性方面所扮演的角色，則是另一個重要的元素。相關機關可對以下議題提出明確且一致的聲明，進而對政府的上述角色提供幫助：

- Dealers can be expected to have flexibility to adjust their internal systems and controls taking into consideration lower and high risks, so long as such systems and controls are reasonable. However, there are also minimum legal and regulatory requirements and elements that apply irrespective of the risk level, for example suspicious transaction reporting and minimum standards of customer and counterparty due diligence.
- 可預期交易商具備調整其內部制度和控管方式時，將較低和高風險同時納入考慮的彈

性，但前提是此類制度和控管方式須合理。然而，還有一些不論風險程度為何一律適用之最低法律與監管要求及元素，例如可疑交易報告，以及適用於客戶與相對方的最低客戶審查標準。

- Acknowledging that a dealer's ability to detect and deter money laundering and terrorist financing may sometimes be necessarily limited and that information on risk factors is not always robust or freely available. There should therefore be reasonable policy and monitoring expectations about what a dealer in precious metals or a dealer in precious stones with good controls aimed at preventing money laundering and the financing of terrorism is able to achieve. A dealer may have acted in good faith to take reasonable and considered steps to prevent money laundering, and have documented the rationale for its decisions, and yet still be abused by a criminal.
- 須認清的一點是：交易商偵測並遏止洗錢和資恐的能力有時受到限制，而且風險因子相關資訊未必總是穩健、可自由取得。因此，對於具備旨在預防洗錢和資恐良好控管方式的貴金屬商或寶石商，其能夠實現的結果須有合理的政策和監督期待。在防制洗錢方面，交易商可能實際已經採取行動、採取了合理、考慮周全的步驟，並且對於做出決定時的理論依據有相關書面紀錄，但是卻仍遭到犯罪份子濫用。
- Acknowledging that not all high-risk situations are identical and as a result will not always require the application of precisely the same type of enhanced due diligence.
- 承認並非所有高風險情況都相同，所以並非每次都要求以進行類型完全相同的加強客戶審查。

Principle five: information exchange between the public and private sectors

原則五：公私部門間的資訊交流

71. Effective information exchange between the public and private sectors will form an integral part of a country's strategy for combating money laundering and terrorist financing. In many cases, it will allow the private sector to provide designated competent authorities and SROs with information they identify as a result of previously provided government intelligence.

71. 公私部門間有效的資訊交流將成為國家防制洗錢和打擊資恐策略不可或缺的環節。許多個案皆允許私部門向指定權責機關或自律團體提供先前由政府提供的情報資訊之分析結果。

72. Public authorities, whether law enforcement agencies, designated competent authorities or other bodies, have privileged access to information that may assist dealers to reach informed judgments when pursuing a risk-based approach to counter money laundering and terrorist financing. Likewise, dealers are able to understand their clients' businesses reasonably well. It is desirable that public and private bodies work collaboratively to identify what information is valuable to help combat money laundering and terrorist financing, and to develop means by which this information might be shared in a timely and effective manner.

72. 公家機構，不論是執法機關、指定權責機關或其他機關，都有權取得資訊，協助交易商在採取風險基礎方法執行防制洗錢和打擊資恐時做出明智的判斷。同樣的，交易商能合理瞭解其客戶的業務。期待公私部門機構相互合作，主動辨識有價值的資訊，協助防制洗錢和打擊資恐，並且建立方法，確保及時有效地分享資訊。

73. To be productive, information exchange between the public and private sectors should be accompanied by appropriate exchanges among public authorities. FIUs, designated competent authorities and law enforcement agencies should be able to share information and feedback on results and identified vulnerabilities, so that consistent and meaningful inputs can be provided to the private sector. All parties should of course consider what safeguards are needed to adequately protect sensitive information held by public bodies from being disseminated too widely.

73. 為了增加效率，公私部門間的資訊交流應伴隨公家機關間的交流。金融情報中心、指定權責機關和執法機關應能在結果與辨識弱點方面分享資訊與回饋，以提供私部門一致且有意義的貢獻。

各方均應考量需採取哪些安全措施來保護公家機關持有的敏感性資訊，避免過度散佈。

74. Relevant stakeholders should seek to maintain a dialogue so that it is well understood what information has proved useful in combating money laundering and terrorist financing. For example, the types of information that might be usefully shared between the public and private sectors would include, if available:

74. 相關利害關係人應尋求維持對話，充分瞭解在防制洗錢和打擊資恐方面證明具有實用性的資訊。例如，公私部門間具有實用性的共享資訊（如可得）包括：

- Assessments of country risk.
- 國家風險評估。

- Typologies or assessments of how money launderers and terrorists have abused the DNFBPs, especially dealers.
- 針對洗錢者與恐怖份子如何濫用 DNFBP（特別是交易商）所做的態樣與評估。

- Feedback on suspicious transaction reports and other relevant reports.
- 可疑交易報告和其他相關報告的回饋。

- Targeted unclassified intelligence. In specific circumstances, and subject to appropriate safeguards and a country's legal and regulatory framework, it may also be appropriate for authorities to share targeted confidential information with dealers.
- 目標性非機密情報。在特定情況下，只要遵照相關防衛措施和各國法規框架，各機關也許能夠適當地和交易商分享目標性機密資訊。

- Countries, persons or organisations whose assets or transactions should be frozen.
- 資產或交易應予凍結的國家、個人或組織。

75. When choosing what information can be properly and profitably shared, public authorities may wish to emphasize to dealers that information from public bodies should inform, but not be a substitute for, dealers' own judgments. For example, countries may decide not to create what are perceived to be definitive country-approved lists of low risk customer and counterparty types. Instead, public authorities may prefer to share information on the basis that this will be one input into the dealers' decision making processes, along with any other relevant information that is available to dealers.

75. 在選擇可以正當有效共享的資訊時，政府機關可能會向交易商強調，政府機關提供的資訊應僅供交易商自行做出判斷參考，而非完全取代其判斷。例如，對於低風險客戶與相對方的類型，各國得決定不製作被認定為國家核可的最終名冊。相反地，政府機關可能比較想在被納入交易商決策過程的基礎上分享任何可用的相關資訊。

Chapter Two: Implementation of the Risk-Based Approach

第二章：執行風險基礎方法

Assessment of risk to inform national priorities

評估風險提供資訊，以利國家排定優先順序

76. A risk-based approach should be built on sound foundations: effort must first be made to ensure that the risks are well understood. As such, a risk-based approach should be based on an assessment of the threats. This is true whenever a risk-based approach is applied, at any level, whether by countries or individual firms. A country's approach should be informed by its efforts to develop an understanding of the risks in that country. This can be considered as a "national risk assessment".

76. 風險基礎方法應建立在穩固的基礎上：首先應確保全盤瞭解風險。嚴格地說，風險基礎方法應建立在威脅評估的基礎上。不論在任何層級上執行風險基礎方法，也不論由國家或個別公司執

行，都適用這個說法。各國若能對風險有充分的瞭解，將能為其風險基礎方法的執行提供資訊。此情況可視為「國家風險評估」。

77. A national risk assessment should be regarded as a description of fundamental background information to assist designated competent authorities, SROs, law enforcement authorities, the FIU, financial institutions, and DNFBPs (including dealers) to ensure that decisions about allocating responsibilities and resources at the national level are based on a practical, comprehensive and up-to-date understanding of the risks.

77. 國家風險評估應視為對基本背景資訊的描述，旨在協助指定權責機關、自律團體、執法機關、金融情報中心、金融機關和 DNFBP（包括交易商）確保根據其對最新風險的全面實際瞭解，決定國家層級的責任與資源分配。

78. A national risk assessment should be tailored to the circumstances of the individual country, both in how it is executed and its conclusions. Factors that may influence the risk of money laundering and terrorist financing in a country could include the following:

78. 國家風險評估在如何執行及其結論方面，皆應針對各國國情量身打造。可能對各國洗錢與資恐風險造成影響的因素包括：

- Political environment.
- 政治環境。

- Legal environment.
- 法律環境。

- A country's economic structure.
- 國家的經濟結構。

- Cultural factors, and the nature of civil society.
- 文化因素與公民社會的性質。

- Sources, location and concentration of criminal activity.
- 犯罪活動的資源、地點與匯集。

- Size and composition of the financial services industry;
- 金融服務業的規模與組成要素。

- Ownership structure of financial institutions and DNFBPs;
- 金融機構與 DNFBP 的所有權結構。

- Size and nature of the activity carried out by DNFBPs, including dealers.
- DNFBP（包括交易商）執行的活動規模與性質。

- Corporate governance arrangements in relation to financial institutions and DNFBPs and the wider economy.
- 涉及金融機構與 DNFBP 的公司治理安排與經濟發展。

- The nature of payment systems and the prevalence of cash-based transactions.
- 支付系統的性質與現金基礎交易的盛行。

- Geographical spread of the financial industry's and DNFBP's operations, including dealers and their customers and counterparties.
- 金融機構與 DNFBP（包括交易商及其客戶與相對方）營運的地理分佈。

- Types of products and services offered by financial institutions and DNFBPs.
- 金融機構與 DNFBP 提供的產品與服務類型。

- Types of customers and counterparties serviced by financial institutions and DNFBPs.
- 金融機構與 DNFBP 服務的客戶與相對方類型。
- Types of predicate offences.
- 前置犯罪的類型。
- Amounts of illicit money generated domestically.
- 國內產生的黑錢金額。
- Amounts of illicit money generated abroad and laundered domestically.
- 海外產生的黑錢金額與國內洗錢金額。
- Main channels or instruments used for laundering or financing terrorism.
- 洗錢或資恐主要管道或金融工具。
- Sectors of the legal economy affected.
- 受影響的合法經濟領域。
- Underground/informal areas in the economy.
- 地下／非正式經濟領域。

79. Countries should also consider how an understanding of the risks of money laundering and terrorist financing can be best achieved at the national level. Relevant questions could include: which body or bodies will be responsible for contributing to this assessment? How formal should an assessment be? Should the designated competent authority's or SRO's view be made public? These are all questions for the designated competent authority or SRO to consider.

79. 各國亦應考慮如何在國家層次以最有效的方式瞭解洗錢與資恐風險。相關問題應包括：哪些機關負責對這類評估做出貢獻？評估應有多高的正式性？是否應公開指定權責機關或自律團體的觀點？這些是指定權責機關或自律團體應考量的所有問題。

80. The desired outcome is that decisions about allocating responsibilities and resources at the national level are based on a comprehensive and up-to-date understanding of the risks. To achieve the desired outcome, designated competent authorities and SROs should ensure that they identify and provide dealers with the information needed to develop this understanding and to design and implement measures to mitigate the identified risks.

80. 預期的結果為：根據對最新風險的全面實際瞭解，決定國家層級的責任與資源分配。為了達到預期的結果，指定權責機關與自律團體應確保其辨識並提供給交易商的所需資訊，包含建立認知、降低已辨識風險之設計與執行措施。

81. Developing and operating a risk-based approach involves forming judgements. It is important that these judgements are well informed. It follows that, to be effective, the risk-based approach should be information-based and include intelligence where appropriate. Effort should be made to ensure that risk assessments are based on fresh and accurate information. Governments using partnerships with law enforcement bodies, FIUs, designated competent authorities/SROs and the dealers themselves, are well placed to bring their knowledge and expertise to bear in developing a risk-based approach that is appropriate for their particular country. Their assessments will not be static and will change over time, depending on how circumstances develop and how the threats evolve. As such, countries should facilitate the sharing of information among different agencies and entities, so that there are no institutional impediments to information dissemination.

81. 制定和執行風險基礎方法需要形成判斷。重要的是須在獲得充分資訊的條件下進行判斷。因此，為了確保有效，風險基礎方法應以資訊為基礎，並在可行時納入情報。應致力確保在新取得的正確資訊基礎上進行風險評估。各國政府與執法機關、金融情報中心、指定權責機關／自律團體與交易商建立夥伴關係，在妥善基礎上將其知識與專業技術用於制定適合該國的風險基礎方法。各國政府的評估並非靜態，而是會隨著時間改變的評估，端視環境的發展與威脅的變化而定。因此，

各國應促進不同機關間的資訊分享，確保不會因為制度而影響資訊的傳播。

82. Whatever form they take, a national assessment of the risks, along with measures to mitigate those risks, can inform how resources are applied to combat money laundering and terrorist financing, taking into account other relevant country policy goals. It can also inform how these resources are most effectively assigned to different public bodies and SROs, and how those bodies make use of those resources in an effective manner.

82. 不論採取何種形式，國家風險評估與風險減輕措施都能透露如何分配資源以防制洗錢與打擊資恐，並且考量其他相關國家的政策目標。此評估亦透露如何以最有效的方式將資源分配給不同的政府機關與自律團體，以及政府機關如何有效利用這些資訊。

83. As well as assisting designated competent authorities and SROs in deciding how to allocate funds to combat money laundering and terrorist financing, a national risk assessment can also inform decision-makers on the best strategy for implementing the supervisory/regulatory regime to address the risks identified. An over-zealous effort to counter the risks could be damaging and counter-productive, placing unreasonable burdens on industry, possibly driving higher-risk business underground or to other countries. Alternatively, less aggressive efforts may not be sufficient to protect societies from the threats posed by criminals and terrorists. A sound understanding of the risks at the national level could help obviate these dangers.

83. 除了協助指定權責機關與自律團體決定如何分配防制洗錢與打擊資恐所需的資金外，國家風險評估還能提供決策者相關資訊，使其瞭解用以執行監理／監管制度和處理風險的最佳策略。若對降低風險投入過多心力，可能會變得要求過多以致無法產生效果，或者會對產業施加不合理的負擔，迫使高風險事業轉入地下或到其他國家。若投入的心力不足，可能不足以保護社會避免受到犯罪或恐怖分子威脅。在國家層級上對風險做充分瞭解有助於避開這些危險。

Effective systems for monitoring and ensuring compliance with AML/CFT requirements – General principles

監控並確保符合防制洗錢／打擊資恐要求的有效制度 – 一般原則

84. FATF Recommendation 24 requires that dealers in precious metals/dealers in precious stones be subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements. In determining the design of an effective system, regard may be had to the risk of money laundering or terrorist financing in the sector. There should be a designated competent authority or SRO responsible for monitoring and ensuring its functions, including powers to monitor and sanction. It should be noted that in some countries, dealers in precious metals/dealers in precious stones are supervised in the same way as financial institutions. Other countries apply a separate monitoring/oversight regime.

84. FATF 建議第 24 項要求貴金屬與寶石商受有效監督及確保遵循防制洗錢／打擊資恐之要求。在判斷是否具備有效的制度時，得考量該部門的洗錢或資恐風險。應安排指定權責機關或自律團體負責監督及確保其職能，包括監督與制裁的權力。應注意的是，有些國家對貴金屬與寶石商的監理與金融機構相同。有些國家則採取不同的監控／監督制度。

Defining the acceptable level of risk

定義可接受的風險程度

85. The level of AML/CFT risk will generally be affected by both internal and external risk factors. For example, risk levels may be increased by internal risk factors such as weak compliance resources, inadequate risk controls and insufficient senior management involvement. External level risks may rise due to factors such as the action of third parties and/or political and public developments.

85. 防制洗錢／打擊資恐風險的程度通常會受到內外部風險因素的影響。例如，不足的法遵資源、不完善的風險控制以及高級管理階層不積極投入等內部風險因素，可能導致風險程度增加。外部風險程度可能因為第三方的行動及／或政策與公共發展而增加。

86. As described in Section One, all activity involves an element of risk. Designated competent authorities and SROs should not prohibit dealers from conducting business with high risk customers and counterparties as long as appropriate policies, procedures and processes to manage the attendant risks are in place. Only in specific cases, for example when it is justified by the fight against terrorism, crime or the implementation of international obligations, are designated individuals, legal entities, organisations or countries denied any access to services.

86. 如第一節所述，所有活動都涉及風險因素。只要制定適切的政策、程序與流程來管理伴隨而來的風險，指定權責機關與自律團體即不得禁止交易商與高風險客戶及相對方進行買賣交易。僅在特定情況下（例如為打擊恐怖主義、犯罪或為履行國際義務等合理原因），才能拒絕指定的個人、法律實體、組織或國家取得服務。

87. However, this does not exclude the need to implement basic minimum requirements. For instance, FATF Recommendation 5 (that applies to dealers through the incorporation of R.5 into R.12) states that “where [*the dealer in precious metals or the dealer in precious stones*] is unable to comply with (CDD requirements), it should not open the account, commence business relations or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transaction report in relation to the customer.” So the level of risk should strike an appropriate balance between the extremes of not accepting customers and counterparties, and conducting business with unacceptable or unmitigated risk.

87. 然而，此拒絕並不排除對執行最低基本要求的需求。例如，FATF 建議第 5 項（透過 R.5 併入 R.12 而適用於交易商）要求「貴金屬與寶石商如無法遵循（客戶審查要求），即不應開戶、開始業務關係或進行交易；或應終止其業務關係；並應考慮針對該客戶通報疑似洗錢或資恐交易報告。」因此，風險等級應在拒絕客戶與相對方，以及從事不可接受或無法減輕的風險這兩個極端間求取平衡。

88. Designated competent authorities and SROs expect dealers to put in place effective policies, programmes, procedures and systems to mitigate risks, while acknowledging that even with effective systems not every suspect transaction will necessarily be detected. They should also ensure that those policies, programmes, procedures and systems are applied effectively to the purpose of preventing dealers from becoming conduits for illegal proceeds and ensure that they keep records and make reports that are of use to national authorities in combating money laundering and terrorist financing. Efficient policies and procedures will reduce the level of risks, but are unlikely to eliminate them completely. Assessing money laundering and terrorist financing risks requires judgement and is not an exact science. Monitoring aims at detecting unusual or suspicious transactions among an extremely large number of legitimate transactions, furthermore the demarcation of what is unusual may not always be straightforward since what is “customary” may vary depending on the customers’ or counterparty’s business. This is why developing an accurate customer/counterparty profile is important in managing a risk-based system. Moreover, procedures and controls are frequently based on previous typologies cases, but criminals will adapt their techniques quickly limiting the utility of such typologies.

88. 指定權責機關與自律團體一方面期待交易商制定能降低風險的有效的政策、計畫、程序與制度，一方面卻又承認即使有效的制度也未必能偵查所有可疑的交易。指定權責機關與自律團體應確保這些政策、計畫、程序與制度均能有效應用，避免交易商變成賺取非法所得的管道，並應確保交易商保存紀錄及製作報告，供國家機關打擊洗錢和資恐使用。有效的政策與程序能降低風險程度，但不可能完全根除風險。評估洗錢與資恐風險需要判斷，而且未必一定符合科學。監控目的在於從數量龐大的合法交易中找出不尋常的可疑交易。此外，不尋常交易的界限未必是直線，因為所謂的「慣例」可能因為客戶或相對方的事業而有所不同。這就是為什麼正確瞭解客戶／相對方的概況對管理風險基礎制度如此重要的原因。此外，程序與控制通常以過去的態樣個案為依據，但罪犯能迅速調整其技術，以致過去態樣的實用性受到限制。

89. Additionally, not all high risk situations are identical, and therefore will not always require precisely the same level of enhanced due diligence. As a result, designated competent authorities/SROs will expect dealers to identify individual high risk categories and apply specific and appropriate mitigation

measures. Further information on the identification of specific risk categories is provided in Section Three, "Guidance for Dealers."

89. 此外，並非所有高風險情況都相同，所以並非每次都要求執行完全相同的加強客戶審查。因此，權責機關／自律團體期待交易商辨識各種高風險，並實施具體適切的風險減輕措施。第三節「交易商指引」將提供如何辨識特定風險類別的進一步資訊。

Proportionate monitoring actions to support the risk-based approach 採取合比例且有利於風險基礎方法的監控措施

90. Designated competent authorities and SROs should seek to identify weaknesses through an effective programme of both on-site and off-site supervision, and through analysis of internal and other available information.

90. 指定權責機關與自律團體應透過有效的現場與非現場監理計畫，以及分析內部和其他可用資訊等方式，以辨識弱點。

91. In the course of their examinations, designated competent authorities and SROs should review a dealer's AML/CFT risk assessments, as well as its policies, procedures and control systems to arrive at an overall assessment of the risk profile of a dealer's business and the adequacy of its mitigation measures. Where available, assessments carried out by or for other dealers in precious metals and/or dealers in precious stones may be a useful source of information. The competent authority/SRO assessment of management's ability and willingness to take necessary corrective action is also a critical determining factor. Designated competent authorities and SROs should use proportionate actions to ensure proper and timely correction of deficiencies, taking into account that identified weaknesses can have wider consequences. Generally, systemic breakdowns or inadequate controls will result in the most severe supervisory or monitoring response.

91. 在審查過程中，指定權責機關與自律團體應檢視交易商的防制洗錢／打擊資恐風險評估及其政策、程序與流程，藉此對交易商的事業風險概況及其減輕措施的充分性進行全面評估。其他貴金屬與寶石商所做或對其執行的評估（若提供）可能是實用的資訊來源。權責機關與自律團體針對管理能力和採取必要改善措施之意願所做的評估也是一個重要的決定因素。指定權責機關與自律團體應考慮到辨識的弱點可能引起更嚴重的後果，並應採取合乎比例的措施，確保正確及時矯正弱點。一般而言，系統性弱點或不當的控管方式將導致最嚴重的監管與監控反應。

92. Nevertheless, it may happen that the lack of detection of an isolated high risk transaction, or of transactions of an isolated high risk customer, will in itself be significant, for instance where the amounts are significant, or where the money laundering and terrorist financing typology is well known, or where a scheme has remained undetected for a long time. Such a case might indicate an accumulation of weak risk management practices or regulatory breaches regarding the identification of high risks, monitoring, staff training and internal controls, and therefore, might alone justify action to ensure compliance with the AML/CFT requirements.

92. 然而，仍可能發生未偵查到被隔離的高風險交易，或未偵查到被隔離的高風險客戶所從事的交易，而且此未偵測本身將造成重大影響的情形。例如龐大的金額、洗錢與資恐的態樣非常明顯，或長久以來一直未偵查到陰謀。這些案件可能表示在辨識高風險、監管、人員訓練與內部控制方面長期積累的脆弱風險管理實務或違法行為。因此，這類案件可能導致採取合理措施以確保遵守防制洗錢／打擊資恐要求。

93. Designated competent authorities and SROs can and should use their knowledge of the risks associated with products, services, customers and counterparties, and geographic locations to help them evaluate a dealer's money laundering and terrorist financing risk assessment, with the understanding, however, that they may possess information that has not been made available to the dealer and, therefore, the dealer would not have been able to take such information into account when developing and implementing a risk-based approach. Designated competent authorities and SROs (and other relevant stakeholders) are encouraged to use that knowledge to issue guidelines to assist dealers in managing their

risks. Where dealers are permitted to determine the extent of the CDD measures on a risk sensitive basis, this should be consistent with guidelines issued by their designated competent authorities and SROs². Guidance designed for dealers is likely to be the most effective. An assessment of the risk-based approach will, for instance, help identify cases where the dealers use excessively narrow risk categories that do not capture all existing risks, or adopt criteria that lead to the identification of a large number of higher risk relationships, but without providing for adequate additional due diligence measures.

93. 指定權責機關與自律團體有能力且應運用其對產品、服務、客戶與相對方以及地理位置相關風險的認知，協助評鑑交易商的洗錢與資恐風險評估。然而，權責機關與自律團體應瞭解自己可能擁有尚未提供給交易商的資訊，因此交易商在制定與執行風險基礎方法時，可能未將這些資訊納入考量。應鼓勵指定權責機關與自律團體（及其他相關利害關係人）利用該認知發行準則，協助交易商管理其風險。若交易商獲得許可在風險敏感基礎上決定客戶審查措施的範圍，此範圍應與其指定權責機關與自律團體²發行的準則相符。專為交易商設計的指引通常是最有效的指引。例如，對風險基礎方法進行評估有助於鑑別交易商設定過窄以致未涵蓋所有現有風險的風險類別，或採用標準導致鑑別大量的較高風險關係，卻未另外提供適切客戶審查措施的情形。

94. In the context of the risk-based approach, the primary focus for designated competent authorities and SROs should be to determine whether or not the dealer's AML/CFT compliance and risk management programme is adequate to: (a) meet the minimum regulatory requirements, and (b) appropriately and effectively mitigate the risks. The monitoring goal is not to prohibit high risk activity, but rather to be confident that firms have adequately and effectively implemented appropriate risk mitigation strategies.

94. 在風險基礎方法環境下，指定權責機關與自律團體的主要重點應在於確定交易商的防制洗錢／打擊資恐遵循與風險管理計畫是否足以：(a) 符合最低監管要求；及 (b) 適切有效地降低風險。監控目的不在於禁止高風險活動，而在於確信公司以完善的制度有效執行適合的風險減輕策略。

95. Under FATF Recommendation 24, designated competent authorities and SROs should have adequate powers to perform their functions, including the power to impose adequate sanctions for failure to comply with statutory and regulatory requirements to combat money laundering and terrorist financing. Fines and/or penalties are not appropriate in all regulatory actions to correct or remedy AML/CFT deficiencies. However, designated competent authorities and SROs must have the authority and willingness to apply fines and/or penalties in cases where substantial deficiencies exist. Action may also take the form of a remedial program through the normal monitoring processes.

95. 根據 FATF 建議第 24 項，指定權責機關與自律團體應擁有執行其職務的充分授權，包括針對未遵守監理與監管機關打擊洗錢與恐怖分子要求的案件予以適當制裁的權利。罰金及／或懲處並非在所有監管行動中都能有效矯正或補正防制洗錢／打擊資恐缺陷。然而，指定權責機關與自律團體在遇到嚴重缺陷問題時，應擁有科以罰金及／或懲處的職權與意願。行動應透過正常監控流程以矯正計畫的形式執行。

96. In considering the above factors it is clear that proportionate monitoring will be supported by two central features:

96. 考量以上因素後，可清楚瞭解合乎比例的監控將獲得兩項核心元素的支持

a) Regulatory Transparency

a) 監管透明度

97. In the implementation of proportionate actions, regulatory transparency will be of paramount importance. Designated competent authorities and SROs are aware that dealers, while looking for operational freedom to make their own risk judgments, will also seek guidance on regulatory obligations.

² FATF Recommendations 5 and 25, Methodology Essential Criteria 25.1 and 5.12.

² FATF 建議第 5 及 25 項，評鑑方法論基本項次 25.1 及 5.12。

As such, the designated competent authority/SRO with AML/CFT monitoring responsibilities should seek to be transparent in setting out what it expects, and will need to consider appropriate mechanisms of communicating these messages. For instance, this may be in the form of high-level requirements, based on desired outcomes, rather than detailed process.

97. 執行合乎比例的措施時，監管透明度將具有極高重要性。權責機關與自律團體瞭解交易商一方面尋求在運作上擁有自行進行風險判斷的自由，一方面又尋求有關監管義務的指引。因此，負有防制洗錢／打擊資恐監控責任的權責機關與自律團體在訂定其期待時應保持透明，且應考量適合用來傳達這些訊息的機制。例如，此機制可能以期待的結果為考量，並以高層次要求而非以細部流程的形式呈現。

98. No matter what individual procedure is adopted, the guiding principle will be that there is an awareness of legal responsibilities and regulatory expectations. In the absence of this transparency there is the danger that monitoring actions may be perceived as either disproportionate or unpredictable which may undermine even the most effective application of the risk-based approach by dealers.

98. 不論採用何種程序，皆以對法律責任和監管期待的認知為指導原則。若缺乏透明，可能導致監控措施被理解為不合乎比例或無法預測，即使是交易商最有效的風險基礎方法實施措施也可能受到不利影響。

b) Staff Training of Designated Competent Authorities, SROs, and Enforcement Staff

b) 權責機關、自律團體及執法機關的人員訓練

99. In the context of the risk-based approach, it is not possible to specify precisely what a dealer in precious metals or a dealer in precious stones has to do, in all cases, to meet its regulatory obligations. Thus, a prevailing consideration will be how best to ensure the consistent implementation of predictable and proportionate monitoring actions. The effectiveness of monitoring training will therefore be important to the successful delivery of proportionate monitoring actions.

99. 在風險基礎方法環境下，不可能明確規定貴金屬與寶石商應採取那些措施，確保其在所有案件履行其監管義務。因此，主要考量應在於如何有效確保堅定地執行可預測且合乎比例的監控措施。為此，監控訓練的有效性對於成功執行合乎比例的監控措施便十分重要。

100. Training should aim to allow designated competent authorities/SRO staff to form sound comparative judgements about AML/CFT systems and controls. It is important in conducting assessments that designated competent authorities and SROs have the ability to make judgements regarding management controls in light of the risks assumed by dealers in precious metals and stones and considering available industry practices. Designated competent authorities and SROs might also find it useful to undertake comparative assessments so as to form judgements as to the relative strengths and weaknesses of different firm or business arrangements.

100. 訓練的目的應在於允許權責機關與自律團體人員對防制洗錢／打擊資恐制度與控制形成穩健的比較式判斷。重要的是，在進行評估時，權責機關與自律團體必須有能力根據貴金屬與寶石商評估的風險，在考量目前產業實務的情況下做出判斷。權責機關與自律團體可能會發現，對於不同公司或企業的安排，可用比較式評估形成對該安排相關優點與缺點的判斷。

101. The training should include instructing designated competent authorities and SROs about how to evaluate whether senior management has implemented adequate risk management measures, and determine if the necessary procedures and controls are in place. The training should also include reference to specific guidance, where available. Designated competent authorities and SROs also should be satisfied that sufficient resources are in place to ensure the implementation of effective risk management.

101. 訓練應包括指導指定權責機關與自律團體評鑑高階管理團隊是否已採取適當的風險管理措施，以及確定是否已制定必要的程序與控制。訓練亦應包括參照特定指引（若提供）。權責機關與自律團體亦應對備充分資源以確保執行有效風險管理的作為感到滿意。

102. To fulfil these responsibilities, training should enable designated competent authority's and SRO's monitoring staff to adequately assess:

102. 為了履行這些責任，訓練應能使權責機關與自律團體的監控人員充分評估：

- The quality of internal procedures, including ongoing employee training programmes and internal audit, compliance and risk management functions.
- 內部程序的品質，包括持續性員工訓練計畫及內部稽核、遵循與風險管理部門。
- Whether or not the risk management policies and processes are appropriate in light of the dealers' risk profile, and are periodically adjusted in light of changing risk profiles.
- 從交易商的風險概況觀察，風險管理政策與流程是否適當，是否根據風險概況的變化而定期調整。
- The participation of senior management to confirm that they have undertaken adequate risk management, and that the necessary procedures and controls are in place.
- 高階管理團隊是否參與以確定已進行完善的風險管理，並且制定必要的程序與控制。

SECTION THREE: GUIDANCE FOR DEALERS ON IMPLEMENTING A RISK-BASED APPROACH

第三節：交易商的風險基礎方法執行指引

Chapter One: Risk Categories

第一章：風險類別

103. In order to implement a reasonable risk-based approach, dealers in precious metals/dealers in precious stones should identify the criteria to assess potential money laundering and terrorist financing risks. These risks will vary according to the activities undertaken by the dealers.

103. 為了實施合理的風險基礎方法，貴金屬與寶石商應找出用以評估潛在洗錢與資恐的標準。這些風險視交易商從事的活動而有所不同。

104. Identification of the money laundering and terrorist financing risks, to the extent that the terrorist financing risk can be identified, will allow dealers in precious metals/dealers in precious stones to determine and implement proportionate measures and controls to mitigate these risks.

104. 找出洗錢與資恐風險至可能發現資恐的程度，將有助於貴金屬與寶石商決定與執行合乎比例的措施和控制來降低風險。

105. Money laundering and terrorist financing risks may be measured using various categories. Application of risk categories provides a strategy for managing potential risks by enabling dealers in precious metals/dealers in precious stones to subject customers to proportionate controls and oversight. The most commonly used risk criteria are: country or geographic risk; customer risk; and product/services risk. The weight given to these risk categories (individually or in combination) in assessing the overall risk of potential money laundering may vary from one dealer to another, depending upon their respective circumstances. Consequently, dealers in precious metals/dealers in precious stones will have to make their own determination as to the risk weights. Parameters set by law or regulation may limit a dealer's discretion.

105. 可運用不同的類別評量洗錢與資恐風險。實施風險類別能提供潛在風險管理策略，並由貴金屬與寶石商將客戶置於合乎比例的控制與監督之下，以利管理風險。最常使用的風險標準：國家或地理風險、客戶風險、產品／服務風險。評估潛在洗錢的整體風險時，加諸於這些風險類別（個別或組合）的權重視交易商而有所不同，端視個別情況而定。因此，貴金屬與寶石商應自行決定其風險權重。法律或監管規範訂定的界限將限縮交易商的裁量權。

106. While there is no agreed upon set of risk categories for dealers in precious stones/dealers in precious metals, the examples provided herein are the most commonly identified risk categories. There is no single methodology for applying these risk categories. However, the application of these risk categories is intended to assist in designing an effective strategy for managing the potential risks.

106. 對於貴金屬與寶石商的風險類別設定並無一定的共識，此處提供的範例僅為最常見的風險類別。沒有任何單一方法論能適用於所有這些風險類別。然而，實施風險類別的用意在於協助規劃有效的潛在風險管理策略。

Country/Geographic risk

國家／地理風險

107. There is no universally agreed definition by either designated competent authorities, SROs, or dealers that prescribes whether a particular country or geographic area (including the country within which the dealer operates) represents a higher risk. Country risk, in conjunction with other risk factors, provides useful information as to potential money laundering and terrorist financing risks. Factors that may result in the determination that a country poses a higher risk are set out below.

107. 權責機關、自律團體或交易商都未就特定國家或地理區域（包括交易商營運所在國）是否代表較高風險達成通用定義共識。國家風險與其他風險因素共同提供有關潛在洗錢與資恐風險的實用資訊。以下因素可用來判定國家是否具有較高風險。

108. Some countries and geographic locations are of greater AML/CFT concern, and the risk level can rise or lower dependent upon the country of any of the elements of a transaction, including (1) where a product is mined; (2) where a product is refined or finished; (3) location of a seller; (4) location of a purchaser; (5) location of the delivery of a product and (6) location of funds being used in the transaction.

108. 有些國家與地理位置引起較高的防制洗錢／打擊資恐關注，而視國家的不同，風險程度可能隨著以下任何交易元素而增加或下降，包括 (1) 產品的採礦地點；(2) 產品的提煉或加工潤飾地點；(3) 賣方所在地；(4) 買方所在地；(5) 產品交貨地點；(6) 交易資金所在地。

Background information box

背景資訊表

Geographic risk – where a product is mined. Mining can be vulnerable to terrorist financing if it occurs in remote locations with minimal governmental presence or infrastructure. In some areas, for example, gold mining can be dominated by armed non-governmental groups.

地理風險 – 產品的採礦地點地處偏遠、缺乏基礎設施和政府關注的採礦地點具有資恐弱點。例如，在某些地區，黃金礦場可能由非政府武裝集團控制。

Mining for jewels is also geographically widespread, and sometimes occurs in areas of significant turmoil. Unlike diamond mining, mining for jewels is largely small and informal, carried on by local prospectors and owners in alluvial sources, very few of which, if any, are publicly traded companies. Some mines are government owned, and mines often have licenses issued by government agencies involved with natural resources, but even such mines are often remote from strong governmental oversight, and often in areas of substantial conflict and crime, including terrorism. Buyers travel to the mines or to nearby communities and buy jewels, sometimes in a manner controlled by government, sometimes either directly from miners or from local intermediaries. Because many of these areas do not have reliable financial systems, payments are often in cash and informal, or are made through third party accounts, again increasing risk.

寶石礦區在地理上分佈甚廣，有些甚至位於騷動頻繁的地區。與鑽石礦區不同的是，寶石礦區通常較小而且簡略，由當地採礦業者和礦床資源所有人經營，只有非常少或甚至完全沒有任何公開交易公司。有些礦場由政府經營，而礦場通常都有政府自然資源相關機關核發的執照。然而，即使公營礦場也多半位於偏遠地區，政府監督力有未逮。各礦區通常都有嚴重的衝突與犯罪事件，包括恐怖主義。買方前往礦區或鄰近社區購買寶石，有時在政府的控制下購買，有時直接向礦主或當地中間商購買。由於這些地區通常缺乏可靠的金融體系，都多半用現金支付，而且過程簡略，或者透過第三方帳戶交易，徒增風險。

109. Factors that should be considered in a determination that a country may or may not pose a higher risk with regard to a proposed transaction in diamonds, jewels or precious metals include:

109. 決定國家在任何鑽石、寶石或貴金屬交易提案中可能或不可能造成更大風險時，應考量的因素包括：

- For rough diamonds, whether a producing or trading country participates in the Kimberley Process.
- 原鑽的生產或交易國是否參加金伯利進程國際證書制度。

- Whether there is known mining or substantial trading of the transaction product – diamonds, jewels or precious metals - in a transaction source country.
- 在交易來源國是否存在知名的鑽石、寶石或貴金屬礦區或重大交易。
- Whether a country would be an anticipated source of large stocks of existing diamonds, jewels or precious metals, based upon national wealth, trading practices and culture (centres of stone or jewel trading, such as Antwerp, Belgium) or unanticipated (large amounts of old gold jewellery in poor developing countries). It should be recognized, however, that gold and silver have cultural and economic significance in a number of developing countries, and very poor people may have, buy and sell these metals.
- 就國家的財富、交易實務與文化（鑽石或寶石交易中心，例如比利時安特衛普）而言，該國是否為預期的鑽石、寶石或貴金屬大量庫存來源，或無此預期（貧窮發展中國家的大量舊黃金珠寶）。然而，必須承認的是，金與銀在許多發展中國具有文化與經濟雙重意義，極貧家庭也可能買賣金銀。
- The level of government oversight of business and labour in mining and/or trading areas.
- 政府對礦區及／或交易地區商號與勞工的監督程度。
- The extent to which cash is used in a country.
- 國家的現金用量。
- The level of regulation of the activity.
- 活動的監管程度。
- Whether informal banking systems operate in a country, *e.g.* hawalas operate in many developing countries.
- 國內是否有非正式銀行體系運作，例如許多開發中國家都有 hawala「哈瓦拉」業務。
- Whether designated terrorist organisations or criminal organisations operate within a country, especially in small and artisan mining areas.
- 國內是否有恐怖組織或犯罪組織活動，特別是在小礦區和工匠採礦區。
- Whether there is ready access from a country to nearby competitive markets or processing operations, *e.g.* gold mined in Africa is more frequently refined in South Africa, the Middle East or Europe rather than in the United States, and a proposal to refine African gold in the United States would be unusual and higher risk.
- 是否已有通路可從國家前往鄰近競爭市場或加工地點。例如，非洲採集的礦物通常在南非、中東或歐洲提煉，而非在美國加工，在美國提出非洲黃金提煉建議不僅不尋常，而且風險較高。

- Whether, based on credible sources³, appropriate AML/CFT laws, regulations and other measures are applied and enforced in a country.
- 根據可靠來源³，國內是否制定及實施適切的防制洗錢／打擊資恐法律、規範及其他措施。
- The level of enforcement of laws addressing corruption or other significant organized criminal activity.
- 反貪腐或其他重大組織犯罪活動的執法程度。
- Whether sanctions, embargoes or similar measures have been directed against a country.
- 是否對特定國家採取制裁、禁運或類似措施。

Customer and counterparty risk

客戶與相對方風險

Retail Customer Risk

零售客戶風險

110. A retail customer of precious metals or precious stones will, in general, not have a business purpose for a purchase of an article of jewellery, a precious stone of a precious metal. A purchase is likely to be made for purely personal and emotional reasons that cannot be factored into an AML/CFT risk assessment. Higher risk can be seen, however, in certain retail customer transaction methods:

110. 一般而言，貴金屬或寶石零售客戶在購買珠寶、寶石或貴金屬時，不以做生意為目的。購買很可能是基於純粹個人與情感原因，故不可作為防制洗錢／打擊資恐風險評估的元素。然而，可從某些零售客戶的交易方式發現較高的風險：

- Use of cash. It should be recognized, however, that many persons desire anonymity in jewellery purchases for purely personal reasons, or at least the absence of paper records, with no connection to money laundering or terrorist financing.
- 使用現金。然而，應承認的是，許多人基於純個人因素的買家希望匿名購買珠寶，或至少不希望留下文字紀錄，但這些買家與洗錢和資恐沒有關係。
- Payment by or delivery to third parties. However, not all third party payments are indicative of AML/CFT. It is relatively common in jewellery purchases that a woman will select an article of jewellery, and a man will later make payment and direct delivery to the woman.
- 第三方支付或交貨。並非所有第三方支付都暗藏防制洗錢／打擊資恐。珠寶交易常見的情況是女人先挑選珠寶，再由男人支付並且直接交貨給女人。
- Structuring.
- 結構化。

³ “Credible sources” refers to information that is produced by well-known bodies that generally are regarded as reputable and that make such information publicly and widely available. In addition to the Financial Action Task Force and FATF-style regional bodies, such sources may include, but are not limited to, supra-national or international bodies such as the International Monetary Fund, and the Egmont Group of Financial Intelligence Units, as well as relevant national government bodies and non-governmental organisations. The information provided by these credible sources does not have the effect of law or regulation and should not be viewed as an automatic determination that something is of higher risk.

³ 「可靠來源」係指由普遍被視為聲名卓著的知名機構製作的資訊，這類資訊通常公開而且隨處可得。除了 FATF、FATF 型式的區域性防制洗錢組織外，可靠來源還包括但不限於超國家或國際機構，例如國際貨幣基金、金融情報中心、艾格蒙聯盟，以及相關國家政府機構與非政府組織。可靠來源提供的資訊不具法律或監管效力，不可視為自動確定某項活動具有較高風險。

Background information box

背景資訊表

There are many different stages and transactions and counterparties involved in the precious stones and precious metals businesses. As set forth above, miners range from international companies to individuals. Intermediaries may be well established local buyers from miners, or itinerant foreign buyers, or hawalas. Retail jewellers may buy articles of used jewellery, as may direct buyers and pawnshops. Each of these businesses may present a money laundering risk. Dealers may buy from or sell to other counterparties who also work in their precious metals or precious stones businesses, or sell to the public through retail sales (which may often be anonymous). Dealers will need to consider the risks associated with each stage at which they participate. A risk based approach should account for higher risk customers and counterparties at every stage.

相對方可在不同的階段與交易涉入寶石與貴金屬買賣。如前所述，從國際公司到個人都可能是採礦業者。中間人可能是直接向礦主購買的當地老字號買家、流動性國外買家，或 hawala。零售珠寶商可能購買二手珠寶，賣方可能是直接買家或當舖。所有這些業者都可能潛藏洗錢風險。交易商可能與貴金屬或寶石業界其他相對方進行買賣交易，或者透過交易商售予民眾（通常匿名交易）。交易商須考量其參與的各階段交易風險。風險基礎方法應能反映各階段的高風險客戶與相對方。

Apart from the retail sector, trade in diamonds, jewels and precious metals is traditionally private, as a matter of commercial protection or security. Dealers have traditionally protected their counterparties, their materials, and their business practices from public knowledge, in the interest of protecting themselves from criminal activity, and from potential independent interaction by competitors with their customers and counterparties or suppliers. However, it is necessary for dealers themselves to know that they are dealing with legitimate counterparties.

除了零售外，基於商業保護與安全，鑽石、珠寶和貴金屬交易傳統上皆屬私人交易。傳統上，交易商會保護其相對方、相對方的資料及其交易實務避免外流，目的在於保護自己避免涉入犯罪活動，並且避免競爭對手與自己客戶和相對方或供應商私下互動。然而，交易商必須知道自己是否與合法相對方進行交易。

In some sectors within precious metals and precious stones businesses, trust based on personal contact is an essential element of conducting business, and such trust and personal contact assist in lowering counterparty risk. In addition, each industry has trade resources, such as trade associations and directories, with which to establish some background and credit information and these should be consulted. Checks must be made upon any new counterparty that is unknown to a dealer, and particularly if also unknown within the dealer's industry. A counterparty, who proposes a transaction in diamonds, jewels or precious metals should have the knowledge, experience and capacity, financial and technical, to engage in that transaction.

在貴金屬與寶石業的某些領域，親自見面以建立信任是從事交易的必要元素，而信任與親自見面有助於減輕相對方風險。此外，每一種產業都有其交易資源，例如貿易協會與工商名錄，可藉此取得部分背景與信用資訊。這些資源是必須諮詢的對象。對於交易商不認識的新相對方，特別是在交易商所屬的產業沒沒無聞的人，核對是不可少的步驟。提議進行鑽石、珠寶或貴金屬交易的相對方應擁有從事交易所需的知識、經驗與能力、財務與技術。

111. Higher risk counterparties include a person who:

111. 風險較高的相對方包括：

- Does not understand the industry in which he proposes to deal, or does not have a place of business or equipment or finances necessary and appropriate for such engagement, or does not seem to know usual financial terms and conditions.
- 不瞭解其提議交易的相關產業，未設立從事該交易所需的適合營業所或設備或財務，或似乎不瞭解一般財務條款與條件。
- Proposes a transaction that makes no sense, or that is excessive, given the circumstances, in amount, or quality, or potential profit.
- 提議進行無意義的交易，或提議的金額、品質或潛在利潤依當時情況顯然過高。
- Has significant and unexplained geographic distance from the dealer in precious metals or dealer in precious stones.
- 與貴金屬或寶石商的地理位置距離相隔很遠，且無法提出解釋。

- Uses banks that are not specialised in or do not regularly provide services in such areas, and are not associated in any way with the location of the counterparty and the products.
- 所使用的銀行非此領域的專業銀行或未經常提供此服務，且與相對方及產品所在地無任何關聯。
- Makes frequent and unexplained changes in bank accounts, especially among banks in other countries.
- 經常無故變更銀行帳戶，特別是國外不同銀行的帳戶。
- Involves third parties in transactions, either as payers or recipients of payment or product, without apparent legitimate business purpose.
- 無任何合法的業務目的而涉及第三方交易，其角色可能為支付人或收款人或產品收受人。
- Will not identify beneficial owners or controlling interests, where this would be commercially expected.
- 未如一般商業上的期待辨識實質受益人或控制利益。
- Seeks anonymity by conducting ordinary business through accountants, lawyers, or other intermediaries, see the paragraph above.
- 為尋求匿名而透過會計師、律師或其他中間人進行一般交易。請參閱上述。
- Uses cash in its transactions with the dealer in precious metals or dealer in precious stones, or with his own counterparties in a nonstandard manner.
- 以非標準方式與貴金屬和寶石商或與其相對方進行現金交易。
- Uses money services businesses or other non-bank financial institutions for no apparent legitimate business purpose.
- 無明顯合法理由而透過金錢服務公司或其他非銀行金融機構交易。
- Is a politically exposed person (PEP).
- 重要政治性職務人士（PEP）。

Product/Service Risk

產品／服務風險

112. An overall risk assessment should also include a determination of the potential risks presented by products and services offered by a dealer in precious metals or a dealer in precious stones. The determination of risks of products and services should include a consideration of the following factors:

112. 整體風險評估應包括確定貴金屬或寶石商產品與服務的潛在風險。確定產品與服務的風險時，應考慮以下因素：

(a) Products offered

(a) 提供的產品

113. All diamonds, jewels, and precious metals can potentially be used for money laundering and terrorist financing, but the utility and consequent level of risk are likely to vary depending on the value of the product. Unless transactions involve very large quantities, lower value products are likely to carry less risk than higher value products. However, dealers must be aware that values can be volatile dependent upon supply and demand. Relative values of some materials can vary dramatically between different countries, and over time.

113. 所有鑽石、珠寶和貴金屬都可能用作洗錢與資恐，但實用性與最後產生的風險程度視產品的價值而有所不同。除非交易量非常大，否則價值較低的產品產生的風險通常低於價值較高的產

品。然而，交易商必須知道，價值可能隨著供需而蒸發。有些產品的相對價格在不同的國家或隨時間而可能出現大幅波動。

114. Dependent upon the nature of the transaction, counterparties, and quantities, gold can be higher risk. Pure gold, or relatively pure gold, is the same substance worldwide, with a worldwide price standard published daily, and it can also be used as currency itself, *e.g.* by hawalas. Gold is available in a variety of forms, *e.g.* bars, coins, jewellery, or scrap, and trades internationally in all of these forms.

114. 視交易性質、相對方與數量的不同，黃金也可能具有較高風險。純金或相對純的黃金在全世界都是相同的物質，適用每天發布的全球價格標準，也可作為貨幣使用，例如 hawala。黃金可打造成不同的形狀，例如長條形、硬幣、珠寶或含金廢料，國際黃金都以這些形狀交易。

115. Although scrap gold alloys or other gold-bearing scrap may require substantial processing and refining to reach an end market, the costs will be discounted in advance, and the scrap may still trade for high value in multi-billion dollar worldwide markets. Values of many scrap materials are uncertain and not precisely knowable until they have been processed and assayed, which can present an AML risk if the parties undervalue or overvalue international shipments.

115. 雖然含金合金或其他含金廢料可能需經過大幅加工與提煉才能進入最終市場，但成本已預先折扣，而廢料本身可能因其高價值而在全球市場賣到幾十億的好價錢。許多廢料在加工及化驗之前無法確知其價值，如果當事人低估或高估國際出貨價值，其中就可能潛藏著防制洗錢風險。

116. Alluvial gold and gold dust can be indicative of informal mining by individuals and small groups, often in areas that are characterized by informal banking and absence of regulation, and so may be higher risk.

116. 砂金與金粉可能表示個人或小團體自行進行簡略採礦，該地區通常只提供簡略銀行服務，而且無人監管，故屬於風險較高的領域。

117. The physical characteristics of the products offered are also a factor to consider. Products that are easily portable and which are unlikely to draw the attention of law enforcement are at greater risk of being used in cross border money laundering. For example, diamonds are small, light in weight, not detected by metal detectors, and a very large value can be easily concealed.

117. 所提供產品的物理特性也是應考量的因素。容易攜帶、較不會引起執法機關注意的產品很可能會被用作跨境洗錢用途。例如，鑽石小而輕，不會被金屬探測器偵測出來，價值高，而且易於藏匿。

118. Finally, the risk of dealing in stolen or fraudulent products must be taken into account. As with all valuable objects, diamonds, jewels and precious metals are attractive to thieves, and dealers must be aware of the risks of trading in stolen products. For example, jewellery dealers, pawn shops and buyers of used gold jewellery should remain alert to the possibility of being offered stolen jewellery. In addition to stolen goods, dealers should be aware of the risks associated with fraudulent goods, such as synthetic diamonds represented as natural diamonds, or 14 karat gold represented as 18 karat.

118. 最後還應考量贓物或詐欺品交易風險。如同其他所有高價值物品，鑽石、珠寶和貴金屬都是小偷覬覦的對象。交易商必須知道贓物交易的風險。例如，珠寶商、當舖與二手珠寶買家應對珠寶贓物的交易可能性保持警覺。除了贓物外，交易商還應瞭解詐欺品的相關風險，例如以合成鑽石冒充天然鑽，或以 14 克拉鑽石冒充 18 克拉鑽石。

(b) Services offered

(b) 提供的服務

119. Major gold dealers create metal accounts for their customers, for temporary secure storage or for investment, and they transfer counterparties' gold credits in these accounts among themselves, and among repositories and delivery destinations worldwide, with services comparable to those provided by banks with money and financial credits. Such services, by banks as well as by major gold dealers, may be useful

to money launderers and terrorist financiers to move high values through international commerce, under the guise of legitimate business, but are unlikely to be anonymous and irregular, and thus may be of lower risk.

119. 大型黃金交易商為其客戶開設黃金帳戶，並用於暫時存放或投資用途。交易商會在彼此之間以及全球儲藏所和交貨目的地之間移轉其相對方在這些帳戶裡的黃金信用，並提供類似銀行提供的金錢與財務信用服務。洗錢和資恐組織會利用銀行和大型黃金交易商提供的這些服務，以合法掩護非法，透過國際商務移轉高價值商品。但這種做法不太可能匿名，而且通常遵循一定的模式，因此風險可能較低。

(c) Market characteristics

(c) 市場特性

120. It is helpful to bear in mind the following broad principles which may lower the risk levels of particular transactions:

120. 請記住以下廣義原則，這些有助於降低特定交易的風險：

- Limited resale opportunities – limited resale opportunities are likely to be unattractive to money launderers⁴.
- 有限的轉售機會 – 有限的轉售機會對洗錢組織較不具吸引力⁴。
- Size of market – a small market is likely to make it more difficult for a money launderer to structure transactions, to layer multiple transactions (to create distance between the seller and the ultimate purchaser), and to conduct anonymous transactions, and will thus be less attractive to money launderers.
- 市場規模 – 洗錢組織很難在小市場建構交易、從事多筆分階段交易（在賣方與最終買方之間保持距離），以及從事匿名交易，故小市場對洗錢組織較不具吸引力。
- Degree of expertise required – if specialized expertise is required for transactions, risk of use of such transactions by money launderers may be lower. For example, diamonds are unique objects, some with extremely high value, some with much less, all dependent upon size and physical characteristics, usually as judged by persons with expertise in diamond evaluation. As transaction values increase, either because of higher numbers of diamonds involved or higher quality of individual diamonds, so does the need for expertise and specialized markets increase. Money launderers may not have such expertise. Such expertise exists, however, in many places, and money launderers may be able to obtain it, or to employ it.
- 專業知識的需求程度 – 若交易需要專業知識，洗錢組織利用這類交易的風險較低。例如，鑽石是獨特的商品，有些價值很高，有些很低，端視其尺寸與物理特性而定，通常須由擁有鑽石鑑賞專業知識的人判斷。若因為交易大量鑽石，或交易少數高品質鑽石致使交易價值上升，對專業知識和專業市場的需求也會跟著增加。洗錢組織可能缺乏這些專業知識。然而，這些知識隨處可得，洗錢組織也可能取得並加以運用。

⁴ For example, spent industrial catalysts that contain platinum group metals generally have resale opportunities limited to platinum refiners, and thus are of lower risk in money laundering. Silver used in imaging and electronics, which are specialized applications from which value is not easily removed, is similarly of lower risk. Platinum and silver jewellery and coins could, of course, be used by money launderers. Silver has been used for centuries as money, as has special prominence in some geographical areas and cultures, e.g. India.

⁴ 例如，工業催化劑廢料含有鉑族金屬，通常只能轉售予鉑提煉業者，因此具有較低的洗錢風險。成像和電子元件的銀同為低風險金屬，因為電子元件的應用具有專業性，不容易從中提取價值。當然，洗錢組織也可能用到鉑與銀珠寶和硬幣。銀被當成貨幣已有好幾世紀的歷史，在許多地區與文化區仍然非常受到重視，例如印度。

- Degree of market regulation – if a market is regulated, depending upon the degree of regulation, transactions in that market may be lower risk (see below the other variables to take into account for the determination of risks).
- 市場監管程度 – 若市場受到監管，則視監管程度的不同，市場交易的風險可能較低（參閱下述應納入考量以確定風險的因素）。
- Transaction costs – money laundering and terrorist financing can involve multiple transactions, with criminals first placing illegal assets within a legitimate product, as anonymously as possible, then layering those assets through intermediate transactions, and then removing them at a different time and place. Money launderers want to get as much as possible of their illegal assets out of these transactions. They may be prepared to accept losses in these layering transactions, but may prefer to keep them to a minimum. Therefore transactions involving high value product and low transaction costs may be particularly attractive to money launderers and terrorist financiers. For example, a purchase of pure gold coins, and subsequent sale of those coins at another location, will quickly return most of the original purchase price. On the other hand a purchase of a specialty gold alloy may have a resale value of only the gold content, losing any value added in manufacturing, and losing gold refining charges as well. Such a transaction will cause a money launderer to pay substantial transaction costs and may therefore be lower risk.
- 交易成本 – 洗錢與資恐可能涉及多筆交易，先盡可能以匿名方式將非法資產置入合法產品，然後透過中間交易將資產分成好幾階段，最後在於不同的時間和地點完成搬運。洗錢組織希望盡可能從這些交易取得非法資產。洗錢罪犯可能已準備好接受交易損失，但會將損失減至最低。因此，涉及高價值、低成本的交易特別能吸引洗錢組織和資恐組織的青睞。例如，購買金幣之後再於其他地點賣掉金幣，將能迅速回收大部分購買成本。另一方面，購買黃金合金可能只能轉售黃金含量價值，無法回收製造等附加價值，黃金的提煉費也是一筆損失。這類交易會造成洗錢組織支付大筆交易成本，因此風險較低。

(d) Financing methods

(d) 籌資方法

121. The method of payment used affects the risk of money laundering and terrorist financing taking place. The risks are likely to be reduced if transactions take place through the mainstream banking system. Conversely, the risk may increase in the following situations:

121. 防止洗錢與資恐風險發生的支付方式。若透過主流銀行體系交易，則可能降低此風險。相反地，下列情況將提高風險：

- Cash, especially in large amounts, can be a warning sign, especially if the use of cash is anonymous or intentionally hides an identity, *e.g.* the true purchaser funds the transaction by giving cash to a third party, who then becomes the nominal and identified purchaser.
- 現金，特別是大量的現金交易為可能警訊，尤其是匿名或刻意隱匿身分的現金使用（例如真正購買者以現金提供資金給第三人的交易，但真正購買者卻僅為名義上供辨識的購買者）。
- Payments or delivery of product to or from third party accounts, *e.g.* accounts in the names of persons other than approved counterparties.
- 產品的付款或運送來自或至第三人帳戶，例如帳戶名稱為許可相對方以外的人名。
- Payments to or from accounts at financial institutions that are unrelated to a transaction or approved counterparties, such as banks located in countries other than the location of the counterparty or transaction.
- 付款至或來自與交易或許可相對方不相關的金融機構，例如銀行地點位於相對方或交易以外的國家。

- Non-bank financial mechanisms such as currency exchange businesses or money remitters.
- 非銀行金融機制，例如貨幣兌換業務或匯款人。

Variables that may change risk determination

可改變風險確定的變數

122. To design a risk-based approach methodology, there may be a need to look at a series of other variables that may increase or decrease the perceived risk posed by a particular customer or transaction:

122. 為設計風險基礎方法，需檢查一系列其他可能增加或減少特定客戶或交易造成的已知風險變數：

- The level of effective AML/CFT regulation or other oversight or governance regime to which a counterparty is subject. A counterparty that is a dealer in precious metals or a dealer in precious stones operating in a country under a robust AML/CFT regime, or a system such as the Kimberley Process, poses less risk from a money laundering perspective than a counterparty that is unregulated or subject only to minimal AML regulation. To be given such a lower risk consideration, a counterparty should have a compliance program and certify to compliance with its applicable regulatory system.
- 防制洗錢／打擊資恐規範以及其他監督或治理體制下的相對方。相對方為在防制洗錢／打擊資恐體制下或例如金伯利進程國際證書制度下運作的貴金屬或寶石商，與非法或僅符合最低限度防制洗錢規範的相對方相較，較不易有洗錢的風險。以較低風險為考量，相對方應有符合規定的計畫以及驗證符合適用規範的制度。

Background information box

背景資訊表

The type and level of regulation varies greatly among the different types of precious metals and precious stones. For example, in some countries, dealers are required to have a government issued license for their particular businesses, in others they are not. There may be no or limited regulation when a product is mined and sold for the first time, but the level of regulation may increase as the product continues to be traded.

不同類型的貴金屬與珠寶商之間的規範類型與級別差異極大。例如在某些國家，交易商必須擁有政府核發的執照才可進行特定相關業務，但在其他國家則無此規定。第一次擁有或出售產品時，可能無相關規範或規範有限，但隨著產品的持續交易，其規範級別也會隨之提升。

Some governments are also involved in transactions through export and import regulatory systems, often for the purpose of collecting taxes or duties, which require traders to describe their materials and declare values and counterparties of export or import. Such government involvements may lower risk, but may vary from country to country, and impacts upon risk must be evaluated directly by a dealer in precious metals or a dealer in precious stones.

部分政府機關也透過進出口監管制度參與交易，通常是以徵稅或義務的名義要求交易商描述產品原料、申報價值以及進出口相對方。此類政府參與可降低風險，但因各國而異，貴金屬商或珠寶商應直接評估風險所帶來的影響。

There is some government regulation of precious metals trading, but most transactions are not conducted in regulated markets. Gold is traded worldwide in very large amounts in direct physical transactions and through financial derivatives, *i.e.* forwards and futures, which can be used to acquire and sell rights in physical gold stocks. Such paper gold transactions, of any size, are highly unlikely to be anonymous or conducted in cash, certainly in regulated markets and probably in unregulated markets, but should not be ignored for anti money laundering purposes.

貴金屬交易受到一部分的政府監管，但大部分的交易均在未受監管的市場中進行。黃金以非常大筆數量的直接實體交易並透過衍生性金融商品（例如現貨與期貨在黃金現貨市場可用於取得及販售權利）在世界各地進行貿易。此類任何尺寸的紙黃金交易，在受監管的市場或也許在未受監管的市場極不可能以匿名或現金方式進行，但也不應因此而忽略防制洗錢的目的。

A large proportion of rough diamond sales are made through Belgium, which strictly regulates dealers and transactions (including the physical inspection and value assessment of all imported and exported diamonds, hence for instance excluding valuation and synthetic diamonds related risks), and through bourses with stringent membership rules of practice. Some countries participate in the Kimberley Process. The Kimberley Process applies to dealers in rough diamonds, including importers and exporters of rough diamonds, when they operate in participant countries. When it applies the Kimberly Process significantly lessens the ML/TF risk level. Systems of

dealer warranties and transactions through bourses further reduce risk in the trade of polished diamonds and jewellery containing diamonds, as do dealings with only bank transfer payments among regulated and government supervised dealers.

大部分的鑽石原石買賣經由比利時進行，其透過具有嚴格會員制度的交易所對交易商以及交易本身嚴格監管（包含進出口鑽石的實體檢驗與價值評估，藉此排除估價鑽石和人工鑽石的相關風險）。部分國家則參與金伯利進程國際證書制度。金伯利進程國際證書制度適用於鑽石原石交易商，在參與金伯利進程國際證書制度的國家中也適用於鑽石原石的進口與出口商。採用金伯利進程國際證書制度的國家大幅降低了洗錢風險層級。透過交易所進行的交易商保證與交易制度更進一步地降低拋光鑽石與鑲有鑽石珠寶的交易風險，以及僅由銀行轉帳付款給受監管與政府監督的交易商。

- The size of the transaction, with larger transactions presenting higher risk, always bearing in mind the possibility of deliberate structuring of smaller transactions.
- 交易規模較大的交易具有較高的風險，但也須經常留意較小規模交易的刻意建構可能性。
- The level of government regulation of counterparty's business and accounting practices. Companies and their wholly owned subsidiaries that are publicly owned and traded on a regulated exchange, or that have publicly issued financial instruments, generally pose minimal money laundering risks. Note however that this is not always so, and publicly traded companies may be established by money launderers⁵.
- 相對方業務與會計實務的政府監管層級在受監管下交易的公開擁有與交易或持有公開發行金融工具的公司與其獨資公司，通常具有極低的洗錢風險。但須注意此情況並非常態，洗錢者也可能成立公開上市公司⁵。
- Government trade flow inspection mechanisms that involve physical inspections, trade flow follow up and/or valuation verifications. In general, if a government has developed a gate keeper role that monitors incoming and/or outgoing trade flows, including physical inspection of goods and value assessments, the money laundering risk may be considerably reduced, as well as risks related to the use of synthetic diamonds.
- 包含實體檢驗、交易量追蹤和／或估價驗證的政府交易量檢驗機制。一般而言，若政府扮演監控貨物進出交易流程的守門人角色（包含商品與估價的實體檢驗），洗錢與使用人工鑽石的風險便會大幅降低。
- The nature and extent of banking involvement. In general, a lower risk level is present where a transaction is entirely financially settled, both at the side of the dealer and the counterparty, through a banking institution that is situated in an FATF member country and that is known to be actively involved in payment flows and financing arrangements in the particular trade, provided the transaction is generally routine (including payment that closely follows routine trade flows) and that the documentation contains adequate identification of all parties concerned (see also the risk attached to financing methods above).
- 銀行事務的特性與範圍整體而言，若交易在財務上已完全結算則風險較低，交易商和相對方雙方，透過位於 FATF 會員國的銀行機構並且為已知主動參與特定交易的支付流程和融資安排，只要是一般例行交易（包含伴隨例行交易量的付款）以及該文件包含所有有關各方的充分認定（參閱上述融資方法的相關風險）。

⁵ See FATF Report on Money Laundering Typologies, 2002-2003, paragraph 37; Example 10: Listed legal entity created specifically for laundering illegal funds; Example 12: Narcotics trafficker takes control of a publicly traded company.

⁵ 參閱 FATF 洗錢態樣報告，2002-2003 年，第 37 段；範例 10：列舉專門為非法資金洗錢而設立的法人實體；範例 12：販毒分子控制公開上市公司。

- The regularity or duration of the business relationship, or of general knowledge of the counterparty's role in the industry. Longstanding relationships involving frequent contact provide an understanding of a counterparty's legitimacy within the dealer's industry, and information by which a proposed transaction can be evaluated for consistency with industry norms.
- 業務關係的規律性或期間，或相對方於一般常識下在行業中所扮演的角色。長年的業務關係包含經常性的聯繫，提供相對方其在交易商行業的合法性的瞭解以及提出的交易可持續以行業規範進行評估的資訊。
- The familiarity of a dealer in precious metals or a dealer in precious stones with a counterparty's country, including knowledge of applicable local laws, regulations and rules, as well as the structure and extent of regulatory oversight.
- 貴金屬或寶石商對於適用相對方國家當地法律、規範和規則的知識以及監控的架構和範圍的熟悉。

Controls for higher risk situations

高風險情況的監控

123. Dealers should implement appropriate measures and controls to mitigate the potential money laundering and terrorist financing risk of those customers that are determined to be a higher risk as a result of the dealers' risks assessment. The same measures and controls may often address more than one of the risk criteria identified and it is not necessarily expected that dealers establish specific controls that target each criteria. Appropriate measures and controls may include:

123. 對於交易商風險評估結果認定為高風險的客戶，交易商應採取相關措施與監控以降低其潛在洗錢與資恐風險。相同的措施與監控通常可滿足多個辨識的風險準則，故交易商無須對每個準則建立特定的監控措施。相關的措施包含：

- General training for appropriate personnel on money laundering and terrorist financing methods and risks relevant to dealers.
- 相關人員針對洗錢與資恐方法以及交易商相關風險的一般訓練。
- Targeted training for appropriate personnel to increase awareness of higher risk customers or transactions.
- 相關人員的目標訓練，以增進對於高風險客戶與交易的認識。
- Increased levels of know your customer/counterparty (KYC) or enhanced due diligence.
- 提升認識客戶／相對方（KYC）或加強客戶審查的層級。
- Escalation within dealer management required for approval.
- 逐步擴大需取得核准的交易商管理。
- Increased monitoring of transactions.
- 增強交易監控。
- Increased controls and frequency of review of relationships.
- 增加業務關係的檢視頻率。

Chapter Two: Application of a Risk Based Approach

第二章：風險基礎方法的應用

124. A risk-based approach should be applied across the full breadth of an enterprise, including a multinational enterprise. Policies, standards and procedures should be similar, if not identical across an

enterprise or business, and separate parts of an enterprise or a business should communicate with each other regarding the implementation of their AML/CFT program. If a person or transaction is classified in a high risk category in one part of an enterprise, the other parts of that enterprise that might encounter such person or transaction need to be advised at the same time.

124. 企業（包含跨國企業）應全面使用風險基礎方法。企業或公司間應有相似的政策、標準和程序，若不同，其單獨部分應互相溝通以執行防制洗錢／打擊資恐計畫。若某人或某交易在企業的其中一部份被歸類為高風險類別，則應同時通知可能接觸到此人或此交易的企業其他部分。

125. Legal standards and enforcement cultures vary, and persons engaged in business in a country must be aware of and respond to that country's laws and competent authorities. There should be similarity along the following common implementation steps:

125. 法律標準和執法文化各不相同，在國內從事商業活動的人員必須了解並回應該國的法律和主管機關。以下常見的執行步驟應有其相似之處：

Customer due diligence/Know your counterparty/Customer 客戶審查／瞭解相對方／客戶

126. The Identify Your Counterparty/Customer activity within a dealer's AML/CFT program is intended to enable the dealer in precious metals or the dealer in precious stones to form a reasonable belief that it knows the true identity of each counterparty/customer and the types of transactions the counterparty proposes. A dealer's program should include procedures to:

126. 在交易商的防制洗錢／打擊資恐計畫中確定相對方／客戶的活動在於使貴金屬或寶石商形成一個合理的信念，即它知道每個相對方／客戶的真實身分以及相對方所提出的交易類型。交易商的計畫應包含以下程序：

- Identify and verify counterparties/customers before establishing a business relationship, such as entering into contractual commitments. This identified natural or legal person or authorized and fully identified agents should then be the only person or persons to whom payment is authorized to be made, or product delivered, unless legitimate and documented business reasons exist, and any third party is appropriately identified and its identity verified.
- 在建立業務關係（例如簽訂合同承諾）之前，確認並驗證相對方／客戶。此經確認的自然人或法人和經授權和完全確認的代理人應為授權製造或產品交付的唯一個人，除非有合法和證明的商業理由存在，且為適當鑑別及驗證身分的任何第三方。
- Identify beneficial owners and take reasonable measures to verify the identities, such that the dealer is reasonably satisfied that it knows who the beneficial owners are. The measures which have to be taken to verify the identity of the beneficial owner will vary depending on the risk. For legal persons and arrangements this should include taking reasonable measures to understand the ownership and control structure of the counterparty/customer.
- 辨識實質受益人並採取合理措施驗證其身分，使交易商確知誰是實質受益人。為驗證實質受益人身分所採取的措施將因風險而異。對於法人和法律協議，應包括採取合理措施以瞭解相對方／客戶的所有權和控制結構。
- Obtain information to understand the counterparty's/customer's circumstances and business, including the expected nature and level of proposed transactions.
- 獲取資訊以瞭解相對方／客戶的情況和業務，包括提出交易的預期性質和水平。

127. In the circumstances where the FATF Recommendations are applicable (*i.e.* for transactions involving cash equal to or above USD/EUR 15 000), the general rule is that counterparties/customers must be subject to the full range of CDD measures. Furthermore, additional Identify Your Counterparty/Customer activity and procedures should be applied to higher risk determinations (such as PEPs or transactions involving higher risk countries). In these cases, for instance, a dealer in precious

metals or a dealer in precious stones should implement additional measures and controls to mitigate that risk. Such measures may include increased levels of know your counterparty or enhanced due diligence and greater direct contact with a counterparty (for example, observing its operations, personnel and equipment, would provide additional verification of its legitimacy). It will also require increased monitoring of transactions.

127. 在 FATF 建議適用的情況下（例如涉及等於或超過 15,000 美元／歐元的現金交易），一般規則是必須針對相對方／客戶採取全面客戶審查措施。此外，再次確定相對方／客戶的活動，且程序應適用於高風險的判定（例如涉及高風險國家的重要政治性職務人士或交易）。在此情況下，例如貴金屬或寶石商應實施其他措施和控制措施以降低該風險。這些措施應包括增加瞭解你的相對方或加強客戶審查的層級，加強與相對方的直接聯繫（例如觀察其業務，人員和設備將提供其合法性的額外驗證）。此措施也需加強對交易的監控。

128. These steps should be recorded and maintained in a file regarding each counterparty/customer. In circumstances defined by the public authorities where there are lower money laundering or terrorist financing risks, dealers may be allowed to apply reduced or simplified CDD measures when identifying and verifying the identity of the counterparty/customer and the beneficial owner having regard to the type of counterparty/customer, product or transaction.

128. 這些步驟應記錄並保存在關於每個交易方／客戶的文件中。在經公家機關確認洗錢或資助恐怖分子風險較低的情況下，經確認和驗證相對方／客戶和與相對方／客戶、產品或交易有關的實質受益人的身分後，可允許交易商採用減少或簡化的客戶審查措施。

129. In other circumstances (*i.e.* for transactions not involving cash equal to or above USD/EUR 15 000) and where national law does not require otherwise, counterparty/customer identification can, however, be accomplished through broader industry practices and associations that already maintain comparable data to which the authorities have ready access, or by reference to government held databases (registered dealer database, VAT related database, etc.). This will reduce transaction burdens, particularly upon small and mid-size dealers who already rely upon such industry resources to maintain security and high standards in their business practices. For example, in the diamond industry, transactions for rough diamonds are conducted within the scope of the Kimberley Process. Trading in rough diamonds and polished diamonds can occur through bourses that are members of the World Federation of Diamond Bourses. Dealers might transparently reference these sources of counterparty/customer identification rather than recreate all identification data in multiple dealer and transaction files.

129. 在其他情況下（例如未涉及等於或超過 15,000 美元／歐元的現金交易）以及國家法律未規定的其他情況下，相對方／客戶的鑑別可透過更廣泛的行業慣例和已持有可供該機關準備使用的比較數據的協會或參考政府持有的數據庫（已註冊的交易商資料庫、VAT 相關的資料庫等）。此將減少交易負擔，特別是對於那些已依賴此類行業資源維持其安全性和高標準的中小型交易商的業務實踐。例如在鑽石行業，鑽石原石的交易在金伯利進程的範圍中進行。鑽石原石和拋光鑽石的交易可經由世界鑽石交易聯合會成員的交易。交易商可能透明地參考這些相對方／客戶鑑別的來源，而不是重新創建多個交易商和交易文件中的所有鑑別資料。

130. In similar circumstances, other regulatory programs and/or industry associations may provide similar counterparty information and assurances. Transactions with well-known, longstanding counterparties might also be identified by transparent reference to existing information of a dealer, rather than be recreated. Such streamlined counterparty identification practices should, of course, be limited to transactions with standard trading and bank payment practices that do not give rise to suspicion and concern, and do not in any case fully eliminate the need to apply risk based analysis to transactions, customers, or counterparties.

130. 在類似情況下，其他監管計畫和／或行業協會應提供類似的相對方資訊和保證。與知名的長期相對方交易也可以通過透明地參考交易商的現有資訊來確定，而不是重新建立資訊。此有效的相對方辨識實務應限於不引起懷疑和關注的標準交易和銀行付款的交易方式，並且在任何情況下都不會完全消除對交易、客戶或相對方應用基於風險分析的需要。

Monitoring of counterparties/Customers and transactions

客戶／相對方和交易的監控

131. The degree and nature of monitoring by a dealer in precious metals or a dealer in precious stones will depend upon the size of the business and the risk assessment that the dealer has made. Based on such risk assessment and in accordance with any legislative or regulatory requirements, not all transactions or counterparties/customers will be monitored in the same way and to the same degree. A risk may only become evident once a counterparty has begun transactions, particularly if such transactions differ from those originally anticipated, and changes in transactions should be noted and evaluated. A monitoring program and results of monitoring should always be documented, and a dealer in precious metals or a dealer in precious stones should periodically assess its monitoring program for adequacy.

131. 貴金屬或寶石商的監督程度和性質將取決於其業務規模和所做的風險評估。根據此風險評估以及任何立法或監管要求，並非所有交易或相對方／客戶都將以相同的方式和程度進行監控。一旦相對方開始交易，風險會變得明顯，特別是如果此交易與原來預期的交易不同時，應該注意和評估交易的變化。應隨時記錄監測的計劃和結果，貴金屬或寶石商應定期評估其監測計劃的充分性。

Suspicious transaction reporting

可疑交易通報

132. The circumstances that will trigger a requirement to report a suspicious transaction or activity to a dealer's competent authority are usually rules-based and set forth in national law, and a risk-based approach for such reports is not applicable. An AML/CFT program that is founded on the risk-based approach will, however, direct attention and resources toward higher risk activities, will more readily identify suspicious activity, and should encourage reporting of suspicious activity.

132. 導致須向交易商主管機關提出可疑交易或活動報告的情況通常都有一定的規定，並且規定於國內法，針對該報告制定的風險基礎方法無適用餘地。然而，根據風險基礎方法制定的防制洗錢／打擊資恐計畫會將注意力與資源導向風險較高的活動、更能鑑別可疑活動，且應能鼓勵提出可疑活動報告。

133. The adequacy of a dealer's AML/CFT program to identify and properly report suspicious activity should be periodically reviewed.

133. 應定期審查交易商的防制洗錢／打擊資恐計畫，瞭解其是否足以鑑別及鼓勵正確回報可疑活動。

Counter financing of terrorism

打擊資恐

134. Dealers should make reference to paragraphs 42 to 46 in relation to terrorist financing.

134. 交易商應參照第 42 至 46 段有關資恐的說明。

Training and awareness

訓練與意識

135. The success of a dealer's AML/CFT program will depend upon its application throughout the full range of the dealer's business activities, and thus upon appropriate training of employees. A dealer should inform all employees that it has an AML/CFT program designed and intended to detect and deter money laundering and terrorist finance, and that their awareness and participation are important. All employees should be encouraged and trained to contact management regarding suspicious activity that they observe or of which they become aware.

135. 交易商防制洗錢／打擊資恐計畫能否成功，須視其是否能應用於交易商業務活動的所有面向而定，也就是須視是否提供員工相關訓練而定。交易商應讓所有員工知道其防制洗錢／打擊資恐

計畫，以及此計畫的設計係以偵查及嚇阻洗錢和資恐為目的，同時強調員工的意識與參與至關重要。應鼓勵和訓練所有員工在觀察或發現任何可疑活動時，應向管理階層通報。

136. Training of specific employees will vary according to their roles, e.g. counterparty/customer contact, receiving and inspection, trading, banking, accounting, IT, and according to the levels of risk associated with counterparties/customers and transactions with which they have a business association. This training should be periodically reviewed for adequacy and repeated as appropriate. Each AML/CFT incident or inquiry arising in the course of business should also be used as an opportunity to reinforce the awareness and understanding of employees regarding a dealer's AML/CFT program and their roles in implementation of that program. If circumstances of suspicion, concern or higher risk are revealed in monitoring, additional training should be specifically directed to those circumstances with appropriate employees.

136. 訓練內容視員工的角色（例如與相對方／客戶接洽、收貨與檢查、貿易、銀行業務、會計、IT 等等）以及員工相關業務（例如相對方／客戶與交易）風險程度的不同而有異。應定期審查訓練，瞭解其完善性，並應在適當時重複訓練。在業務過程中發生的每件防制洗錢／打擊資恐事件或查詢都是一次加強員工意識與認知的機會，讓員工對交易商的防制洗錢／打擊資恐計畫以及員工在執行此計畫時的角色有更深刻的認識。若在監控過程中發現可疑、應關注的事項或較高風險等情況，應特別針對各該情況對相關人員施以額外訓練。

Chapter Three: Internal Controls **第三章：內部控制**

137. Many DNFBPs differ significantly from financial institutions in terms of size. By contrast to most financial institutions, a significant number of DNFBPs have only a few staff. This limits the resources that small businesses and professions can dedicate to the fight against money laundering and terrorist financing. For a number of DNFBPs, a single person may be responsible for the functions of front office, back office, money laundering reporting, and senior management. This particularity of DNFBPs, including dealers, should be taken into account in designing a risk-based framework for internal controls systems. The Interpretative Note to Recommendation 15, dealing with internal controls, specifies that the type and extent of measures to be taken for each of its requirements should be appropriate having regard to the size of the business.

137. 許多 DNFBP 在規格上與金融機構有很大的不同。和大部分金融機構相較，許多 DNFBP 只有幾名員工。這使得小企業與專業人員只能運用有限的資源打擊洗錢與資恐。有些 DNFBP 可能只由一名人員負責前台辦公室、後台辦公室、洗錢報告和高階管理等職務。在規劃內部控制制度的風險基礎架構時，應考量 DNFBP（包括交易商）的這種獨特性。處理內部控制的建議第 15 項註釋指出，針對各項要求採取措施時，其類型與範圍應與公司的規模相稱。

138. In order for dealers to have effective risk-based approaches, the risk-based process must be imbedded within the internal controls of the firm. The success of internal policies and procedures will be dependent largely on internal control systems. Two key elements that will assist in achieving this objective follow.

138. 為了確保交易商規劃有效的風險基礎方法，風險基礎流程應嵌入於公司的內部控制。內部政策與程序能否成功，主要取決於內部控制制度。以下說明有助於達到此目標的兩個關鍵元素。

Culture of compliance 遵循文化

139. This should encompass:

139. 此文化應包括：

- Developing, delivering, and maintaining a training program for all dealers.
- 為所有交易商制定、提供及維護訓練計畫。
- Monitoring for any government regulatory changes.
- 監督政府是否修訂監管內容。
- Undertaking a regularly scheduled review of applicable compliance policies and procedures within industry practices, which will help constitute a culture of compliance in the industry.
- 根據業界實務定期審查目前遵循政策與程序，協助建立業界遵循文化。

Senior management ownership and support

高階管理團隊的所有權與支持

140. A risk-based AML/CFT program requires commitment, participation and authority of owners and controlling persons. It should be part of a culture of legal and ethical compliance that these senior management officials should inculcate to all employees, and to counterparties, and to other persons associated with the business.

140. 風險基礎防制洗錢／打擊資恐計畫需要所有人與控制人的承諾、參與及授權。高階管理團隊應教誨所有員工、相對方以及與業務有關的所有其他人，而此應為法律與倫理遵循文化的一環。

141. The nature and extent of AML/CFT controls will depend upon a number of factors including:

141. 防制洗錢／打擊資恐控制的性質與範圍取決於以下幾個因素：

- The nature, scale and complexity of a dealer's business.
- 交易商事業的性質、規模與複雜性。
- The diversity of a dealer's operations, including geographical diversity.
- 交易商的營運多樣性，包括地理多樣性。
- The dealer's customer, product and services profile.
- 交易商的客戶、產品與服務概況。
- The volume and size of the transactions.
- 交易量與交易規模。
- The degree of risk associated with each area of the dealer's operation.
- 與交易商各營運領域有關的風險程度。
- The extent to which the dealer is involved directly with the customer or through third parties or non face-to-face access.
- 交易商須直接面對客戶，或透過第三方，或以非面對面的方式接洽客戶的程度。
- The frequency of customer contact (either in person or by other means of communication).
- 客戶接洽頻繁（親自或以其他溝通方式）。

142. A risk-based AML/CFT program should be established and implemented in coordination with other business compliance and security programs. Verification of employees, for example, through background and security screening can be cross-checked with AML/CFT verification of customers and counterparties. Daily checks of inventories by independent groups within a company to dissuade and minimize theft losses can also inform an AML/CFT program of suspicious activity.

142. 應配合其他業務遵循與安全計畫制定及執行風險基礎防制洗錢／打擊資恐計畫。例如，透過背景與安全篩選驗證員工時，可與客戶和相對方的防制洗錢／打擊資恐驗證進行交叉檢驗。由獨立機構在公司內部每天檢查庫存，以勸阻竊盜，並將竊盜損失減至最低。

143. A risk-based AML/CFT program requires specialized expertise about a dealer's industry, about a dealer's particular business within that industry, and about particular counterparties. It also requires knowledge of money laundering techniques, and how they might be used within particular industry transactions and areas of operation. Within many small, privately held and family businesses in these industries, all of these skills and authorities are available primarily, or only, at the level of ownership/senior management. Within larger enterprises, a person with these skills will need to be designated and authorized as a Compliance Officer.

143. 風險基礎防制洗錢／打擊資恐計畫需要有關交易商所屬產業、有關交易商在該產業內從事的特定業務，以及有關特定相對方的專業知識。另外還需要有關洗錢技術以及如何在特定產業交易過程中和營運地區運用該技術的知識。對這個行業的許多小型、私營及家族企業而言，所有這些技術與知識不是初級就是僅屬於所有人或高階管理團隊所有。在大型企業裡，擁有這些技術都是指定的人選，並任命為遵循主管。

144. A designated Compliance Officer should have a reputation within the dealer's enterprise for integrity and sound judgment, should be authorized and willing to contradict persons with more limited interests in proposed transactions and counterparties, including the owners, and should be known within a dealer's enterprise as such a person.

144. 專責遵循主管在交易商所屬的產業應有廉潔與穩健判斷方面的聲譽、應有權且願意反駁對交易提案擁有較少利益的人與相對人（包括所有人），並應在交易商所屬的產業裡被認知為具有前述特質的人。

145. Having regard to the ML/TF risks and the size of the dealer, a dealer's AML/CFT internal control programme should include procedures that:

145. 在考量洗錢風險及交易商規模的條件下，交易商的防制洗錢／打擊資恐內部控制計畫應包括能達到以下目標的程序：

- Ensure that regulatory record keeping and reporting requirements are met, and that changes in regulatory requirements are incorporated⁶.
- 確保保存監管紀錄與報告要求，並應納入對監管要求的修訂⁶。
- Implement risk-based counterparty due diligence procedures.
- 針對相對方執行風險基礎客戶審查。
- Provide for adequate controls for higher risk counterparties, transactions and products.
- 為妥善控制具有較高風險相對方、交易和產品做好準備。
- Enable the timely identification of reportable transactions and ensure accurate filing of required reports.
- 促進及時辨識應回報的交易，及確保對必要的報告進行正確歸檔。
- Provide for adequate monitoring.
- 為完善的監控做好準備。

⁶ Application of an AML/CFT Program is not complete without documentation of such application. Documentation requires systematic analysis, which is the foundation of a risk-based approach. It also provides an institutional memory of that analysis, and its determinations and actions. It facilitates information sharing within a dealer's enterprise, and, when appropriate, with competent authorities. And it provides a basis upon which an AML/CFT program and practices can be measured and improved.

⁶ 若未紀錄此應用，將無法完全實施防制洗錢／打擊資恐計畫。紀錄需要系統性分析，而此分析為風險基礎方法的根基。此紀錄亦提供該分析的機構經驗傳承、該分析的文件及其行動。此紀錄有助於商人企業內部資訊分享，並在適當情況下與主管機關分享。另外，此紀錄提供用以評量和改善 AML/CFT 計畫與實務的基礎。

- Provide for adequate supervision of employees.
- 為管理員工做好準備。
- Provide for appropriate and updated training.
- 為適切提供最新的訓練做好準備。

146. An AML/CFT program should be a living document, changing as new circumstances arise, adapting to increased understanding of its elements, such as information derived from periodic review, monitoring and suspicious activity, and responding to recommendations. Dealers should also take account of relevant material published by designated competent authorities and SROs.

146. 防制洗錢／打擊資恐計畫應為動態文件，須參酌新情況修改，並在更深入地瞭解其元素後做相應調整，例如衍生自定期審查的資訊、監控及可疑活動，以及對建議事項的回應。交易商亦應考量權責機關和自律團體發佈的相關資料。

147. Senior management and its designated Compliance Officer should also arrange for regular periodic review of the AML/CFT program and its operation, for implementation of recommendations arising from such review, and for ongoing improvement of the program. Such review need not be by persons outside of a dealer's business, but should be by a qualified person who, if practicable, is independent of the Compliance Officer. A person who is not directly involved in the day-to-day operation of the AML/CFT program will bring a fresh view to program activities. In small and mid size companies where ownership/senior management is directly involved in the AML/CFT program, periodic review need not be as formal an undertaking. If a dealer reports transactions to designated competent authorities or SROs, and receives appropriate feedback from such authorities, written reports of this regulatory activity may serve as such review or as a database for it.

147. 高階管理團隊及其專責遵循主管亦應安排定期審查防制洗錢／打擊資恐計畫及其執行情形、執行衍生自此審查的建議事項，以及持續改善計畫。此審查無需由交易商企業以外的人執行，但應由符合資格的人員執行。若可行，審查人應獨立作業，不受遵循主管的影響。不直接參與防制洗錢／打擊資恐計畫日常執行工作的人，將對計畫活動進行具有啟發性的審查。若中小型公司的所有人／高階管理團隊直接參與防制洗錢／打擊資恐計畫，則定期審查無需一定當作正式行動執行。若交易商向權責機關或自律團體提出交易報告，並從各該機關獲得回饋，則此監管活動的書面報告可視為前述審查或用作審查的資料庫。

148. Senior management not directly associated with the AML/CFT program should be briefed upon its operations and lessons learned from experience, and should be asked for questions and comments. This cross-fertilization will both strengthen the program, and further inculcate its principles within the enterprise or business.

148. 應對不直接參與防制洗錢／打擊資恐計畫的高階管理團隊發表簡報，說明該計畫的執行情形以及從經驗獲得的教訓，並應請其提出問題和發表意見。這種對雙方都有好處的做法不僅能改善計畫，還能在企業或公司內部深入宣導該計畫的原則。

ANNEXES 附錄

ANNEX 1 – SOURCES OF FURTHER INFORMATION 附錄 1 – 其他資訊來源

Various sources of information exist that may help governments, dealers in their development of a risk-based approach. Although not an exhaustive list, this section highlights a number of useful web-links that governments and dealers may wish to draw upon. They provide additional sources of information, and further assistance might also be obtained from other information sources such as AML/CFT assessments. 來自不同管道的資訊可協助政府與交易商制定風險基礎方法。此節特別列出幾個（而非全部）實用的網路連結，政府和交易商可能會想善加利用這些資訊來源。這些連結提供額外的資訊來源，若能再從其他來源取得資訊，將更有助於進行防制洗錢／打擊資恐評估。

A. Financial Action Task Force Documents **A. 防制洗錢金融行動工作組織（FATF）文件**

The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. Key resources include the 40 Recommendations on Money Laundering and 9 Special Recommendations on Terrorist Financing, the Methodology for Assessing Compliance with the FATF Recommendations, the Handbook for Countries and Assessors, methods and trends (typologies) reports and mutual evaluation reports.

FATF 為跨國組織，旨在制定與推動國內及國際打擊洗錢與資恐政策。重要的資源包括 40 項防制洗錢建議、9 項打擊資恐特別建議、FATF 建議遵循評鑑方法論、各國與評鑑機構手冊、方法與趨勢（態樣）報告及相互評鑑報告。

<http://www.fatf-gafi.org>

B. Other sources of information to help assist countries and dealers risk assessment of countries and cross-border activities

B. 其他資訊來源有助於各國與交易商對國家及跨境活動進行風險評估。

In determining the levels of risks associated with particular country or cross border activity dealers in precious metals and stones and governments may draw on a range of publicly available information sources, these may include reports that detail observance of international standards and codes, specific risk ratings associated with illicit activity, corruption surveys and levels of international cooperation. Although not an exhaustive list the following are commonly utilised:

在確定特定國家或跨境活動的相關風險程度時，貴金屬與寶石商及政府得利用一系列公開可用的資訊來源，包括有關國際標準與法規遵循、非法活動特定風險評比、貪腐調查與國際合作程度的詳盡報告。以為常用（而非全部）的資訊來源：

- IMF and World Bank Reports on observance of international standards and codes (Financial Sector Assessment Programme)
- IMF 與世界銀行的國際標準與法規（金融業評估計畫）遵循報告

- World Bank reports: <http://www1.worldbank.org/finance/html/cntrynew2.html>
 - 世界銀行：<http://www1.worldbank.org/finance/html/cntrynew2.html>
 - International Monetary Fund:
<http://www.imf.org/external/np/rosc/rosc.asp?sort=topic#RR>
 - 國際貨幣基金：<http://www.imf.org/external/np/rosc/rosc.asp?sort=topic#RR>
 - Offshore Financial Centres (OFCs) IMF staff assessments
www.imf.org/external/np/ofca/ofca.asp
 - 離岸金融中心（OFC）IMF 人員評鑑 www.imf.org/external/np/ofca/ofca.asp
- Mutual evaluation reports issued by FATF Style Regional Bodies:
 - FATF 相關區域性組織發行的相互評鑑報告：
 1. Asia/Pacific Group on Money Laundering (APG)
1. 亞太防制洗錢組織（APG）
<http://www.apgml.org/documents/default.aspx?DocumentCategoryID=8>
 2. Caribbean Financial Action Task Force (CFATF)
2. 加勒比海防制洗錢金融行動工作組織（CFATF）
<http://www.cfatf.org/profiles/profiles.asp>
 3. The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
3. 歐洲議會防制洗錢及打擊資助恐怖主義評估專家委員會（MONEYVAL）
<http://www.coe.int/moneyval>
 4. Eurasian Group (EAG)
4. 歐亞防制洗錢及打擊資助恐怖主義組織（EAG）
<http://www.eurasiangroup.org/index-7.htm>
 5. GAFISUD
5. 南美洲地區防制洗錢金融行動工作組織(GAFISUD)
<http://www.gafisud.org/miembros.htm>
 6. Middle East and North Africa FATF (MENAFATF)
6. 中東及北非防制洗錢金融行動工作組織(MENAFATF)
<http://www.menafatf.org/TopicList.asp?cType=train>
 7. The Eastern and South African Anti Money Laundering Group (ESAAMLG)
7. 東南非防制洗錢組織（ESAAMLG）
<http://www.esaamlg.org/>
 8. Groupe Inter-gouvernemental d'Action contre le Blanchiment d'Argent (GIABA)
8. 非洲政府間防制洗錢行動組織（GIABA）
<http://www.giabasn.org>
 - OECD Sub Group of Country Risk Classification (a list of country of risk classifications published after each meeting)
 - OECD 國家風險分類次級組織（每次會後發佈的國家風險分類表）
http://www.oecd.org/document/49/0,2340,en_2649_34171_1901105_1_1_1_1,00.html
 - International Narcotics Control Strategy Report (published annually by the US State Department)
 - 國際毒品管制策略報告（美國國務院每年發佈）
<http://www.state.gov/p/inl/rls/nrcrpt/>

- Egmont Group membership - Coalition of FIU's that participate in regular information exchange and the sharing of good practice, acceptance as a member of the Egmont Group is based a formal procedure that countries must go through in order to be acknowledged as meeting the Egmont definition of an FIU.
- 艾格蒙聯盟成員 – 金融情報中心 的聯盟組織，參與正規資訊交換及分享優良實務。各國若想成為艾格蒙聯盟的成員，必須完成正式程序，並被認可為艾格蒙定義的金融情報中心。
<http://www.egmontgroup.org/>
- Signatory to the United Nations Convention against Transnational Organized Crime
- 聯合國打擊跨國組織犯罪公約簽約國
http://www.unodc.org/unodc/crime_cicp_signatures_convention.html
- The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury economic and trade, Sanctions Programmes
- 美國財政部海外資產控制辦公室（OFAC），經濟與貿易，制裁計畫
<http://www.ustreas.gov/offices/enforcement/ofac/programs/index.shtml>
- Consolidated list of persons, groups and entities subject to EU Financial Sanctions
- 歐盟金融制裁個人、組織與實體一覽表
http://ec.europa.eu/comm/external_relations/cfsp/sanctions/list/consol-list.htm
- UN Security Council Sanctions Committee - Country Status:
- 聯合國安全理事會制裁委員會 – 國家現況：
<http://www.un.org/sc/committees/>

ANNEX 2 – GLOSSARY OF TERMINOLOGY 附錄 2 – 術語詞彙表

Beneficial Owner 實質受益人：

The natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

最終擁有或控制某個客戶之自然人及／或某筆交易代理之人。亦包括最終有效控制法人或法律協議之人。

Competent authorities 權責機關

Competent authorities refers to all administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors.

權責機關係指與打擊洗錢和資恐有關的所有行政與執法機關，包括金融情報中心與監理機關。

Counterparty 相對方

A person, entity or party engaged in the purchase and/or sale of precious metals or precious stones with other dealers of precious metals or precious stones, including both suppliers and retail customers.

與其他貴金屬或寶石商從事貴金屬或寶石買賣之個人、實體或當事人，包括供應商與零售客戶。

Country 國家

All references in the FATF Recommendations and in this Guidance to *country* or *countries* apply equally to territories or jurisdictions.

於本「FATF 建議」及本指引中提及之「國家」與領域或司法管轄體相同意義。

Designated Non-Financial Businesses and Professions 指定之非金融事業或人員

- a. Casinos (which also includes internet casinos).
- a. 賭場（包括網路賭場）。

- b. Real estate agents.
- b. 不動產經紀人。

- c. Dealers in precious metals.
- c. 貴金屬商。

- d. Dealers in precious stones.
- d. 寶石商。

- e. Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- e. 律師、公證人、其他獨立法律專業人員及會計師 – 意指單獨執業、合夥及受雇於專業事務所之專業人員。但不及於受雇其他行業之內部專業人員，亦不及於為政府部門工作且已受到防制洗錢規範之專業人員。
- f. Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:
- f. 信託及公司服務業 – 意指所有「FATF 建議」未涵蓋之人或事業體，而提供任何下列服務予第三者：
 - Acting as a formation agent of legal persons.
 - 擔任法人登記或成立的名義人。
 - Acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons.
 - 擔任（或安排他人代理擔任）公司董事或秘書、合夥關係之合夥人或其他法人之類似職位。
 - Providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.
 - 提供經註冊之辦公室；公司地址或營業所、通訊或管理地址予公司、合夥或其他法人或法律協議。
 - Acting as (or arranging for another person to act as) a trustee of an express trust.
 - 擔任（或安排他人擔任）意定信託之受託人。
 - Acting as (or arranging for another person to act as) a nominee shareholder for another person.
 - 擔任（或安排他人擔任）代名人股東。

FATF Recommendations

FATF 建議

Refers to the FATF Forty Recommendations and the FATF Nine Special Recommendations on Terrorist Financing.

係指 FATF 40 項防制洗錢建議及 9 項打擊資恐特別建議。

Identification data

身分識別資料

Reliable, independent source documents, data or information will be referred to as “identification data”.

可靠、獨立原始憑證、資料或資訊被稱為「身分識別資料」。

Politically Exposed Persons (PEPs)
重要政治性職務人士 (PEP)

Individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.

擔任或受委任擔任外國國家重要公職之個人，舉例來說，國家或政府之首長、高階政治人物、高階政府、司法或軍事官員、高階國營企業執行主管、重要政黨官員等。與 PEP 之家庭成員或有密切關係之人建立業務關係所涉及之聲譽風險，與 PEP 本身雷同。定義並未涵蓋中階或初階官員等之個人。

Self-regulatory organisation (SRO)
自律團體 (SRO)

A SRO is a body that represents a profession (e.g. lawyers, notaries, other independent legal professionals or accountants), and which is made up of member professionals, has a role in regulating the persons that are qualified to enter and who practise in the profession, and also performs certain supervisory or monitoring type functions. For example, it would be normal for this body to enforce rules to ensure that high ethical and moral standards are maintained by those practising the profession.

自律團體是指一個代表專業人員（諸如律師、公證人、其他獨立之法律專業人員或會計師）之團體，由該等專業人士為會員所組成，扮演規範這些合格入會並執業會員之角色，同時執行某些監理或監督功能。例如，該等自律團體應強制執行規範，以確保該等執業專業人員具備高職業倫理與道德水準。

ANNEX 3 – MEMBERS OF THE ELECTRONIC ADVISORY GROUP

附錄 3 – 電子諮詢小組成員

FATF and FSRB members and observers

FATF 及 FSRB 成員與觀察員

Argentina; Asia Pacific Group (APG); Australia; Belgium; Azerbaijan; Canada; Chinese Taipei, China; European Commission (EC); Nigeria; France; Hong Kong, China; Italy; Japan; Luxembourg; MONEYVAL; Netherlands; New Zealand; Offshore Group of Banking Supervisors (OGBS); Portugal; Romania; Spain; South Africa; Switzerland; United Kingdom; United States.

阿根廷；亞太防制洗錢組織（APG）；澳洲；比列時、亞塞拜然；加拿；中華台北；中國；歐盟執行委員會（EC）；尼日利亞；法國；中國香港；義大利；日本；盧森堡；MONEYVAL；荷蘭；紐西蘭；離岸銀行監管組織（OGBS）；葡萄牙；羅馬尼亞；西班牙；南非；瑞士；英國；美國。

Dealers in precious metals and dealers in precious stones industries

貴金屬與寶石商

Antwerp World Diamond Centre, International Precious Metals Institute, World Jewellery Confederation, Royal Canadian Mint, Jewellers Vigilance Committee, World Federation of Diamond Bourses, Canadian Jewellers Association.

安特衛普世界鑽石中心、國際貴金屬研究所、世界珠寶聯合會、加拿大皇家鑄幣廠、珠寶商警戒委員會、世界鑽石交易所聯盟、加拿大珠寶商協會。

Real estate industry

不動產業

International Consortium of Real Estate Agents, National Association of Estate Agents (UK), the Association of Swedish Real Estate Agents.

國際不動產經紀人聯合會、英國全國不動產協會、瑞典不動產經紀人協會。

Trust and company service providers industry

信託及公司服務業

The Society of Trust and Estate Practitioners (STEP), the Law Debenture Trust Corporation.

信託與財產從業者協會（STEP）、Law Debenture 信託公司。

Accountants industry

會計師業

American Institute of Certified Public Accountants, Canadian Institute of Chartered Accountants, European Federation of Accountants, German Institute of Auditors, Hong Kong Institute of Public Accountants, Institute of Chartered Accountants of England & Wales.

美國會計師協會、加拿大會計師協會、歐洲會計師聯盟、德國審計員協會、香港會計師公會、英國暨威爾斯會計師協會。

Casinos industry

賭場業

European Casino Association (ECA), Gibraltar Regulatory Authority, Kyte Consultants (Malta), MGM Grand Hotel & Casino, Unibet, William Hill plc.

歐洲賭場聯盟 (ECA)、直布羅陀監管機關、Kyte Consultants (Malta) 顧問公司、米高梅賭場飯店、Unibet、威廉希爾有限公司。

Lawyers and notaries

律師與公證人

Allens Arther Robinson, American Bar Association, American College of Trust and Estate Council,

Consejo General del Notariado (Spain), Council of Bars and Law Societies of Europe (CCBE),

International Bar Association (IBA), Law Society of England & Wales, Law Society of Upper Canada.

安德慎律師事務所、美國律師公會、國信託與遺產律師學院、Consejo General del Notariado (Spain)、

歐洲律師暨法律公會 (CCBE)、國際律師協會 (IBA)、英國暨威爾斯律師協會、上加拿大律師協會。