



Financial Action Task Force
防制洗錢金融行動工作組織

RBA GUIDANCE FOR ACCOUNTANTS
風險基礎方法指引 - 會計師

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**GUIDANCE ON THE RISK-BASED APPROACH TO COMBATING
MONEY LAUNDERING AND TERRORIST FINANCING**

以風險為基礎，防制洗錢與打擊資助恐怖主義之指引

**HIGH LEVEL PRINCIPLES AND PROCEDURES FOR
ACCOUNTANTS**

會計師運用之高階原則與程序

**SECTION ONE: USING THE GUIDANCE -
PURPOSE OF THE RISK-BASED APPROACH**

第一節：使用本指引－風險基礎方法

Chapter One: Background and Context

第一章：背景與脈絡

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. 在 2007 年 6 月，防制洗錢金融行動工作組織（FATF）採用以風險為基礎，防制洗錢與打擊資助恐怖主義之指引：高階原則與程序，包括對公務機關之指引與對金融機構之指引。這是由防制洗錢金融行動工作組織，所創建的電子諮詢小組（EAG）公私部門成員間廣泛諮商的累積成果。

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 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. 除金融機構外，防制洗錢金融行動工作組織的建議事項，涵蓋許多指定非金融事業或人員（DNFBPs）。在 2007 年 6 月的會議中，防制洗錢金融行動工作組織的評鑑及執行工作組（WGEI）簽署一項提案，建議召開指定之非金融事業或人員代表人會議，以評估就各產業擬訂風險基礎方法指引，並採用金融機構已完成指引之相同架構與形式。

3. This meeting was held in September 2007 and was attended by representatives of organisations which represent lawyers, notaries, trust and company service providers, accountants, 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. 此一會議在 2007 年 9 月舉行，由律師、公證人、信託及公司服務業者、會計師、賭場、不動產經紀人、貴金屬與寶石交易商等行業的組織代表參加。此一私部門團體，對防制洗錢金融行動工作組織，推動各產業風險基礎方法指引一事，表達投入之興趣。指定之非金融事業或人員之指引，將按照防制洗錢金融行動工作組織已經建立之風險基礎方法原則，彰顯指定之非金融事業或人

員風險因素，以及就指定之非金融事業或人員特定活動與業務，適合之降低風險策略提出建議。防制洗錢金融行動工作組織另外成立 EAG 協助此工作。

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 月再度召開會議，加入多位公部門專業成員；成立由公部門與私部門組成之不同工作小組，並指派私部門主席。

5. The EAG continued work until this guidance for accountants 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 繼續運作，直到這份會計師的指引提報 WGEI。在針對公私部門間進一步國際諮商後，防制洗錢金融行動工作組織於 2008 年 6 月全體會議中採用這份指引。對其他指定之非金融事業或人員個別指引，將會另外發行。

Purpose of the guidance

本指引目的

6. The purpose of this guidance is to:

6. 本指引之目的在：

- Support the development of a common understanding of what the risk-based approach involves.
- 推動對風險基礎方法所涉基本瞭解。
- 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，提供良善作法。

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/combating the financing of terrorism (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，使用風險基礎 (risk-based) 方法並非強制性。適當地採用風險基礎方法，不必然表示負擔減少，但可能改善資源之使用成本效益。對某些國家來說，採用規則基礎 (rules-based) 的系統可能更為恰當。各國必須自行判斷是否採用風險基礎方法，這要根據特定的洗錢／資助恐怖主義風險，指定之非金融事業或人員活動的規模與性質，以及其他相關資訊。對可能已經針對指定之非金融事業或人員，採取防制洗錢/打擊資助恐怖主義 (AML/CFT) 措施，但不確定指定之非金融事業或人員，對於有效風險基礎方法，是否擁有足夠執行經驗的國家而言，時機也是重要議題。

Target audience, status and content of the guidance

指引之目標對象、狀態、內容

8. This guidance has been prepared for, and in relation to, accountants in public practice¹. The roles and therefore risks of the different DNFBP sectors are usually separate. However, in some business areas, there are inter-relationships between different DNFBP sectors, and between the DNFBPs and financial institutions. For example, accountants may be instructed by businesses or professionals within other DNFBP sectors or by financial institutions. Accountants may also undertake trust and company services covered by the FATF Recommendations. For such activities, accountants should make reference to the guidance on the risk-based approach for Trust and Company Service Providers (TCSPs).

8. 本指引係針對公開執業會計師撰寫。指定之非金融事業或人員角色通常不同，因此各有不同風險。但是，在某些業務領域，不同指定之非金融事業或人員，彼此之間存在交互關係，指定之非金融事業或人員和金融機構之間，也有交互關係。例如，會計師可能會收到其他指定之非金融事業或人員，或金融機構的公司或專業人士的指示。此外，會計師可能會從事防制洗錢金融行動工作組織建議，所涵蓋的信託與公司服務。對於這種活動，會計師應該要參考信託及公司服務業者（TCSP）相關之風險基礎方法指引。

9. DNFBPs provide a range of services and activities that vastly differ, e.g. in their methods of delivery and in the depth and duration of the relationships formed with clients, and the size of their operation. This Guidance is written at a high level to cater for the differing practices of accountants in different countries, and the different levels and forms of supervision or monitoring that may apply. Each country and its national authorities should aim to establish a partnership with its accountants and other DNFBP sectors that will be mutually beneficial to combating money laundering and terrorist financing.

9. 指定之非金融事業或人員，所提供各種服務與活動，就各方面而言均截然不同，如交付方式，與客戶建立關係的深度與持久性，以及營運規模。本指引是以高階準則角度撰寫，以納入會計師在不同國家、不同層級的不同實務，並構成可能適用之監理或監管為目標。各國及其權責機關，應建立與會計師及其他指定之非金融事業或人員之間合作關係，以利各方受惠於洗錢和資助恐怖主義之防制。

10. The primary target audience of this guidance is the accountants themselves, when they conduct activities which fall within the ambit of the FATF Recommendations, as described below.

10. 此一指引的主要目標對象，是會計師從事符合防制洗錢金融行動工作組織建議涵蓋範圍內的活動，如下所述。

11. 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 DNFBPs in certain circumstances. Specifically, Recommendation 12 applies to accountants when they prepare for or carry out transactions for their client concerning the following activities:

11. 第 12 項建議規定，在第 5、6、8~11 項中，所提及對於客戶審查、紀錄維護、注意所有不尋常複雜大額交易的規定，在特定狀況下也適用於指定之非金融事業或人員。明確來說，第 12 項建議，適用於會計師為其客戶準備或執行以下活動時：

- Buying and selling of real estate;
- 買賣房地產；

¹ 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.

¹ 這包括個人執業、合夥人，或受雇於專業公司之專業人士，但不包括受雇於其他類型公司之「內部」專業人士，或是為政府機關工作之專業人士，他們可能已經受到洗錢防制措施規範。

- Management of client money, securities or other assets;
- 管理客戶金錢、證券，或其他資產；
- Management of bank, savings or securities accounts.
- 管理銀行、存款或證券帳戶。
- Organisation of contributions for the creation, operation or management of companies.
- 建立、營運、管理公司之營運資金。
- Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
- 建立、營運、管理法人或法律協議，及買賣事業體。

12. Recommendation 16 requires that FATF Recommendations 13 to 15 regarding reporting of suspicious transactions (see paragraphs 129 to 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 accountants when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in R.12 above.

12. 第 16 項建議規定，防制洗錢金融行動工作組織第 13~15 項建議中，關於通報可疑交易（見第 129-132 段），以及內部防制洗錢/打擊資恐控管；還有第 21 項建議，關於沒有遵循或遵循不足防制洗錢金融行動工作組織建議的國家應採取之措施，均適用於會計師代表客戶從事和上述第 12 項建議所述活動之相關交易時。

13. Where accountants are subject to obligations of professional secrecy or legal professional privilege (similar in nature to that of legal professionals), they are not required to report their suspicions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege under the laws of that country. Professional secrecy/legal professional privilege are not the same as client confidentiality.

13. 會計師依據職權，或依據法律授權（和法律專業人士職權之性質類似）負保密之義務，取得之相關資訊不必通報可疑情事。職權保密/法律專業特權和客戶保密約定並不相同。

14. It is for each country to determine the matters that would fall under legal professional privilege or professional secrecy. This would normally cover information lawyers, notaries or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings. Where accountants are subject to the same obligations of secrecy or privilege, they are also not required to report suspicious transactions.

14. 各國訂定屬於法律專業特權或職權保密的事項，通常涵蓋律師、公證人，或其他獨立法律專業人士，從客戶或透過客戶收到的資訊：(a) 在探明客戶之法律身分時，或 (b) 執行其在關於司法、行政、調解流程中，代表或為客戶辯護時。會計師如須遵守此類資訊相同的保密義務或職權時，無須通報可疑交易。

15. 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 accountants. Countries need to identify the most appropriate regime, tailored to address individual country risks, which takes into consideration the idiosyncrasies and activities of accountants and other DNFBP sectors in their country. 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.

15. 此一指引可能適用的對象，包括國家、指定權責機關、自律團體（SRO）等會考慮如何將防制洗錢/打擊資恐措施應用在會計師的單位。各國必須找出最適當的機制，量身訂做，以解決個別國家的風險，這要考慮個別國家的狀況，以及該國會計師和其他指定之非金融事業或人員的活動。

此一機制應認知指定之非金融事業或人員之間的差異，以及指定之非金融事業或人員和金融機構之間的差異。即便如此，這份指引不會凌駕國家主管權力範圍。

Observation on the particular activities carried out by accountants

會計師執行的特定活動觀察

16. The following general observation about accountants should help inform the approach. Consideration should also be given to the particular activities performed by accountants on a national basis.

16. 以下對會計師的一般觀察，包括從國家的基礎上，考慮到會計師執行的特定活動，應該有助於瞭解此方法。

17. This Guidance is addressed to accountants in public practice, on applying a risk-based approach to compliance with those of FATF's Recommendations that apply to them. It 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. Accountants in business are referred to professional or other alternative sources of Guidance, on the appropriate action to take in relation to suspected illegal activity by their employer or a third party.

17. 本指引係針對公開執業會計師而設，採用風險基礎方法，遵循防制洗錢金融行動工作組織相關適用的建議，對象包括獨立執業人士、合夥人，或受雇於專業公司之專業人士，但不包括受雇於其他類型公司之「內部」專業人士，或是為政府機關工作之專業人士，因為他們可能已經受到洗錢防制措施規範。公司內僱用的會計師，係透過其他專業或替代來源指引，藉由雇主或第三方的方式，針對疑似不法活動採取適當行動。

18. Accountants in practice may provide a very wide range of services, to a very diverse range of clients. For example, services may include (but are not restricted to):

18. 執業會計師客群分散，提供服務龐雜。舉例而言，服務可能包括（但不限於）：

- Audit and assurance services.
- 稽核與保證服務。

- Book-keeping and the preparation of annual and periodic accounts.
- 簿記與準備年度與定期帳簿。

- Tax compliance work, and advice on the legitimate minimisation of tax burdens.
- 稅務遵循工作，對稅務負擔減至最低提出合法建議。

- Internal audit, and advice on internal control and risk minimisation.
- 內部稽核，對內部控管與風險最小化提出建議。

- Regulatory and compliance services, including outsourced regulatory examinations and remediation services.
- 法規遵循服務，包括承包法規檢證與補救服務。

- Insolvency/receiver-managers/bankruptcy related services.
- 破產／接收－管理／倒閉相關服務。

- Advice on the structuring of transactions, and succession advice.
- 交易建構與承續建議。

- Advice on investments and custody of client money.
- 客戶金錢投資與託管建議。

- Forensic accountancy.
- 鑑識會計。

19. In many countries, accountants are the first professional consulted by many small businesses and individuals when seeking general business advice and a wide range of regulatory and compliance advice. Where services are not within their competence, accountants advise on an appropriate source of further assistance². Accountants typically refer to those benefiting from their services as “clients” rather than “customers”, and so that term has generally been used throughout this paper.

19. 在許多國家，許多小型企業與個人，在尋求商業建議，以及大範圍法規遵循建議時，首先會找會計師。若是服務非其能力所及，會計師會向他們建議進一步協助的適當來源²。會計師通常會稱其服務的受益人為「客戶」而非「顧客」，因此客戶這種說法基本上會在本指引貫徹使用。

20. Some of the functions performed by accountants that are the most useful to the potential launderer include:

20. 某些對潛在洗錢者來說，會計師所執行最有用的功能包括：

- a. Financial and tax advice – Criminals with a large amount of money to invest may pose as individuals hoping to minimise their tax liabilities or desiring to place assets out of reach in order to avoid future liabilities.
- a. 財務與稅務建議 – 擁有大筆可投資金錢的犯罪份子，傾向將租稅義務降到最低，或是將資產放在無法追查的地點，以避免可能的稅務責任。
- b. Creation of corporate vehicles or other complex legal arrangements (trusts, for example) – such structures may serve to confuse or disguise the links between the proceeds of a crime and the perpetrator.
- b. 設立公司工具，或其他複雜法律協議（例如信託） – 這種結構可能用於混淆或偽裝犯罪所得與犯罪人之間的連結。
- c. Buying or selling of property – Property transfers serve as either the cover for transfers of illegal funds (layering stage) or else they represent the final investment of these proceeds after their having passed through the laundering process (integration stage).
- c. 買賣房地產 – 房地產轉移可以扮演不法資金轉移（資金移轉階段），或是在經過洗錢流程後，作為犯罪所得的最後投資（資金終點階段）。
- d. Performing financial transactions – Sometimes accountants may carry out various financial operations on behalf of the client (for example, cash deposits or withdrawals on accounts, retail foreign exchange operations, issuing and cashing cheques, purchase and sale of stock, sending and receiving international funds transfers, etc.).
- d. 執行金融交易 – 有時候會計師可能代表客戶，進行各種財務操作（例如帳戶的現金存款、散戶外匯操作、發行與兌現支票、買賣股票、寄出與收取國際資金轉帳等）。
- e. Gaining introductions to financial institutions.
- e. 擔任與金融機構之間的中介角色。

² The European Federation of Accountants (FEE) has issued a study on market access across the Member States of the European Union, which gives an indication of the types of services provided by accountants, and the ways in which they can vary between countries.

² 歐洲會計師聯盟（FEE）已經針對歐盟所有會員國市場的管道，公布一項研究。這項研究揭示會計師所提供的服務種類，還有國家之間可能出現的差異。

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

第二章：風險基礎方法—目的、益處、挑戰

The purpose of the risk-based approach

風險基礎方法之目的

21. 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.

21. 防制洗錢金融行動工作組織之建議內容，允許各國在打擊洗錢和資助恐怖主義時，將風險基礎方法運用至指定的程度。該建議內容亦授權各國可以允許指定之非金融事業或人員，在應用其特定洗錢防制及打擊資助恐怖主義義務時，可以利用風險基礎方法。

22. By adopting a risk-based approach, it is possible to ensure that measures to prevent or mitigate money laundering and terrorist financing 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.

22. 採取風險基礎方法，相關措施可以避免或減少與風險相稱的洗錢與資助恐怖份子的風險。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。其他方法包括平均分配資源，或在確定資源的分配對象時，考量風險以外的因素。這可能會不慎導入一種「勾選」法，只注重滿足監管要求，而忽略有效率及有效果的打擊洗錢或資助恐怖主義。

23. A number of the DNFBP sectors, including accountants in countries where accountancy is a regulated profession, are already subject to regulatory or professional requirements which complement AML/CFT measures. Where possible, it will be beneficial for accountants 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 clients can access the services provided by accountants, but creates barriers to those who seek to misuse those services.

23. 多數指定之非金融事業或人員，包括會計師，屬於國家列管之專業人士，都必須遵守相關防制洗錢及打擊資恐強化措施，如法規要求或專業規定。會計師如能創建既能防制洗錢或打擊資恐，亦可配合其他法規或專業規定的政策及措施，必能因而受惠。以風險為基礎的防制洗錢/打擊資恐機制，應能確保誠實的客戶，可以更容易取得會計師提供的服務，但也能對於想濫用這些服務的人，產生阻礙。

24. 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. Accountants will need this assistance to help them to identify higher risk customers, products and services, delivery channels, and geographical locations. These are not static assessments. They will change over time, depending on how circumstances develop, and how threats evolve.

24. 為確定洗錢和資助恐怖主義風險最高的部分為何，應進行風險評估。各國須鑑別最大的弱點，並做相應處理。會計師將此項支援及資訊，用於協助其辨識高風險客戶及服務，包括交付通路以及地理位置。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。

25. 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 (e.g. to facilitate investigations).

25. 管理及降低洗錢和資助恐怖主義的策略，通常旨在透過嚇阻（例如適當的客戶審查措施）、偵測（例如監控及疑似洗錢或資恐交易報告）以及紀錄保存（例如配合調查）等多項措施，避免活動發生。

26. 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 due diligence checks and enhanced transaction monitoring. It also follows that in instances where risks are low, simplified or reduced controls may be applied. (See also paragraph 118 on variables that affect risk).

26. 應根據評估的風險，制定符合比例原則的程序。風險較高的領域，應適用強化程序；包括強化客戶審查以及強化交易監控等措施；在風險較低的時候，可以應用較簡化或刪減式控制措施。（影響風險的變數參見 118 段）。

27. 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.

27. 資助恐怖主義尚無公認的通用方法，規範風險基礎方法的性質與程度。然而，有效的風險基礎方法，確實須對洗錢和資助恐怖主義風險進行鑑別與分類，並根據鑑別的風險建立合理的控制。

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

28. 有效的風險基礎方法，能讓會計師能對客戶執行合理的商業與專業判斷。以合理且詳盡的風險基礎方法，就能導正對於潛在洗錢與資助恐怖份子風險的判斷。風險基礎方法，不應設計成禁止會計師繼續合法業務，或是找出分散業務的創新方式。

29. 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 may be more likely to target DNFBP sectors if other routes become more difficult. For this reason, DNFBPs, including accountants, 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 accountants, to more efficiently and effectively adjust and adapt as new money laundering and terrorist financing methods are identified.

29. 不論防制洗錢/打擊資恐控制的強度與效果如何，犯罪者仍然會繼續嘗試移動未被發現的非法資金，而且有的時候仍能成功達到目的。如果其他途徑愈來愈困難，犯罪者更可能找上指定之非金融事業或人員，包括會計師。因此，指定之非金融事業或人員可能或多或少有其弱點，取決於使用在其他產業的防制洗錢/打擊資恐程序有效程度。發現新的洗錢及資助恐怖主義方法時，風險基礎方法可以讓指定之非金融事業或人員（包括會計師）更有效的調整及適應。

30. 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 appropriate.

30. 合理設計並有效實施的風險基礎方法，可以提供適當而有效的控制結構，用以管理可辨識的洗錢及資助恐怖主義風險。然而，必須承認的是，任何合理的控制（包括合理規劃且有效執行的風險基礎方法的控制），都無法鑑別及偵查所有洗錢或資助恐怖主義活動。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。如果未能實施適當設計的風險基礎方法，或設計不當的風險基礎計畫導致失敗，則指定權責機關、自律團體、執法或司法當局應採取必要適當行動。

Potential benefits and challenges of the risk-based approach

風險基礎方法的潛在益處與挑戰

Benefits

益處

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

31. 採用風險基礎方法，反制洗錢與資助恐怖主義，可以產生對各方的益處，包括公眾在內。有效地運用此一做法，應可更有效率與更有效益地使用資源，將客戶的負擔降到最低。著重於較高的風險威脅，表示更有效地得到有利的結果。

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

32. 對於會計師而言，靈活運用專家技能和職責，可以滿足防制洗錢/打擊資助恐怖主義義務。這需要會計師廣泛而客觀瞭解其活動和客戶。

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

33. 打擊洗錢和資助恐怖主義應保持彈性，確保隨著風險的發展做好調適。因此，會計師應運用其判斷力、知識和專業，為自己特定的組織、結構和實務活動發展出適當的風險基礎方法。

Challenges

挑戰

34. A risk-based approach is not necessarily an easy option, and there may be challenges 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 46-50 below.

34. 風險基礎方法，並不必然是簡單的選擇，在執行必要措施時，也可能是挑戰。有些是使用風險基礎方面時產生的固有挑戰。其他挑戰可能來自於轉型風險基礎系統的困難。但是，不少挑戰可以被視為提供執行更有效系統的機會。在資助恐怖主義方面，執行風險基礎方法的挑戰，將會在下面 46-50 段有更詳細的討論。

35. 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 judgement be exercised in the design and 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 an increased lack of understanding by clients regarding information required.

35. 風險基礎方法，對公部門或私部門都是挑戰。風險基礎方法，需要資源和專業，來蒐集並詮釋國家和機構層級的風險資訊，用以發展程序和系統，以及訓練工作人員。這進一步要求，在設計與執行程序與系統時，發揮穩當與受過訓練的判斷。這一定會帶來更多元的實務作法，進而帶來創新以及更好的遵循。但這也可能造成期望的不確定性、難以應用統一的監管待遇，以及客戶不瞭解所需要的資訊。

36. Implementing a risk-based approach requires that accountants have a sound understanding of the risks and are able to exercise sound judgement. 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 judgements. Accountants may over-estimate risk, which could lead to wasteful use of resources, or they may under-estimate risk, thereby creating vulnerabilities.

36. 實施風險基礎方法，需要會計師充分瞭解風險，並做出正確的判斷。這需要累積經驗，包括例如透過訓練、徵才、接受專業建議以及「邊做邊學」。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。沒有足夠的專業能力，採用風險基礎方法，可能會導致判斷的瑕疵。會計師可能高估風險，造成資源浪費，也可能低估風險，暴露弱點。

37. Accountants may find that some staff members are uncomfortable making risk-based judgements. 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 of accounting firms. 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.

37. 會計師可能會發現，某些員工對於做出以風險為基礎的判斷，感到不舒服。這可能導致過度審慎的決定，或是花上不成比例的時間，去準備支持相關決定理由及證據的文件。這在會計師事務所不同的管理階層可能是事實。但是，在管理階層錯估或低估風險的狀況下，可能會導致不恰當資源投入於法規遵循的風氣，造成潛在的重大法遵錯誤。

38. Designated competent authorities and SROs should place greater emphasis on whether accountants 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 an accountant’s 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.

38. 在風險管理方面，指定權責機關與自律團體應該更為注重會計師，是否具備有效的決策流程，並使用簡單的測試或個別決策審查，作為測試會計師整體風險管理效益的方法。指定權責機關與自律團體應該瞭解，即使定期更新適當的風險管理結構與程序，並遵守相關政策、程序、流程，還是可能因為當時沒有合理提供更多補充資訊，而做出不正確的決定。

39. A risk-based approach requires an accountant to exercise professional judgement. This will result in diversity of practice and detail between firms, although both may meet legislative requirements. Such diversity of practice will require that designated competent authorities and SROs make greater effort to identify and disseminate guidelines on good 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 authorities and SROs in determining whether an accountant has made sound risk-based judgements.

39. 在實施風險基礎方法時，應讓會計師有機會就其特定服務及活動，做出合理判斷。這表示不太可能會有兩家公司或事務所採用相同的做法。這種可能的多元實務現象，導致指定權責機關和自律團體必須付出更多心力，根據實際運作提出實務鑑別和宣導指引；對於負責監督遵循成效的人員，具備挑戰性。優良實務指引、持續法律教育、監督訓練、產業研究以及其他資料的存在，將有助於指定權責機關或自律團體認定，會計師是否進行正確的風險基礎判斷。

40. 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.

40. 建議第 25 項要求對金融業和指定之非金融事業或人員，提供充分的回饋。此類回饋有助於機構、事務所及企業更精確的評量洗錢及資助恐怖主義風險，並據以調整其風險計畫。這樣才有較大可能偵測出可疑活動，並提高任何必要疑似洗錢或資恐交易報告的品質。回饋的即時性及內容，是評估國家或產業風險的必要輸入元素，對於執行有效風險基礎方法，也相當重要。

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

潛在益處與挑戰可摘要如下：

Potential Benefits:

潛在益處：

- Better management of risks
- 更好的風險管理。
- Efficient use and allocation of resources
- 有效使用與配置資源。
- Focus on real and identified threats
- 著重於已鑑別的真实威脅。
- Flexibility to adapt to risks that change over time
- 隨時間變化的風險彈性調整。

Potential Challenges:

潛在挑戰：

- Identifying appropriate information to conduct a sound risk analysis
- 找出適當資訊，建立穩固的風險分析。
- Addressing short term transitional costs
- 解決短期轉型成本。
- Greater need for more expert staff capable of making sound judgements.
- 對於能做出穩健判斷的專家員工有更大需求。
- Developing appropriate regulatory response to potential diversity of practice.
- 針對潛在多元實務訂定監管對策。

Chapter Three: FATF and the Risk-Based Approach

第三章：防制洗錢金融行動工作組織與風險基礎方法

41. The varying degrees of risk of money laundering or terrorist financing for particular types of DNFBPs, including accountants, or for particular types of customers/clients, 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).

41. 針對特定型態指定之非金融事業或人員（包括會計師）以及特定型態客戶或交易，不同程度的洗錢或資助恐怖主義風險，是防制洗錢金融行動工作組織建議的重要考慮因素。根據建議，在指定之非金融事業或人員方面，特定建議提及的某些風險，是國家必須考慮（如風險較高），或可以考慮（如風險較低）的議題。

Specific risk references

特定風險參考

42. 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 accountants, 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 accountants (R.24).

42. 許多建議條文（及評鑑方法論）內容已結合風險基礎方法，或者條文部分內容結合風險基礎方法或與該方法有所關連。舉例來說，就指定之非金融事業或人員而言，包括會計師在內，有三個主要領域處理風險：(a) 客戶審查（建議第5、6、8、9項）；(b) 公司的內部控制系統（第15項）；(c) 監理／監管指定之非金融事業或人員（含會計師）之方法（第24項）。

Customer Due Diligence (R. 5, 6, 8 and 9)

客戶審查（第5、6、8、9項）

43. Risk is referred to in several forms:

43. 風險意指以下各種形式：

- a) Higher risk – Under Recommendation 5, a country must require its DNFBPs, including accountants, to perform enhanced due diligence for higher-risk customers, business relationships or transactions. Recommendation 6 (politically exposed persons) is an example of this principle, detailing a higher risk scenario requiring enhanced CDD.
- a) 較高風險－根據建議第5項，國家必須規定會計師在內的指定之非金融事業或人員，對於風險較高的顧客、業務關係或交易，進行客戶審查。建議第6項（重要政治性職務人士）是此一原則的範例，說明需要強化客戶審查的較高風險狀況。
- b) Lower risk – A country may also permit its DNFBPs, including the accountants, to take lower risk into account in deciding the extent of the CDD measures they will take (see Methodology criteria 5.9). Accountants may thus reduce or simplify (but not avoid completely) the required measures.
- b) 較低風險－國家允許會計師在內的指定之非金融事業或人員，在判斷要採取的客戶審查措施範圍時，將較低風險列入考量（見評鑑方法標準5.9）。會計師可能因此減少或簡化（但不能完全規避）必要的措施。

- c) Risk arising from innovation – Under Recommendation 8, a country must require its DNFBPs, including accountants, to give special attention to the risks arising from new or developing technologies that might favour anonymity.
- c) 創新帶來的風險–根據第 8 項建議，國家必須要求會計師特別注意可能有利於匿名的新技術或發展中的技術帶來的風險。
- d) Risk assessment mechanism – The FATF standards expect that there will be an adequate mechanism by which designated competent authorities and SROs assess or review the procedures adopted by accountants 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 and 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–防制洗錢金融行動工作組織準則期待有適當機制，由指定權責機關或自律團體評估或檢討會計師採用的程序，以判斷風險的程度，以及他們管理該風險的方法，同時自行檢討實際的決定。此期待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。該項建議也承認，國家風險是任何風險評量機制的必要元素（第 5 及 9 項建議）。

Internal Control Systems (R.15)
 內部控管系統（第 15 項）

44. Under Recommendation 15, the development of “appropriate” internal policies, training and audit systems will need to include a specific, and ongoing, consideration of the potential money laundering and terrorist financing risks associated with clients, 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 the accountants, to have regards to money laundering and terrorist financing risks and to the size of the business when determining the type and extent of measures required.

44. 根據建議第 15 項，開發「適當的」內部政策、訓練與稽核系統，必須對客戶、產品與服務、營業地理區域等相關之潛在洗錢與資助恐怖主義風險，有明確且持續的考量。第 15 項建議註釋，說明國家允許會計師可以考量洗錢及資助恐怖主義風險，並考慮業務的規模，再決定所需措施之型態及範圍。

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（第 24 項）

45. Countries should ensure that accountants 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.

45. 各國應確保，會計師根據有效的系統，監控並確保遵守防制洗錢/打擊資助恐怖主義要求。在判斷監控及確保遵循的系統是否適當時，可考慮特定業務的洗錢或資助恐怖主義風險，亦即，若風險很低，可以採取簡化的監控措施。

Applicability of the risk-based approach to terrorist financing

對資助恐怖主義，風險基礎方法之適用性

46. 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 more difficult and the implementation of mitigation strategies 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.

46. 使用風險基礎方法，在資助恐怖主義和洗錢方面，有相似和相異之處。它們都需要辨識與評估風險的流程。然而，資助恐怖主義因其特性難以偵查，且資助恐怖主義的交易價值相對較低，或資金可能同時來自合法及非法管道，導致相關改善政策執行不易。

47. Funds that are used to finance terrorist activities may be derived either 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 legitimate sources, 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 the accountants to determine the type of underlying criminal activity, or intended terrorist purpose, rather the accountant'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.

47. 用於資助恐怖份子活動的資金，可能來自於犯罪活動，或是合法來源，且資金來源的性質，也可能因為恐怖組織的種類而有所不同。若資金來自犯罪活動（即使該活動可能只是引起懷疑，而非鑑別為恐怖分子或關聯資金），傳統上用來鑑別洗錢的監控機制，可能也適合用於資助恐怖分子。應注意的是，涉及資助恐怖主義的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。若資金來自合法來源，更難判斷是否屬於恐怖分子關聯資金。此外，恐怖分子的活動，可能公開進行，而且表面難以察覺，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，雖然恐怖份子的資金，可能來自於犯罪活動與合法來源，與資助恐怖份子有關的交易，可能不會展現出和傳統洗錢活動相同的特性。在所有狀況中，會計師沒有責任判斷實質犯罪活動或恐怖分子的意圖。金融情報中心及執法單位，應針對相關資料研判，是否與資助恐怖主義相關。

48. The ability of accountants to detect and identify potential terrorist financing transactions, without guidance on terrorist financing typologies or unless 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).

48. 如果沒有資助恐怖主義型態指引，或權責單位提供的特定情報，會計師偵測並辨識潛在資助恐怖主義交易的能力，要比偵測並辨識潛在洗錢及其他可疑活動的能力，更具挑戰性。如此偵測能力，在缺乏特定國家指導與資恐態樣的情況下，可能會變成依據已知恐怖分子活動國家或地理區域，或其他有限的資恐態樣（許多皆透露與洗錢相同的技術），進行交易監控。

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

49. 具體的個人、組織或國家都可能是特定國家資助恐怖主義制裁的對象。在此類狀況中，適用於該類制裁之個人、組織或國家的列表，以及會計師遵守這些制裁的義務，將由個別國家決定，這些作為不具風險功能。若會計師違反相關制裁，與表列個人、組織或國家進行交易，可能構成犯罪。

50. For these reasons, this Guidance has not comprehensively addressed the application of a risk-based approach 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 the accountants, would then have an additional basis upon which to more fully develop and implement a risk-based process for terrorist financing.

50. 因此，此指引未就資助恐怖主義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，總比不適用的要好。此外，應與重要利害關係人進行深度諮詢，以發掘更具全面性且可用於資助恐怖主義的方法和技術指標，並據以納入資助恐怖主義風險的評估策略與簡化措施的多元化策略。指定之非金融事業或人員（包括會計師），因此可有更多建立及執行資助恐怖主義風險程序的額外基礎。

Limitations to the risk-based approach

風險基礎方法的限制

51. 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.

51. 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。有些情況可能導致無法要求在流程的初始階段，就適用風險基礎方法，但在後續階段可以適用。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。

52. 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 130-134).

52. 對特定個人或單位實施凍結資產的國家，此凍結要求並非取決於任何風險評估。此凍結規定絕對不可受到風險基礎流程的影響。同樣的，透過風險基礎方法，雖然可以強化潛在可疑交易的辨識，但是申報經辨識的可疑交易，並非以風險為基礎。（見 130-134 段）

53. There are several components to customer due diligence – Identification and verification of identity of customers and 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 are requirements which must be completed regardless of the risk-based approach. However, in relation to all the 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.

53. 客戶審查包括多個元素 – 辨識及驗證客戶及實質受益人的身分，取得業務關係之目的及預定性質的資訊，以及執行持續的客戶審查。在這些元素中，不論是否採用風險基礎方法，辨識並驗證客戶身分，是必須完成的要求。然而，在所有其他客戶審查元素方面，合理的執行風險基礎方法，可以允許判斷所需資訊的範圍與數量，以及使用何種機制方能符合的最低標準。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。

54. Countries may allow accountants 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 CDD. 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 client identity, such as client location, may be needed to adequately assess risk. This will be an iterative process: the preliminary information obtained about a client should be sufficient to determine whether to go further, and in many cases client monitoring will provide additional information.

54. 若洗錢或資助恐怖主義風險較低，國家可允許會計師應用簡化或簡易措施。但是，這些簡化或簡易的措施，並不必然適用於客戶審查的所有層面。如果這些免除措施需要滿足特定條件，則必須驗證這些條件是否適用；如果免除措施適用於特定門檻，則應有適當對策，以避免刻意分拆交易，規避門檻。可能需要客戶身分以外的資訊（例如客戶地點）適當評估風險。這是一個反覆的流程：取得關於客戶的初步資訊，足以判斷是否還需更多資訊，通常客戶監控將提供額外資訊。

55. Some form of monitoring is required in order to detect unusual and hence possibly suspicious transactions. Even in the case of lower risk clients, monitoring is needed to verify that transactions match the initial low risk profile and if not, trigger a process for appropriately revising the client's risk rating. Equally, risks for some clients may only become evident once a relationship with a client has begun. This makes appropriate and reasonable monitoring of client 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 clients 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.

55. 必須採取某些形式的監控，以偵查不尋常的潛在可疑交易。即使是低風險客戶，仍需監控，以驗證交易是否符合原始的低風險背景，如果不符合，應啟動一定流程，以便適當修訂該委託人的風險評等。同樣的，部分委託人的風險，可能在與其他委託人的關係開始後，才會顯現。適當合理監控委託人交易，成為適當設計之風險基礎方法的重要元素；在這樣的背景中，應瞭解並非所有的交易或委託人，都會以完全相同的方式監控。若確實發生可疑的洗錢或資助恐怖分子情事，可將此懷疑視為風險較高案件，而且不論任何門檻或免除措施，都應加強客戶審查。

Distinguishing risk-based monitoring and risk-based policies and processes

區分以風險為基礎的監理與以風險為基礎的政策與流程

56. Risk-based policies and processes should be distinguished from risk-based supervision/monitoring by designated competent authorities or SROs. There is a general recognition within supervisory/monitoring field 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.

56. 指定權責機關或自律團體，應區分以風險為基礎的政策與流程，及以風險為基礎的監理。監理實務中的一般認知是，資源的分配應考慮個別實務帶來的風險。指定權責機關或自律團體，決定監理資源分配時所採用的方法，應包括實務重點、風險概況以及內控環境，並應允許各事務所及企業之間的存在差異。決定資源分配的方法必須持續更新，以反映個別事務所或企業暴露風險的性質、重要性和範圍。因此，依據這樣的優先排序，指定權責機關或自律團體，應將更多監管重點，放在被評估從事較高洗錢或資助恐怖份子風險活動的事務所或企業。

57. 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.

57. 但是，指定權責機關或自律團體排定優先工作順序時，應注意考慮的因素，不僅取決於所執行之活動本身的風險，也取決於所採用之風險管理系統的品質和效能。

58. Since designated competent authorities or SROs should have already assessed the quality of risk management controls throughout the accounting sector, 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.

58. 由於指定權責機關或自律團體，應該已經評估過會計業風險管理控制的品質，因此，很合理的是，他們對這些控制的評估資訊，至少部分已供個別公司或企業進行的洗錢及資助恐怖主義風險評估時運用。

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

摘要表：國家等級的防制洗錢與資助恐怖主義的風險基礎做法：成功的關鍵要素

- Accountants, designated competent authorities and SROs should have access to sufficiently detailed, reliable and actionable information about the threats, and how to implement a risk-based approach.
- 會計師、指定監理機關及／或自律團體，應能取得關於這些威脅可靠而可操作的資訊。
- There must be emphasis on cooperative arrangements among the policy makers, law enforcement, regulators, and the private sector.
- 重視政策制定者、執法機關、監管機關與私部門之間合作。
- Authorities should publicly recognise that the risk-based approach will not eradicate all elements of risk.
- 有關單位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 accountants need not be afraid of regulatory sanctions where they have acted responsibly and implemented adequate internal systems and controls.
- 有關單位有責任創造一個適當的氛圍，讓會計師只要採取負責任的行動，並實施適當的內部系統和控制措施，不需擔心監管制裁。
- Regulators' and SROs' supervisory staff must be well-trained in the risk-based approach, both as applied by supervisors/SRO and by the accountants.
- 指定權責機關及／或自律團體的監督人員必須受過良好訓練，充分瞭解指定權責機關／自律團體所應用的風險基礎方法。

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：建立風險基礎方法的高階原則

59. The application of a risk-based approach to countering money laundering and the financing of terrorism will allow designated competent authorities and SROs, including oversight boards, and accountants 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.

59. 以風險基礎方法打擊洗錢及資助恐怖主義，可以讓指定權責機關或自律團體(包括監督委員會)及會計師以最有效的方式利用資源。本章將提出五大高階原則，各國在設計應用以風險為基礎方法時，應加以考慮。這些原則可視為初步建立優良實務的概括架構。

60. 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 appropriate to the particular circumstances of the country in question.

60. 本章所列出的五大原則，旨在協助國家改善防制洗錢/打擊資恐機制。這五大原則並非硬性規定，且應該經過深思熟慮，以適合該國特定狀況的方式運用。

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

原則一：瞭解並回應威脅與弱點：國家層級風險評估

61. 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.

61. 執行風險基礎方法，打擊洗錢和資助恐怖主義，是否成功，端看能否全盤瞭解威脅與弱點而定。各國在尋求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。國家風險評估，有助於增進這種辨識風險的瞭解。

62. 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 accountants, 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, 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 systems to money launderers, terrorist financiers, and other criminals.

62. 各國應針對自身環境，設計專屬的國家風險評估。因為指定權責機關或自律團體的結構，以及指定之非金融事業或人員（包括會計師）性質不同等原因，各國對於風險的判斷將不同，就實務面而言，如何實施國家風險評估的決定也會不同。國家風險評估，必須是單一正式流程或文件。預期的結果為：各國以其對風險的最新綜合瞭解為基礎，在國家層級上，決定責任與資源的分配。

在與私部門諮商後，指定權責機關及自律團體，應考慮如何最完美的達成這個目標，同時考慮在金融系統下，提供有關洗錢、恐怖分子及其他犯罪者弱點資訊的任何風險。

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

原則二：支援使用風險基礎方法的法律／法規架構

63. 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.

63. 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。依據國家風險評估結果，應予採行之適當措施。

64. The risk-based approach does not mean the absence of a clear statement of what is required from the DNFBPs, including from accountants. However, under a risk-based approach, accountants 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 firm or business. The fact that policies and procedures, in accordance to the risk levels, may be applied flexibly to different products, services, clients and locations does not mean that policies and procedures need not be clearly defined.

64. 風險基礎方法並不表示沒有清楚說明，對指定之非金融事業或人員（包括會計師）的要求。但根據風險基礎方法，有一定程度的彈性，可以針對自己所做的風險評估，進行適當回應的政策和程序。事實上，採行的準則可以透過量身訂做或額外措施進行修訂，配合個別公司或企業，進行調整。雖然政策及程序可以根據風險水準，應用於不同服務、委託人及地點，但並不表示該政策及程序不需要清楚定義。

65. Basic minimum AML/CFT 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 money laundering and terrorist financing through deterrence, detection, and reporting), rather than applying legal and regulatory requirements in a purely mechanistic manner to every client.

65. 基本最低防制洗錢/打擊資助恐怖主義要求，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/打擊資助恐怖主義的核心項目。但本準則聚焦於結果（透過嚇阻、偵測及特定國家要求的報告，來打擊洗錢及資助恐怖主義），非以純粹機制化的方式，將法律及監管要求應用於每一位客戶。

Principle three: Design of a supervisory/monitoring framework to support the application of the risk-based approach

原則三：監理架構設計／支援使用風險基礎方法之監管

66. Where competent authorities and/or 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 designated competent authority or SRO exercises its powers.

66. 若權責機關及／或自律團體已經被指派監督防制洗錢/打擊資助恐怖控制的責任，國家可能會希望考慮此等權責機關或自律團體，是否取得必要的權力，以執行以風險為基礎的監理做法。權責機關或自律團體規定中，過分詳細及明文的規定可能會造成阻礙。這些規定可能來自於指定權責機關或自律團體執行相關權力所依據之法律。

67. 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 accountants, 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 accountants' business are.

67. 指定權責機關與自律團體在情況允許之下，應採用風險基礎方法，來監控打擊洗錢和資助恐怖主義的控制措施。這應該立基於對會計師執行之活動型態，及所暴露之洗錢和資助恐怖主義風險，具備徹底瞭解。指定權責機關及自律團體可能需要根據對於會計師實務的全面風險評估，來決定資源的優先順序。

68. 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.

68. 指定權責機關與自律團體，除防制洗錢/打擊資恐風險外，應一併考量自身所負所有權責風險。

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

69. 此風險評估，應協助指定權責機關或自律團體，選擇將資源用於監控計算哪些項目，才能用有限的資源，產生最大效果。風險評估可以指出指定權責機關與自律團體，缺少處理風險所需的充足資源。在這種情況下，指定權責機關或自律團體可能必須於可行時取得額外資源，或調整策略，管理或減低任何不可接受的剩餘風險。

70. The application of a risk-based approach to monitoring requires that designated competent authorities' and SROs' staff be able to make principles-based decisions in a fashion similar to what would be expected from an accountant or the staff of an accountant's firm. 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 within the context of the national risk assessment.

70. 如果想要利用風險基礎方法進行監控，指定權責機關及自律團體的工作人員必須要有能力，以會計師或會計公司員工之實務所期待的類似方式，做出以原則為基礎的決定。這些決定包含如何在充分的安排下，打擊洗錢與資助恐怖主義。為此，指定權責機關或自律團體可能考量如何在風險基礎監控的實務應用方面，將人員訓練至最優程度。這些工作人員必須相當瞭解風險基礎方法的一般原則、可能的應用方法、以及風險基礎方法成功應用於國家風險評估時的狀況。

Principle four: Identifying the main actors and ensuring consistency

原則四：找出主要角色和確保一致性

71. 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 accountants about how to implement a risk-based approach to anti-money laundering and counter-terrorist financing.

71. 各國應考量在採取風險基礎方法，打擊洗錢和資助恐怖主義時，誰是主要利害關係人。各

國國情不同。應思考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，可以應考慮哪一個(些)機構，最適合對會計師提供有關防制洗錢/打擊資助恐怖主義實施風險基礎方法的指引。

72. A list of potential stakeholders may be considered to include the following:

72. 潛在利害關係人清單可能包括：

- Government – This may include legislature, executive, and judiciary.
- 政府－可能包括立法、行政、司法單位。
- Law enforcement agencies – This might include the police, customs and other similar agencies.
- 執法機關－這可能包括警察、海關，其他類似機關。
- The financial intelligence unit (FIU), security services, and other similar agencies.
- 金融情報中心 (FIU)、證券服務、其他類似機關。
- Designated competent authorities/SROs.
- 指定權責機關／自律團體。
- The private sector – This might include accountants and their firms, trade bodies and associations, etc.
- 民間產業－可能包括會計師與其事務所，貿易團體與協會等。
- 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 clients of accountants' firms.
- 社會大眾－所有防制洗錢與打擊資恐的規劃，最終目的是保護守法大眾。但這些規劃可能會對會計師事務所的客戶造成負擔。
- 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－支持風險基礎方法之概念者，例如包括學界或媒體的利害關係人。

73. 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.

73. 政府對某些利害關係人的有效影響能力，顯然高於對其他利害關係人的影響。然而，政府不論有何影響力，都要評估如何鼓勵所有利害關係人，支持打擊洗錢和資助恐怖主義。

74. 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 and SROs. This may be assisted by relevant authorities making clear and consistent statements on the following issues:

74. 另一個因素是政府在尋求指定權責機關，對於風險基礎方法相關性認同時，所扮演的角色。相關機關可以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：

- Accountants 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 CDD.
- 會計師可以靈活調整其內部系統及控制措施，考慮較低及較高的風險，只要該系統和控制措施合理。不論風險水準如何，都有適用的最低法律和監管要求和元素，例如申報可疑交易及最低客戶審查標準。

- Acknowledging that an accountant'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 can therefore be reasonable policy and monitoring expectations about what an accountant with good controls aimed at preventing money laundering and terrorist financing is able to achieve. An accountant's firm may have acted in good faith to take reasonable and considered steps to prevent money laundering, and documented the rationale for its decisions, and yet still be abused by a criminal.
- 認知會計師偵測並防止洗錢和資助恐怖主義的能力，有時候必然會受到限制，且風險因素的相關資訊不一定穩定或可以自由取得。因此，具備良好避免洗錢及資助恐怖主義控制措施，會計師可以達成合理的政策和監控期望。會計師雖已基於善意採取合理而審慎的避免洗錢步驟，並作成記錄，但仍可能被犯罪者濫用。
- 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進行完全相同的加強客戶審查。

Principle five: Information exchange between the public and private sector

原則五：公私部門間資訊交換

75. Effective information exchange between the public and private sector 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.

75. 公部門和私部門之間有效的資訊交換，是一個國家打擊洗錢和資助恐怖主義策略必要的一環。許多案例顯示，私部門針對指定權責機關及自律團體提供的情報，可以提供後續相關辨識之資訊。

76. Public authorities, whether law enforcement agencies, designated competent authorities or other bodies, have privileged access to information that may assist accountants to reach informed judgements when pursuing a risk-based approach to counter money laundering and terrorist financing. Likewise, accountants 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.

76. 在採取風險基礎方法打擊洗錢和資助恐怖主義時，政府當局（包括執法機構、指定權責機關或其他單位）有權取得可以協助會計師做出明智判斷的資訊。同樣的，會計師可以合理瞭解其客戶的商業需求。公私部門需要相互合作，主動鑑別有價值的資訊，以協助打擊洗錢和資助恐怖主義，並且建立方法，確保及時及有效地分享資訊。

77. To be productive, information exchange between the public and private sector 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.

77. 為提高效率，公私部門之間的資訊交換，應該要伴隨公部門之間的適當交換。金融情報中心、指定權責機關和執法機關，應分享資訊與回饋結果，並鑑別弱點，以利提供私部門相關的資訊，前後一致且具有實益。當然，所有單位都應該考慮需要哪些保全措施，以免廣泛散播政府機關持有的敏感資訊。

78. 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 sector would include, if available:

78. 相關利害關係人應持續溝通，充分瞭解在何種打擊洗錢和資助恐怖主義資訊，確實有用。例如，公私部門之間，可能有用的分享資訊種類，可能包括事例如下：

- Assessments of country risk.
- 國家風險評估。
- Typologies or assessments of how money launderers and terrorists have abused the DNFBPs, especially accountants.
- 洗錢者與恐怖份子會如何濫用指定之非金融事業或人員，尤其是會計師的態樣或評估。
- Feedback on suspicious transaction reports and other relevant reports.
- 對於可疑交易通報與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 accountants.
- 特定非機密情報。在特殊狀況下，有適當保全措施和國家的法律和監管框架時，當局可與會計師分享特定機密資訊。
- 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。

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

79. 在選擇可以正確並有利分享哪些資訊時，政府當局應向會計師強調，政府單位的資訊是必需取得的，但卻不能取代會計師自己的判斷。例如，各國可能決定不製作國家認可的低風險客戶類型清單。相反的，政府當局可能希望所分享的資訊，與會計師可取得之其他資訊一樣，成為會計師決策流程的因素之一。

Chapter Two: Implementation of the Risk-Based Approach

第二章：風險基礎方法的執行

Assessment of risk to inform national priorities

評估風險以利排定國家優先順序

80. 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".

80. 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。嚴格來說，風險基礎方法應建立在評估威脅的基礎上。這是事實，只要在任何層級上應用風險基礎方法，不論是國家還是

個別事務所。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」。

81. A national risk assessment should be regarded as a description of fundamental background information to assist designated competent authorities, law enforcement authorities, the FIU, financial institutions and DNFBPs (including accountants) 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.

81. 國家風險評估，應該被視為基本背景資料的說明，以協助權責機關、執法機關、金融情報中心、金融機構、指定之非金融事業或人員（含會計師），確保關於在國家層級上，分配的責任與資源的決定，是根據對風險的實際且最新的綜合瞭解。

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

82. 無論是從執行方式與結論，國家風險評估應該要針對個別國家狀況量身訂做。可能影響一國洗錢與資助恐怖主義風險的因素，可能包括以下各項：

- Political environment.
- 政治環境。

- Legal environment.
- 法律環境。

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

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

- Sources, location and concentration of criminal activity.
- 犯罪活動之來源、地點、集中程度。

- Size and composition of the financial services industry.
- 金融服務業規模與構成。

- Ownership structure of financial institutions and DNFBPs businesses.
- 金融機構與指定之非金融事業或人員企業的所有權結構。

- Size and nature of the activity carried out by DNFBPs, including accountants.
- 含會計師在內，指定之非金融事業或人員所進行的活動規模與性質。

- Corporate governance arrangements in relation to financial institutions, DNFBPs, including accountants, and the wider economy.
- 涉及金融機構與指定之非金融事業或人員的公司治理安排與經濟發展。

- The nature of payment systems and the prevalence of cash-based transactions.
- 付款系統性質與現金交易普及率。

- Geographical spread of the financial industry's and DNFBPs' operations and customers/clients.
- 金融業、指定之非金融事業或人員營運與顧客／客戶的地理分布。

- Types of products and services offered by financial institutions and accountants.
- 金融業與會計師提供的產品與服務種類。

- Types of customers/clients serviced by financial institutions and accountants.
- 金融業與會計師服務的顧客／客戶種類。
- Types of predicate offences.
- 前置犯罪種類。
- Amounts of illicit money generated domestically.
- 國內產生的不法金錢金額。
- Amounts of illicit money generated abroad and laundered domestically.
- 國外產生，國內洗錢的不法金錢金額。
- Main channels or instruments used for laundering or financing terrorism.
- 洗錢或資助恐怖主義的主要管道或工具。
- Sectors of the legal economy affected.
- 受影響的合法經濟產業。
- Underground/informal areas in the economy.
- 地下/非法經濟領域。

83. 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 a designated competent authority's view, or an SRO's view, be made public? These are all questions for designated competent authority or SRO to consider.

83. 就國家層次而言，各國亦應考慮如何以最有效的方式，瞭解洗錢與資助恐怖主義風險。相關問題應該包括：那個組織有責任對此評估有所投入？評估應有多高的正式性？是否應公布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。

84. 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. To achieve the desired outcome, designated competent authorities or SROs should ensure that they identify and provide firms with the information needed to develop this understanding and to design and implement measures to mitigate the identified risks.

84. 預期的結果為根據對最新風險的全面瞭解，決定國家層級的責任與資源分配。為達成期望的結果，指定權責機關及自律團體，應確保辨識並提供指定之非金融事業或人員必要資訊，以建立相關洗錢與資助恐怖主義風險的瞭解，並設計及實施適當措施，以降低所辨識出的風險。

85. 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, utilising partnerships with law enforcement bodies, FIUs, designated competent authorities/SROs and the accountants 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 with different agencies and entities, so that there are no institutional impediments to information dissemination.

85. 制定和執行風險基礎方法需要判斷。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，運用與執法當局、金融情報中心、指定權責機關／自律團體及會計師本身之夥伴關係，可以就其知識和專業，發展適合的風險基礎方法。各國政府的評估，隨著時間改變，並非靜態，端視環境的發展與威脅的變化而定。因此，國家應協助不同單位間的資訊

流通，這樣才不會對資訊傳播，造成體制性的阻礙。

86. 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, designated competent authorities and SROs, and how those bodies make use of those resources in an effective manner.

86. 不論採取何種形式，國家風險評估與相關風險減輕措施，都能透露如何分配資源以打擊洗錢與資助恐怖主義，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公部門機關與自律團體，以及公部門機關如何有效利用這些資源。

87. As well as assisting designated competent authorities and SROs to decide how to allocate funds to combat money laundering and terrorist financing, a national risk assessment can also inform decision-makers on the best strategies for implementing the 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. 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.

87. 除協助指定權責機關及自律團體，決定如何分配資金，以打擊洗錢和資助恐怖主義之外，國家風險評估亦可協助決策者擬定最佳策略，實施監管體制，處理經辨識的風險。過分投入防制風險，可能產生破壞及反效，對整個產業造成不合理的負擔。相反的，不夠積極的投入，可能不足以杜絕免於犯罪者和恐怖分子的威脅。在國家層級上，對風險進行充分瞭解，有助於避開這些危險。

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

有效的監理系統，並確保遵循防制洗錢/打擊資恐規定 – 一般原則

88. FATF Recommendation 24 requires that accountants 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, accountants are supervised in the same way as financial institutions. Other countries apply a separate monitoring/oversight regime.

88. 防制洗錢金融行動工作組織第 24 項建議要求，會計師應受有效系統規範，監控並確保遵循防制洗錢/打擊資助恐怖主義之要求。在判斷是否具備有效系統時，可考慮該部門的洗錢或資助恐怖主義風險。應有一個指定權責機關或自律團體負責監控，並確保會計師遵循；該當局或自律團體應有適當權力及資源執行職能，包括監控及制裁的權力。部分國家會計師與金融機構一樣收受到同等的監管，其他則採用不同於金融機構的監理／監管機制。

Defining the acceptable level of risk

定義可接受的風險水準

89. 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.

89. 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，不足的遵循資源、不完善的風險控制以及高階管理階層不積極參與等，種種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活動及／或政策與公共發展而增加。

90. As described in Section One, all activity involves an element of risk. Designated competent authorities and SROs should not prohibit accountants from conducting business with high risk customers/clients 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 categorically denied access to services.

90. 如第一節所述，所有活動都涉及風險因素。指定權責機關及自律團體，不應禁止會計師與高風險客戶進行交易，除非特定狀況，如對抗恐怖主義、犯罪行為，或履行國際義務等正當理由，才能禁止會計師向被指定的個人、法律實體、組織、國家提供服務。

91. However, this does not exclude the need to implement basic minimum requirements. For instance, FATF Recommendation 5 (that applies to accountants through the incorporation of R.5 into R.12) states that “where [the accountant] 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/clients, and conducting business with unacceptable or unmitigated risk.

91. 然而，此處並不排除對執行最低基本要求的需求。例如，防制洗錢金融行動工作組織第 5 項建議（透過將第 5 項建議併入第 12 項建議適用於會計師）規定，「若會計師無法遵循客戶審查要求，則不得開戶、開始業務關係或執行交易；或應終止該業務關係；並應考慮針對該客戶提出疑似洗錢或資恐交易報告。」因此，風險水準應在不接受委託以及接受不合理風險或完全未降低風險，這兩者極端之間，取得適當的平衡。

92. Designated competent authorities and SROs expect accountants to put in place effective policies, programmes, procedures and systems to mitigate the risk, and acknowledge 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 prevent accountants 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 clients’ business. This is why developing an accurate client 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, which may quickly limit the utility of such typologies.

92. 指定權責機關及自律團體，期待會計師具備降低風險的有效政策、計畫、程序及系統，並承認即使具備有效系統，也不一定能夠偵測所有可疑交易。他們也應確保，這些政策、計畫、程序及系統能有效應用，以避免會計師成為非法收益的管道，並確保他們保存適當紀錄及提出適當報告（如有義務），俾供國家當局打擊洗錢及資助恐怖主義。有效的政策與程序，能降低風險水準，但不可能完全根除風險。評估洗錢與資助恐怖主義風險需要判斷，未必一定符合科學。監控旨在從大量合法交易中偵測異常或可疑交易；此外，區分異常交易並不一定容易，因為所謂的「正常」，可能因客戶的業務而異。這就是為什麼發展精確的客戶背景資料，對於管理風險基礎系統是如此重要。再者，雖然程序和控制措施，通常係根據以往的態樣，但犯罪者會調整他們的技術，因而侷限這種方法的用處。

93. 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 accountants 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 Accountants on Implementing the Risk-Based Approach.”

93. 此外，不是所有高風險狀況都一樣，因此不能一直精確規定相同的強化客戶審查水準。所以，指定權責機關／自律團體，要求會計師個別辨識高風險類別，並採取特定及適當的風險降低措施。辨識具體風險類別的其他資訊，請參閱第三節「會計師實施風險基礎方法指引」。

Proportionate supervisory/Monitoring actions to support the risk-based approach
按比例的監理／監管行動，以支持風險基礎方法

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

94. 指定權責機關與自律團體，應該致力於透過現場與非現場監管，與透過內部與其他可用資訊分析，找出弱點。

95. In the course of their examinations, designated competent authorities and SROs should review an accountant’s AML/CFT risk assessment, as well as its policies, procedures and control systems to arrive at an overall assessment of the risk profile of the accountant’s business and the adequacy of its mitigation measures. Where available, assessments carried out by or for accountants may be a useful source of information. The designated competent authority’s, or SRO’s, 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.

95. 在檢查過程中，指定權責機關及自律團體，應檢討會計師的防制洗錢/打擊資助恐怖主義風險評估，以及政策、程序和控制系統，全面評估會計師實務的風險概況，以及相關降低風險措施適足性。可行的話，針對會計師或由會計師進行的評估，可能會是有用的資訊來源。指定權責機關/自律團體，對於採取必要控管行動的管理能力及意願的評估，也是重要的判斷因素。指定權責機關與自律團體，應使用合乎比例的行動，確保不足之處有適當、及時的處理，並考慮到已辨識的弱點，可能會有更巨大的後果。一般而言，系統故障或控制措施不當，會造成最嚴重的監理／監管反應。

96. Nevertheless, it may happen that the lack of detection of an isolated high risk transaction, or of transactions of an isolated high risk customer/client, 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.

96. 但可能發生的狀況是，對個別高風險交易或對個別高風險客戶的交易缺乏重要的偵測，例如金額龐大案件，或洗錢及資助恐怖主義的型態眾所周知案件，或久未偵測出問題之案件。這種狀況可能會顯示出，在辨識高風險、監測、員工訓練與內部控管方面，有著日積月累的風險管理不振或違反法規問題，因此可能必須採取合理行動，以確保遵循防制洗錢/打擊資恐規定。

97. Designated competent authorities and SROs can and should use their knowledge of the risks associated with products, services, clients and geographic locations to help them evaluate the accountants’ money laundering and terrorist financing risk assessments, with the understanding, however, that they may possess information that has not been made available to the accountants and, therefore, accountants 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 accountants in managing their risks. Where accountants 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 SROs³. Guidance designed specifically for accountants is likely to be the most effective. An assessment of the risk-based approach will, for instance, help identify cases where accountants 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.

97. 指定權責機關及自律團體，可以也應該利用其對服務、客戶及地理位置相關風險的瞭解，協助會計師的洗錢及資助恐怖主義風險評估；但是，他們擁有的資訊，可能沒有提供給會計師，因此，會計師在研擬及實施風險基礎方法時，無法將這些資訊納入考慮。指定權責機關及自律團體（以及其他利害關係人）最好能利用這些知識發行指引，以協助會計師管理其風險。若允許會計師以風險敏感為基礎，決定客戶審查措施的範圍，則應符合其指定權責機關及自律團體發行的指引³。專為會計師設計的指引可能最為有效。舉例來說，風險基礎方法的評量，將有助於辨識一些狀況，例如會計師利用過於狹隘的風險類別，無法掌握所有既存風險，或者採用的標準雖可大量辨識高風險關係，卻無法進行適當的額外客戶審查措施。

98. 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 accountant'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.

98. 風險基礎方法的背景中，指定權責機關及自律團體的主要焦點，應該是判斷會計師的防制洗錢/打擊資助恐怖主義遵循及風險管理計畫，是否：(a) 符合最低監管要求，且 (b) 能適當並有效降低風險。監控目的並非禁止高風險活動，而是確認會計師已足夠並有效實施適當風險降低策略。

99. 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.

99. 根據防制洗錢金融行動工作組織第 24 項建議，指定權責機關及自律團體，應有執行其監控職能的足夠職權，包括有權對未遵守法定有關打擊洗錢及資助恐怖主義要求，給予適當制裁。罰款及/或懲罰不一定適用於所有監管行動。但是，權責機關及自律團體必須擁有適當職權及意願，在有實質瑕疵時施以適當制裁。通常可透過正常監控流程，進行補救計畫。

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

100. 在考慮到上述因素後，很明顯的，合乎比例的監理會具備兩大主要特徵：

³ FATF Recommendations 5 and 25, Methodology Essential Criteria 25.1 and 5.12.

³ 防制洗錢金融行動工作組織建議第 5 項與第 25 項，方法論基本準則 25.1 與 5.12。

a) Regulatory transparency

a) 法規透明度

101. In the implementation of proportionate actions, regulatory transparency will be of paramount importance. Designated competent authorities and SROs are aware that accountants, while looking for operational freedom to make their own risk judgements, will also seek guidance on regulatory obligations. As such, the designated competent authority or SRO with AML/CFT supervisory/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 processes.

101. 在執行合乎比例的行動時，法規透明度會是最重要的事情。指定權責機關與自律團體瞭解，會計師在尋求專業自由做風險判斷的同時，也會尋求監管義務的指引。因此，有防制洗錢/打擊資恐監理或監管之責的指定權責機關或自律團體，應該盡力對其設定的期待保持透明，且必須考慮適當的機制，傳達這些訊息。例如，可能會根據希望得到的結果，有高階層級的規定，而非詳盡的流程。

102. 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 accountants.

102. 不管採取何種個別程序，指引原則的就是要知道法律責任和法規期待。如果沒有這種透明性，監管行動將顯得不適當或不可預測，甚至可能因而妨礙會計師最有效的應用風險基礎方法。

b) Staff Training of designated competent authorities, SROs, and enforcement staff

b) 指定執法機關、自律團體、執法人員的員工訓練

103. In the context of the risk-based approach, it is not possible to specify precisely what an accountant 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 supervisory/monitoring actions. The effectiveness of supervisory/monitoring training will therefore be important to the successful delivery of proportionate supervisory/monitoring actions.

103. 在風險基礎方法的背景中，不可能精確規範會計師在各種狀況中應該做什麼，才能滿足其監管義務。因此，要如何盡可能確保可預期、合乎比例的監理／監管行動，能夠貫徹執行，最好有通盤考量。因此監理／監管訓練的有效性，對於成功傳達合乎比例的監理／監管行動，是非常重要的。

104. 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 accountants and their firms 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 accounting firm or business arrangements.

104. 訓練之目標，在於指定權責機關／自律團體員工，對於防制洗錢/打擊資恐系統與控管有徹底的綜合判斷。在進行評量的時候，指定權責機關及自律團體必須要有能力，根據各會計師及所屬事務所承擔的風險，判斷管理控制措施，並考慮可行的產業實務。指定權責機關及自律團體可能會發現，執行比較評估，將有助於判斷不同事務所或商業組織之各項安排的相對優缺點。

105. 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.

105. 訓練應包括指示指定權責機關與自律團體，如何評估資深管理階層是否執行適當風險管理

措施，並判斷是否已經有必要的程序與控管。訓練應該包括對相關特定指引（如有）的參照。指定權責機關與自律團體，應確保擁有足夠資源，執行有效的風險管理。

106. To fulfil these responsibilities, training should enable designated competent authorities and SROs monitoring staff to adequately assess:

106. 為履行這些職責，訓練應該能讓指定權責機關與自律團體的監理／監管員工能夠適當評估：

- a. The quality of internal procedures, including ongoing employee training programmes and internal audit, compliance and risk management functions.
a. 內部程序的品質，包括員工持續訓練計畫與內部稽核、遵循與風險管理功能。
- b. Whether or not the risk management policies and processes are appropriate in light of the accountants' risk profile, and are periodically adjusted in light of changing risk profiles.
b. 根據會計師的風險狀況，確認風險管理政策與流程是否妥當，且根據風險狀況變化定期調整。
- c. The participation of senior management to confirm that they have undertaken adequate risk management, and that the necessary procedures and controls are in place.
c. 高階管理階層的參與，確認採用妥當的風險管理，且具備必要的程序與控制。

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

第三節：會計師執行風險基礎方法之指引

Chapter One: Risk Categories

第一章：風險種類

107. It is frequently the function of accountants in public practice to assist their clients in managing their affairs in a complex world, providing an individually tailored service. In many circumstances, they will encounter (or recommend) unusual or complex structures as a means of gaining commercial advantage or of dealing in the most appropriate way with complex situations or risks, with no criminal or other ulterior motives. Many factors that to outsiders might be considered indicators of money laundering/terrorist financing (ML/TF) risk, on further examination have an appropriate commercial rationale and the ML/TF risk is in fact normal, rather than high. Nevertheless, accountants will experience higher AML/CFT risk situations, which they need to take into account in their work. In theory, ML/TF risks can be organised into three categories: geographic risk, client risk and service risk. However, in practice these risks may fall into more than one category and should be viewed not as separate and distinct but as inter-related.

107. 公開執業會計師的職能，常是協助客戶在複雜環境中，管理事務，提供個別的量身訂做服務。在許多狀況下，會計師面臨（或建議）具備商業優勢，不尋常或複雜的結構，或以最適當方式，處理複雜狀況或風險，其實並無犯罪或其他動機。外界認為可能有洗錢／資助恐怖主義的風險因子，在進一步檢驗後，就會有妥當的商業理由，證實相關洗錢／資恐風險並不高。但是，會計師要考慮可能會遇上防制洗錢/打擊資恐風險更高的狀況。理論上而言，洗錢/資恐風險可以分為三類：地理風險、客戶風險、服務風險。但是，實務上這些風險或許牽涉不只一種，且應以非獨立、互相關連的角度看待。

108. In the “Client risk” section below, key factors associated with the main client risk category are:

108. 在以下「客戶風險」章節中，與主要客戶風險範疇有關的重大因素有：

- a. Factors indicating that the client is attempting to obscure understanding of its business, ownership or the nature of its transactions.
a. 客戶試圖隱藏對其業務、所有權、交易性質的因素。
- b. Factors indicating certain transactions, structures, geographical location, international activities or other factors which are not in keeping with the accountant’s understanding of the client’s business or economic situation. Or
b. 特定交易、結構、地理位置、國際活動，或其他會計師對客戶業務或經濟狀況認知不一致等因素。
- c. Client industries, sectors or categories where opportunities for money laundering or terrorist financing are particularly prevalent.
c. 客戶的行業、產業，或洗錢或資助恐怖主義機會特別高的情況。

109. Clients falling within this category may be high risk clients although, after adequate review, the accountant may determine that they are pursuing a legitimate purpose. Provided that the economic rationale for the structure and transactions of a client can be made clear, the accountant may be able to demonstrate that the client is carrying out legitimate operations for which there is a rational and non-criminal purpose.

109. 落在這個範疇的客戶，可能是高風險客戶，但經過適當的審查，會計師也許能判斷他們的目的是合法的。只要客戶的結構與交易，在經濟上的理由很清楚，會計師也許能夠說明該客戶是進行合法操作，且有合理、非犯罪的目的。

110. There are also some categories of service provided by practising accountants which may be used by money launderers for their own purposes, and which are therefore subject to a higher degree of risk. These are listed below under “Service Risk”.

110. 有些執業會計師提供的服務種類，會被洗錢者用來達到自己的目的，因此有較高程度的風險。這些情形列為「服務風險」類別。

111. There is no universally accepted set of risk categories, but the examples provided in this Guidance are given for assistance in identifying those that may apply in the circumstances of individual firms or client relationships. There is no one single methodology to apply to these risk categories, and the application of these risk categories is merely intended to provide a suggested framework for approaching the management of potential risks.

111. 雖然沒有全面被接受的風險類別，但本指引中提供的範例是最普遍受到認同的風險類別。運用這些風險類別的方法論不只一種，而且這些風險類別的應用目的，也只是為管理潛在風險提供一個建議框架。

Country/Geographic risk

國家／地理風險

112. There is no universally agreed definition that prescribes whether a particular country or geographic area represents a higher risk. Geographic risk, in conjunction with other risk factors, may provide useful information as to potential money laundering and terrorist financing risks, though it should be borne in mind that lower risk and legitimate commercial enterprises may be located in high risk countries. Nevertheless, clients may be judged to pose a higher than normal risk where they, or their source or destination of funds, are located in a country that is:

112. 對於特定國家或地理區域是否代表更高風險，沒有世界通用的定義。地理風險配合其他風險因素，可能會對潛在的洗錢與資助恐怖主義風險提供有用的資訊，但是切記較低風險與合法的商業公司，可能位於高風險國家。然而，客戶也許會因為位置，或是其資金的來源、目的地位於下列國家，而被評斷為風險高於普通水準：

- Subject to sanctions, embargoes or similar measures issued by, for example, the United Nations (“UN”). In some circumstances, this would include countries subject to sanctions or measures similar to those issued by bodies such as the UN.
- 例如聯合國所公布的制裁、禁運，或類似措施對象。在某些狀況下，這會包括類似聯合國的組織，發布制裁或類似措施的對象。

- Identified by credible sources⁴ as lacking appropriate AML/CFT laws, regulations and other measures.
- 被可靠來源⁴，辨識為缺乏適當防制洗錢/打擊資恐的法律、法規或其他措施。
- Identified by credible sources as providing funding or support for terrorist activities that have designated terrorist organisations operating within them.
- 被可靠來源，辨識為提供資金或支持指定恐怖組織操作的恐怖活動。
- Identified by credible sources as having significant levels of corruption, or other criminal activity.
- 被可靠來源，辨識為有高度貪污，或其他犯罪活動。

Client risk

客戶風險

Reduced transparency

透明度降低

113. Factors that may indicate a higher than normal ML/TF risk include:
113. 可能顯示洗錢/資恐風險高於普通水準的因素包括：
- Lack of face-to-face introduction of client.
 - 缺乏和客戶面對面的介紹。
 - Subsequent lack of contact, when this would normally be expected.
 - 沒有一般情形的後續聯絡。
 - Beneficial ownership is unclear.
 - 實質受益人不明。
 - Position of intermediaries is unclear.
 - 中介地位不明。
 - Inexplicable changes in ownership.
 - 所有權無法解釋為何變動。
 - Company activities are unclear.
 - 公司活動不明。

⁴ “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.

⁴ 「可靠來源」表示資訊產生自知名團體，這些團體普遍被視為聲名卓著，且公開、廣泛地提供這種資訊。除防制洗錢金融行動工作組織和防制洗錢金融行動工作組織的區域性組織外，這種組織或許包括，但不限於，跨國家或國際組織，例如國際貨幣基金、艾格蒙金融情報小組（Egmont Group of Financial Intelligence Units），以及相關國際政府組織與非政府組織。這些可靠來源提供的資訊，並沒有法律或法規效力，不得自動據以判斷某事物為高風險。

- Legal structure of client has been altered numerous times (name changes, transfer of ownership, change of corporate seat).
- 客戶法律結構多次改變（更名、轉移所有權、改變公司註冊地點）。
- Management appear to be acting according to instructions of unknown or inappropriate person(s).
- 管理階層根據不知名或不恰當人士的指示行動。
- Unnecessarily complex client structure.
- 無謂之複雜客戶結構。
- Reason for client choosing the firm is unclear, given the firm's size, location or specialisation.
- 客戶選擇事務所的理由不明，無論是事務所規模、位置，或專精項目。
- Frequent or unexplained change of professional adviser(s) or members of management.
- 顧問或管理階層人員經常變動，或未經說明的變動。
- The client is reluctant to provide all the relevant information or the accountant has reasonable doubt that the provided information is correct or sufficient.
- 客戶不願意提供所有相關資訊，或會計師合理懷疑所提供的資料的正確性或充足性。

Transactions or Structures out of line with Business Profile

與業務狀況不一致的交易或結構

114. Factors that may indicate a higher than normal ML/TF risk include the following:
114. 可能顯示洗錢/資恐風險高於普通水準的因素如下：
- Client instructions or funds outside of their personal or business sector profile.
 - 客戶指示或資金超過其個人或業務狀況。
 - Individual or classes of transactions that take place outside the established business profile, and expected activities/ transaction unclear.
 - 個人交易或交易等級超出已建立的業務狀況，且預期活動／交易不明。
 - Employee numbers or structure out of keeping with size or nature of the business (for instance the turnover of a company is unreasonably high considering the number of employees and assets used).
 - 員工數目或結構無法維持業務規模或性質（例如公司營業額就其員工和所使用資產來看，高得不合乎常理）。
 - Sudden activity from a previously dormant client.
 - 靜止戶突然有活動。
 - Client starts or develops an enterprise with unexpected profile or early results.
 - 客戶開始或發展的公司狀況超乎意料，或快速成功。
 - Indicators that client does not wish to obtain necessary governmental approvals/filings, etc.
 - 跡象顯示客戶不希望取得必要的政府批准／申報等。
 - Clients offer to pay extraordinary fees for services which would not ordinarily warrant such a premium.
 - 客戶建議額外支付費用取得服務，但無此必要。

- Payments received from un-associated or unknown third parties and payments for fees in cash where this would not be a typical method of payment.
- 與無關或不認識的第三方收付現金，此類交易通常不以現金方式收付。

Higher risk sectors and operational structures
風險更高的產業與營運結構

115. Some client sectors and operational structures present a higher than normal ML/TF risk. Such risk factors may include:

115. 某些客戶產業與營運結構，洗錢/資恐風險高於普通水準。這些風險因素可能包括：

- Entities with a high level of transactions in cash or readily transferable assets, among which illegitimate funds could be obscured.
- 現金交易水準偏高，或隨時可轉移資產的企業體，不法資金可能隱匿其中。
- Politically exposed persons.
- 重要政治性職務人士。
- Investment in real estate at a higher/lower price than expected.
- 以高/低於預期的價格投資於房地產。
- Large international payments with no business rationale.
- 沒有商業理由的大額跨國付款。
- Unusual financial transactions with unknown source.
- 不知名來源的不尋常金融交易。
- Clients with multijurisdictional operations that do not have adequate centralised corporate oversight.
- 在多個轄區營運的客戶，沒有適當的總部企業監督。
- Clients incorporated in countries that permit bearer shares.
- 客戶在允許無記名股票的國家成立公司。

116. In addition, the existence of fraudulent transactions, or ones which are improperly accounted for, should always be considered high risk. These might include:

116. 此外，不實交易，或是不合理的交易，應該永遠都要視為高風險。這些可能包括：

- Over and under invoicing of goods/services.
- 商品/服務的請款金額過低、過高。
- Multiple invoicing of the same goods/services.
- 同樣的商品/服務多次請款。
- Falsely described goods/services – Over and under shipments (e.g. false entries on bills of lading).
- 虛假描述商品/服務—出貨過高與過低（例如在提單上造假）。
- Multiple trading of goods/services.
- 重覆交易商品/服務。

Service Risk
服務風險

117. Services which may be provided by accountants and which (in some circumstances) risk being used to assist money launderers may include:

117. 會計師提供的服務，（在某些情況下）有時會有協助洗錢者的風險，可能包括：

- Misuse of pooled client accounts or safe custody of client money or assets.
- 濫用集合帳戶，或對客戶金錢或資產的進行安全管理。
- Advice on the setting up of legal arrangements, which may be used to obscure ownership or real economic purpose (including setting up of trusts, companies or change of name/corporate seat or other complex group structures).
- 對於設立可用於隱匿所有人，或實際經濟目的之法律協議提出建議（包括設立信託、公司，或更改公司名稱／註冊地，或其他複雜集團結構）。
- Misuse of introductory services, e.g. to financial institution.
- 濫用引薦服務，例如介紹金融機構。

Variables that May Impact on Risk
可能影響風險的變數

118. Some factors that may increase or decrease risk in relation to particular clients, client engagements or practising environments include the following:

118. 某些可能提高或降低和特定客戶、客戶參與，或執業環境有關風險的因素，可能包括以下幾種：

- Involvement of financial institutions or other DNFBPs.
- 金融機構或其他指定之非金融事業或人員的參與。
- Unexplained urgency of assistance required.
- 緊急要求協助但沒有說明原因。
- Sophistication of client, including complexity of control environment.
- 客戶的成熟度，包括控管環境的複雜性。
- Sophistication of transaction/scheme.
- 交易／計畫的成熟度。
- Country location of accountant.
- 會計師所在的國家。
- Working environment/structure of accountant, e.g. sole practitioner, large firm.
- 會計師的營運環境／結構，例如是個人執業還是大型事務所。
- Role or oversight of another regulator.
- 其他權責機關的角色或監督。
- The regularity or duration of the relationship. Long-standing relationships involving frequent client contact throughout the relationship may present less risk.
- 關係的頻率與維持時間。在整段客戶關係中，涉及頻繁客戶聯絡的長期關係，可能呈現的風險較低。
- The purpose of the relationship and the need for the accountant to provide services.
- 建立關係目的與對會計師提供服務之需求。

- Clients who have a reputation for probity in the local communities.
- 在當地業界，素有廉潔名聲的客戶。
- Private companies that are transparent and well known in the public domain.
- 透明，且在公共領域廣為所知的民營公司。
- The familiarity of the accountant with a country, including knowledge of local laws and regulations as well as the structure and extent of regulatory oversight.
- 會計師對國家的熟悉程度，包括對當地法律法規，以及監理的結構和範圍的知識。

Controls for Higher Risk Situations

控管較高風險情況

119. Accountants and accounting firms should implement appropriate measures and controls to mitigate the potential money laundering risks of those clients that are determined to be higher risk as the result of the institution's risk-based approach. These measures and controls may include:

119. 會計師與會計師事務所應該執行適當的因應措施與控制管理，以本身或事務所風險為基礎，減低風險較高客戶潛在的洗錢風險。可能包括：

- Increased awareness of higher risk clients and transactions, across all departments with a business relationship with the client, including the possibility of enhanced briefing of client teams.
- 提高所有和該客戶有業務關係的部門，對客戶與交易的瞭解，包括加強介紹客戶團隊的可能性。
- Increased levels of know your customer (KYC) or enhanced due diligence.
- 提高「瞭解你的客戶」或強化客戶審查的水準。
- Escalation for approval of the establishment of a business engagement, or involvement in the client service.
- 將建立業務投入，或參與客戶服務的批准層級升級。

Chapter Two: Application of a Risk-based Approach

第二章：風險基礎方法之應用

Customer due diligence/Know your customer

客戶審查/瞭解客戶

120. Customer Due Diligence/Know Your Customer is intended to enable an accountant to form a reasonable belief that he knows the true identity of each client and, with an appropriate degree of confidence, knows the types of business and transactions the client is likely to undertake. An accountant's procedures should include procedures to:

120. 客戶審查/瞭解你的客戶，其目的是讓會計師能夠合理相信，他知道每一位客戶的真正身份，且也有適當程度的信心，知道客戶的業務種類及可能進行的交易。會計師應進行以下程序：

- (a) Identify and verify the identity of each client on a timely basis.
- (a) 及時辨識並確認每一位客戶的身份。

- (b) Identify the beneficial owner, and take reasonable measures to verify the identity of any beneficial owner. The measures which have to be taken to verify the identity of the beneficial owner will vary depending on the risk.
- (b) 辨識實質受益人，並採取合理措施確認任何實質受益人的身份。根據風險，確認實質受益人身份的措施也不同。
- (c) Obtain appropriate additional information to understand the client's circumstances and business, including the expected nature and level of transactions. Relevant customer due diligence information should be periodically updated together with its risk assessment. In the event of any change in beneficial ownership or control of the client, or third parties on whose behalf the client acts, reasonable measures should be taken to verify identity.
- (c) 取得適當的額外資訊，以瞭解客戶的狀況與業務，包括預期中的交易性質與水準。相關客戶審查資訊，應定期隨風險評估更新。如果實質受益人，或客戶的實質控制者，或客戶所代表的第三方有所變動，須採取合理措施以確認身份。

121. Practising accountants should thus identify, and verify the identity of their clients, in sufficient detail to provide them with reasonable assurance that the information they have is an appropriate and sufficient indication of the true identity. A standard level of due diligence should be applied to all clients with the possibility to carry out reduced or simplified customer identification in recognised lower risk scenarios. By contrast, an increased level of due diligence will apply in respect to clients that are determined to be of higher risk. These activities may be carried out in conjunction with firms' normal client acceptance procedures, and will take into account any specific jurisdictional requirements for client due diligence. In the normal course of their work, accountants are likely to learn more about some aspects of their client, such as their client's business or occupation and/or their level and source of income, than other advisors. This information is likely to assist in AML/CFT terms.

121. 執業會計師辨識及驗證其客戶的身份，應有足夠的明細資料，讓他們能夠合理保證，他們持有的資料妥善且適當地顯示客戶真實身份。客戶審查的基本水準，應該適用於所有客戶，若認為風險狀況較低，可以實施減少或簡化的客戶身份辨識。相反地，若判定客戶風險較高，應適用更高水準的客戶審查。這些活動可能配合事務所的一般客戶程序進行，且考慮特定轄區規定。在正常工作過程中，會計師可能會比其他顧問，更加瞭解客戶的某些部分，例如客戶的業務與職業，及／或其收入水準與來源。此一資訊可能會在防制洗錢/打擊資恐方面有所幫助。

122. The beneficial owners of the client should be identified, including forming an understanding of the ownership and control structure, and taking reasonable measures to verify the identity of such persons. Public information sources may assist with this requirement. The procedures that need to be carried out can vary, in accordance with the nature and purpose for which the entity exists, and the extent to which the underlying ownership differs from apparent ownership by the use of nominees and complex structures.

122. 客戶的實質受益人應予以辨識，包括瞭解所有權與控制結構，並採取合理措施，驗證此等人士的身份。公開的資訊來源，可能有助於此項規定。依據客戶實體的性質與存在目的，及運用人頭名義與複雜結構之潛在所有權與表面所有權之間差異程度，必須進行的程序可能有所不同。

123. The types of measures that normally would be needed to satisfactorily perform this function would require identifying:

123. 欲完美執行此一功能，通常需要確認以下措施：

- The natural persons with a controlling interest.
- 有控制權的自然人。
- The natural persons who comprise the mind and management of the legal person or arrangement.
- 法人或法律協議的決策人員與管理階層的自然人。

- Physical location.
- 實體位置。

124. A risk-based approach varies according to the risk level. For example, where the client or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, and that information is publicly available, fewer checks may be appropriate. In the case of trusts, foundations or similar legal entities where the beneficiaries are distinct from the legal owners of the entity, it will be necessary to form a reasonable level of knowledge and understanding of the classes and nature of the beneficiaries; the identities of the settlor, trustees or managers; and an indication of the purpose of the trust. Assurance will be needed that the declared purpose of the trust is in fact its true purpose.

124. 風險基礎方法，取決於風險水準而有所不同。例如，客戶或控制權所有人為上市公司時，就要遵守法規相關揭露事項的規定，此等資訊針對大眾公開，減少檢查似乎適當。在信託、基金會或類似法律組織，受益人和法律所有人不一樣，就必須對受益人的類別和性質，委託人，受託人或管理人，信託目的，有合理水準的知識與瞭解。必須確認信託所宣稱的目的是否與真正目的一致。

125. Identification of clients should be reviewed (on an appropriate risk related basis) to ensure that changes in ownership or other factors have not resulted in an effective change in the nature of the client, with a consequent need to review or repeat client identification and verification of identity procedures. This may be carried out in conjunction with any professional requirements for client continuation processes.

125. 客戶身份（根據適當的風險相關基礎）經過審查，確保所有權或其他因素的變化，沒有造成客戶性質的有效改變，還有後續審查或重複辨識、驗證客戶身份程序的需要。這可能會和任何對客戶持續往來必須實施之專業要求同時進行。

Monitoring of client business and transactions for suspicious activity 監控客戶業務與交易是否有可疑活動

126. Accountants are not expected to scrutinise every transaction that goes through their clients' books and some accounting services are provided only on a once-off basis, without a continuing relationship with the client. However, many of the professional services provided by accountants put them in a relatively good position to encounter and recognise suspicious activities carried out by their clients or by their clients' business associates, which would not be recognised by other service providers, through their inside knowledge of and access to the client's records and management processes, as well as through close working relationships with senior managers and owners. Practising accountants need to be continually alert for events or situations which are indicative of a reason to be suspicious of money laundering or terrorist financing, employing their professional experience and judgement in the forming of suspicions where appropriate. An advantage in carrying out this function is the professional scepticism which is a defining characteristic of many professional accountancy functions and relationships.

126. 會計師無須監控每一筆客戶帳簿上的交易，且某些會計服務是一次性的，和客戶沒有延續的關係。但是，許多會計師提供的專業服務，會讓他們更容易面對與辨認客戶或其關係人，所進行的可疑交易，這些必須透過對於客戶紀錄與管理流程的認識與存取，及具備客戶高階管理階層及所有人的密切工作關係方能達成，是其他服務供應者辦不到的。對顯示洗錢或資助恐怖主義的懷疑事件或狀況，執業會計師必須持續有所警覺，在適當的地方，對於懷疑的形成，要運用其專業經驗與判斷。會計師具備之會計專業及客戶關係功能，所擁有之專業真偽判斷，是執行此功能的優勢。

127. Ongoing monitoring of the business relationship should be carried out on a risk related basis, to ensure that the client retains the same identity and risk profile established initially. This requires an appropriate level of scrutiny of activity during the relationship, including enquiry into source of funds where necessary, to judge consistency with expected behaviour based on accumulated CDD information. As discussed below, ongoing monitoring may also give rise to filing a suspicious transaction report.

127. 應以風險為基礎，持續監控業務關係，以確保客戶持續維持原始建立的身份與風險狀況。這需要在維持關係的期間，有適當的活動監測水準，包括必要時查詢資金來源，以判斷是否和累積

的客戶審查資訊，所建構之預期行為一致。如下述討論，持續監控可能也會造成提交疑似洗錢或資恐交易報告。

128. Investigations into suspected money laundering should not be conducted unless these are within the scope of the engagement, and information is limited to that to which the accountant normally would be entitled in the course of business. Within the scope of engagement, an accountant should be mindful of the proscription on “tipping off” the client where a suspicion has been formulated. Carrying out additional investigations, which are not within the scope of the engagement, is unnecessary and could risk alerting a money launderer.

128. 除非在業務範圍內，且資訊限於會計師通常有權在執業過程中得知者，否則不應對懷疑中的洗錢進行調查。在業務範圍內，會計師應注意，禁止「提示」客戶已經有人懷疑。進行更多不在業務範圍內的調查是不必要的，且可能有讓洗錢者產生警惕心理的風險。

129. Normal business activities should be maintained and such information or other matters which flow from this will form the proper basis of suspicious transaction reports. To decide whether or not a matter is suspicious, accountants may need to make additional enquiries (within the normal scope of the assignment or business relationship) of the client or their records. Normal commercial enquiries, being made to fulfil duties to clients, may assist in understanding a matter to determine whether or not it is suspicious.

129. 正常業務活動應予維持，以便相關活動資訊或事務，作為疑似洗錢或資恐交易報告內容的適當基礎。決定是否可疑，會計師須對客戶或其紀錄進行更多查詢（在任務或業務關係的正常範圍內）。一般商業查詢，即使是為了履行對客戶義務，也可能有助於瞭解事件，以判斷是否可疑。

Suspicious activity reporting

可疑活動通報

130. The requirement to file a suspicious transaction report is not subject to a risk-based approach, but must be made whenever required in the country concerned. This would include both suspicious situations, such as business structures or management profiles which have no legitimate economic rationale and suspicious transactions, such as the misappropriation of funds, false invoicing or company purchase of goods unrelated to the company's business.

130. 提交疑似洗錢或資恐交易報告的要求，並非按照風險基礎方法，只要該國有此規定，就要執行。此處包括可疑狀況，例如業務結構或管理結構，沒有合法的經濟理由，以及可疑交易，例如資金不成比例、不實訂價，或公司購買與業務無關的商品。

131. However, it should be noted that a risk-based approach is appropriate for the purpose of identifying a suspicious activity, by directing additional resources at those areas an accountant has identified as higher risk. The designated competent authorities or SROs may provide information to accountants, which will be useful to them to inform their approach for identifying suspicious activity, as part of a risk-based approach. An accountant should also periodically assess the adequacy of its system for identifying and reporting suspicious transactions.

131. 但是，風險基礎方法，藉由引導更多資源到會計師已經發現存在風險的領域，找出可疑活動，是妥當的。指定權責機關與自律團體提供會計師相關資訊，可能對於會計師驗證自己辨識可疑活動的做法，極有益處，形成風險基礎方法之一環。會計師應該定期評估辨識與通報可疑交易的系統適足性。

132. In making a decision on whether to make a report, the following factors will need to be taken into account.

132. 在決定是否通報的時候，必須考慮以下因素：

- a. Whether or not the activities in question consist of instances of reportable (suspected) money laundering or terrorist financing in the country concerned.
a. 有問題的活動，是否與該國應通報（受懷疑）洗錢或資助恐怖主義的狀況一致。
- b. Whether the information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege (see Recommendation 16). It is for each country to determine the matters that would fall under legal professional privilege or legal professional secrecy.
b. 該資訊是否在遵守專業保密或法律專業特權的情況下取得（見建議第 16 項）。各國應自行決定哪些事情屬於法律專業特權或法律專業保密範圍。
- c. In the absence of a requirement to report a suspicion, in the country concerned, whether it would be permitted to report a suspicion, and whether it would be consistent with the accountants' professional ethical obligations, including the requirement to consider the public interest in carrying out their professional activities.
c. 如果一國沒有通報可疑事件的規定，是否允許通報，是否與會計師的職場道德義務一致，包括執行專業活動時要考慮公眾利益。

Accountants should also consider any other specific legal or professional requirements which apply in the country within which the accountant is acting.

會計師也應考慮任何其他執業國家，會計師執業，特定的法律或專業規定。

133. In many (or most) circumstances, accountants will have no flexibility in judging whether or not a suspicion report should be made, but will find that they are either required to make such a report (by the operation of legal requirements in their country) or forbidden to do so (by the operation of legal or professional requirements). However, where there is any element of flexibility, accountants should take into account the fact that the reporting of suspicious transactions or activities is critical to a country's ability to utilize financial information to combat money laundering, terrorist financing and other financial crimes.

133. 在許多（或絕大部分）狀況下，會計師並無判斷是否要通報的彈性，不是必須通報（按照該國法律規定的要求），就是禁止通報（按照法律或專業規定的要求）。但是，如果有通報的彈性，會計師應考慮所通報的可疑交易或活動，對於一個國家利用金融資訊去反制洗錢、資助恐怖主義與其他金融犯罪的能力來說，是極為關鍵的。

134. The FATF Recommendations require that firms, their partners and employees, should be protected by legal provisions from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

134. 防制洗錢金融行動工作組織建議規定，事務所、其合夥人與員工，應受到法律條文保護，如果秉持誠信而通報時，就算不知道實際潛在犯罪活動為何，也不管是否真的發生非法活動，不會因為違反合約，或任何法律、法規、行政規定對於資訊披露的限制，而負刑事與民事責任。

Training and awareness

訓練與認識

135. Accountants are within the scope of Recommendation 15, which requires firms to provide their employees with appropriate AML/CFT training. In ensuring compliance with this requirement, accountants may take account of AML/CFT training included in entry requirements and continuing professional development requirements for their professional staff. They must also ensure appropriate training for any relevant staff without a professional qualification, at a level appropriate to the functions being undertaken by those staff, and the likelihood of their encountering suspicious activities.

135. 會計師隸屬於建議第 15 項的範圍內，該條文規定事務所要提供員工妥善的防制洗錢/打擊資恐訓練。為確保遵循此一規定，會計師可能要考慮防制洗錢/打擊資恐訓練，包括新人訓練與後續員工的專業訓練發展規定。他們也必須確保所有非專業資格的相關員工，受到妥善訓練，達到合乎職責所在，以及遇上可疑活動時的處理水準。

Chapter Three: Internal Controls

第三章：內部控管

136. 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 ML and FT. 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 accountants, 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.

136. 許多指定之非金融事業或人員，在規模上和金融機構相去甚遠。相對於大部分金融機構，大部分的指定之非金融事業或人員只有少數員工，侷限小型企業和執業人士，可以用於對抗洗錢和資恐的資源。對多數指定之非金融事業或人員來說，一個人可能就要負責前後端辦公室、洗錢通報、高階管理等功能。包括會計師在內，這種指定之非金融事業或人員的特性，在設計以風險為基礎的架構，供內部控管系統使用時，必須加以考慮。關於處理內部控制，在建議第 15 項的說明註解，於考慮業務規模後，對每項要求採取適當類型和範圍的措施。

137. In order for accountants 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 systems that will assist in achieving this objective follow.

137. 為了讓會計師能夠具備有效的風險基礎方法，以風險為基礎的流程，必須是事務所內部控管的一部份。內部政策與程序的成功，很大程度取決於內部控管系統。有助於達成此目標的兩個關鍵系統如下。

Culture of compliance

遵循文化

138. This should encompass:

138. 這應該涵蓋：

- Developing, delivering, and maintaining a training program for all accountants.
- 發展、傳達、維護對所有會計師的訓練計畫。

- Monitoring for any government regulatory changes.
- 監測任何政府法規變化。
- Undertaking a regularly scheduled review of applicable compliance policies and procedures within accountancy practices, which will help constitute a culture of compliance in the industry.
- 對於會計師執業範圍內，採用之遵循政策定期審查，如此有助於構成業界遵循的文化。

Senior management ownership and support

高階管理階層所有權與支援

139. Strong senior management leadership and engagement in AML/CFT is an important aspect of the application of the risk-based approach. Senior management must create a culture of compliance, ensuring that staff adheres to the firm's policies, procedures and processes designed to limit and control risks. Policies and procedures are effective only at the point that firm/company owners and senior management support the policies.

139. 高階管理階層對於防制洗錢/打擊資恐的領導及參與，是採用風險基礎方法的重要層面。高階管理階層必須建立遵循文化，確保員工遵守專為限制與控制風險的公司政策、程序、流程的設計。政策與程序只有在事務所／公司所有人與高階管理層支持政策時，才有效果。

140. Having regard to the size of accounting firm, the framework of internal controls should:

140. 考慮到會計師事務所的規模，內部控管的架構應該：

- Provide increased focus on accountants' operations (products, services, clients and geographic locations) that are more vulnerable to abuse by money launderers and other criminals.
- 對會計師業務（產品、服務、地理位置）中，容易遭到洗錢者與其他犯罪濫用的部分更為專注。
- Provide for regular review of the risk assessment and management processes, taking into account the environment within which the accountant and the accounting firm operates and the activity in its market place.
- 對於風險評估和管理流程定期審查，考慮到會計師與會計師事務所營運的環境，以及市場中的活動。
- Designate an individual or individuals at management level responsible for managing AML/CFT compliance.
- 指定專人負責管理防制洗錢/打擊資恐之法律遵循。
- Provide for an AML/CFT compliance function and review programme.
- 提供防制洗錢/打擊資恐法律遵循功能與審查計畫。
- Ensure that adequate controls are in place before new products are offered.
- 確保新產品推出前，已經有適當的控管。
- Inform senior management of compliance initiatives, and identify compliance deficiencies, corrective action taken, and suspicious activity reports filed.
- 告知高階管理階層遵循措施，找出遵循瑕疵、採取修正行動、通報可疑活動。
- Provide for programme continuity despite changes in management or employee composition or structure.
- 無論管理階層或員工構成或結構有何變化，計畫都能持續。

- Focus on meeting all regulatory record keeping and reporting requirements, recommendations for AML/CFT compliance and provide for timely updates in response to changes in regulations.
- 注意遵守法律所規定的資料保留期限及相關要求，和公告的防制洗錢/打擊資恐法遵措施；針對法規變動及時更新。
- Implement appropriate risk-based CDD policies, procedures and processes. Provide for adequate controls for higher risk customers, transactions and products, as necessary, such as transaction limits or management approvals.
- 執行適當的以風險為基礎客戶審查政策、程序、流程，必要時對於風險較高的顧客、交易、產品，提供適當的控管，例如交易限制或管理階層批准。
- Enable the timely identification of reportable transactions and ensure accurate filing of required reports.
- 對於應通報交易，能有及時的辨識，並確保規定的報告正確申報。
- Provide for adequate supervision of employees that handle currency transactions, complete reports, grant exemptions, monitor for suspicious activity, or engage in any other activity that forms part of the firm's AML/CFT programme.
- 對於處理貨幣交易、完成報告、給予豁免、監測可疑活動，或從事任何構成事務所防制洗錢/打擊資恐計畫一部份的其他活動，給予員工適當的監督。
- Incorporate AML/CFT compliance into job descriptions and performance evaluations of appropriate personnel.
- 將防制洗錢/打擊資恐法遵事務，納入相關人事的工作職責和績效考評項目。
- Provide for appropriate training to be given to all relevant staff.
- 對所有相關員工提供適當的訓練。
- For groups, to the extent possible, there should be a common control framework.
- 以集團來說，在可能的範圍內，採用共同的控管架構。

141. A risk assessment for the firm as a whole, taking into account the size and nature of the practice; the existence of high risk clients (if any); and the provision of high risk services (if any) will be of assistance in setting the required procedures within the firm.

141. 事務所整體的風險評估，要考慮實務的規模與性質、高風險客戶的存在（如有）及提供高風險服務（如有），這些對於在公司內建立規定的程序會有所幫助。

142. Depending on the assessed ML/TF risks, and the size of the firm, it may be possible to simplify both risk assessments and internal procedures. For example, for sole practitioners, client acceptance may be reserved to the sole owner/proprietor taking into account their business and client knowledge and experience (which may be highly specialised). The involvement of the sole owner/proprietor may also be required in detecting and assessing possible suspicious activities. For larger firms, more sophisticated procedures and risk assessments are likely to be necessary.

142. 根據經過評估的洗錢/資恐風險，以及事務所規模，可將風險評估與內部程序加以簡化。例如，對個人執業者來說，接受客戶委託與否，可能由單一執業者／業主，在考慮其業務、客戶知識與經驗（這可能非常專業）後決定。單一執業者／業主可能被要求參與偵測與評估可能的可疑活動。對較大的事務所，需要更精密的程序與風險評估。

ANNEXES 附錄

ANNEX 1 – SOURCES OF FURTHER INFORMATION 附錄 1 – 更多資訊來源

Various sources of information exist that may help governments and accountants 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 accountants 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. 許多資料來源，可以幫助政府與會計師發展其風險基礎方法。雖非詳盡，本附錄列出多個實用的網站，供政府與會計師查閱。這些網站提供額外的資訊來源，例如防制洗錢／打擊資恐評估，可以提供更多的協助。

A. Financial Action Task Force documents

A. 防制洗錢金融行動工作組織文件

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.

防制洗錢金融行動工作組織（FATF）是跨政府組織，其目的是發展與促進國家與國際反制洗錢與資助恐怖主義之政策。重要資源包括對洗錢的 40 項建議，對資助恐怖主義的 9 項特別建議，評估遵循防制洗錢金融行動工作組織建議之方法、國家與評鑑機構手冊、方法與趨勢（類型學）報告，以及共同評估報告。

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

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

B. 其他有助於國家與會計師，對於國家和跨境活動風險評估的資訊來源

In determining the levels of risks associated with particular country or cross border activity accountants 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:

在判斷和特定國家或跨境活動有關的風險水準時，會計師與政府可能會引用多種向公眾開放的資訊

來源，包括詳述國際標準與守則的報告、與不法活動有關的明確風險評等、貪污調查、國際合作水準。雖然並非詳盡清單，但通常可利用以下來源：

- IMF and World Bank Reports on observance of international standards and codes (Financial Sector Assessment Programme)
- 國際貨幣基金（IMF）與世界銀行對於國際標準與守則之觀察報告（金融業評估計畫）
 - World Bank reports: <http://www1.worldbank.org/finance/html/cntrynew2.html>
 - 世界銀行報告：<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 員工評估 www.imf.org/external/np/ofca/ofca.asp
- Mutual evaluation reports issued by FATF Style Regional Bodies:
- 防制洗錢金融行動工作組織相關區域組織所發佈的相互評鑑報告：
 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. 歐洲議會反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. Financial Action Task Force of South America (GAFISUD)
5. 南美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. 東南非反洗錢組織 (ESAAMLG)
<http://www.esaamlg.org/>
 8. Groupe Inter-gouvernemental d'Action contre le Blanchiment d'Argent (GIABA)
8. 非洲政府間反洗錢行動組織 (GIABA)
<http://www.giabasn.org>

- OECD Sub Group of Country Risk Classification (a list of country risk classifications published after each meeting)
- OECD 國家風險分級次級團體（每次會議後都會發佈國家風險分級清單）
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)
- 國際毒品控管策略報告（由美國國務院每年發行一次）
<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.
- 艾格蒙團體成員－金融情報中心的聯盟，參與定期資訊交換，並分享良好實務。一國要取得艾格蒙成員資格，必須經過正式程序，符合艾格蒙對金融情報中心的定義，才會被認可。
<http://www.egmontgroup.org/>
- Signatory to the United Nations Convention against Transnational Organized Crime
- 聯合國對抗跨國組織犯罪會議簽署者
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
- 受到歐盟金融制裁之個人、團體、實體綜合清單
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 — 國家狀態：
<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.

最終持有或控制顧客之自然人，且／或代表該人進行交易。這也包括對法人或安排執行最終有效控制的人士。

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.

權責機關意指所有和洗錢及資助恐怖主義反制有關的行政與執法機關，包括金融情報中心和監理機關。

Country 國家

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

在防制洗錢金融行動工作組織建議與本指引中，所有對國家的說法，均同樣適用於地區或轄區。

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（也包括網路賭場）
- b. Real estate agents.
b. 不動產經紀人
- c. Dealers in precious metals.
c. 貴金屬交易商
- d. Dealers in precious stones.
d. 寶石交易商
- 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士及會計師－這包括獨立執業人士、合夥人，或受雇於專業公司之專業人士但不包括受雇於其他類型公司之「內部」專業人士，或是

為政府機關工作之專業人士，他們可能已經受到洗錢防制措施規範。

- 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. 信託及公司服務業者，意指所有並未涵蓋於此等建議中其他之人士或企業，且以企業之身分，向第三方提供任何以下之服務：
- Acting as a formation agent of legal persons.
 - 擔任法人登記成立的名義人。
 - 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（或安排他人擔任）公司之董事或秘書、合夥關係之合夥人，或在其他法人組織的類似職位。
 - Providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement.
 - 提供公司、合夥或其他法人或法律協議經註冊之辦公室、營業地址、居所、通訊或管理地址。
 - 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）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

防制洗錢金融行動工作組織建議

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

參考防制洗錢金融行動工作組織 40 項建議，以及防制洗錢金融行動工作組織針對資助恐怖主義 9 項特殊建議。

Identification data

身分識別資料

Reliable, independent source documents, data or information will be referred to as “identification data”.
可靠、獨立的來源文件、資料，或資訊，會被稱為「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.

在外國被交付顯著公共職能之個人，例如國家或政府領袖、高階政治人士、高階政府、司法、軍事官員、國營事業高階管理階層、重要政黨高層。與 PEP 家族成員或親近往來的業務關係，涉及和重

要政治性職務人士本人類似的聲譽風險。此處定義並未涵蓋上述類別中階或更低階的個人。

Self-regulatory organisation (SRO)
自律組織 (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.

自律組織為代表專業人員（如律師、公證人、其他獨立法律專業人士或會計師）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，同時執行特定監理、監管的功能。該等自律組織應執行規範，以確保該等執業專業人員，具備高度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

防制洗錢金融行動工作組織與 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；比利時；亞賽拜然；加拿大；中華台北；歐盟執委會（EC）；奈及利亞；法國；香港；義大利；日本；盧森堡；歐洲議會反洗錢及打擊資助恐怖主義評估專家委員會（MONEYVAL）；荷蘭；紐西蘭；離岸銀行監管機關（OGBS）；土耳其、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

貴金屬與寶石交易商

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、國際貴金屬公會、世界珠寶聯盟、皇家加拿大造幣廠；珠寶商警覺委員會；世界鑽石交易所聯盟；加拿大珠寶商協會。

Real estate industry

不動產行業

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盟、國家不動產經紀人協會（英國）、瑞典不動產經紀人協會。

Trust and company service providers industry

信託及公司服務業者行業

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

信託與遺產職業人社團（STEP）、洛德信託公司（Law Debenture Trust Corporation）

Accountants industry

會計師行業

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.

美國認證公共會計師公會、加拿大特許會計師公會、歐洲會計師聯盟、德國稽核師公會、香港公共會計師公會、英格蘭與威爾斯特許會計師公會。

Casinos industry

賭場行業

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

歐洲賭場協會 (ECA)、直布羅陀監管局、凱特顧問 (Kyte Consultants) (馬爾他)、米高梅大飯店與旅館、網路博奕業者 (Unibet)、威廉希爾 (William Hill plc)。

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.

澳洲律師業者 (Allens Arther Robinson)、美國律師協會、美國信託與遺產顧問學院、西班牙公證人理事會總會 (Consejo General del Notariado)、歐洲律師委員會與律師會 (CCBE)、國際律師協會 (IBA)、英格蘭與威爾斯律師會、上加拿大律師會。