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Attorney-General's Department

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Working With International Jurisdictions



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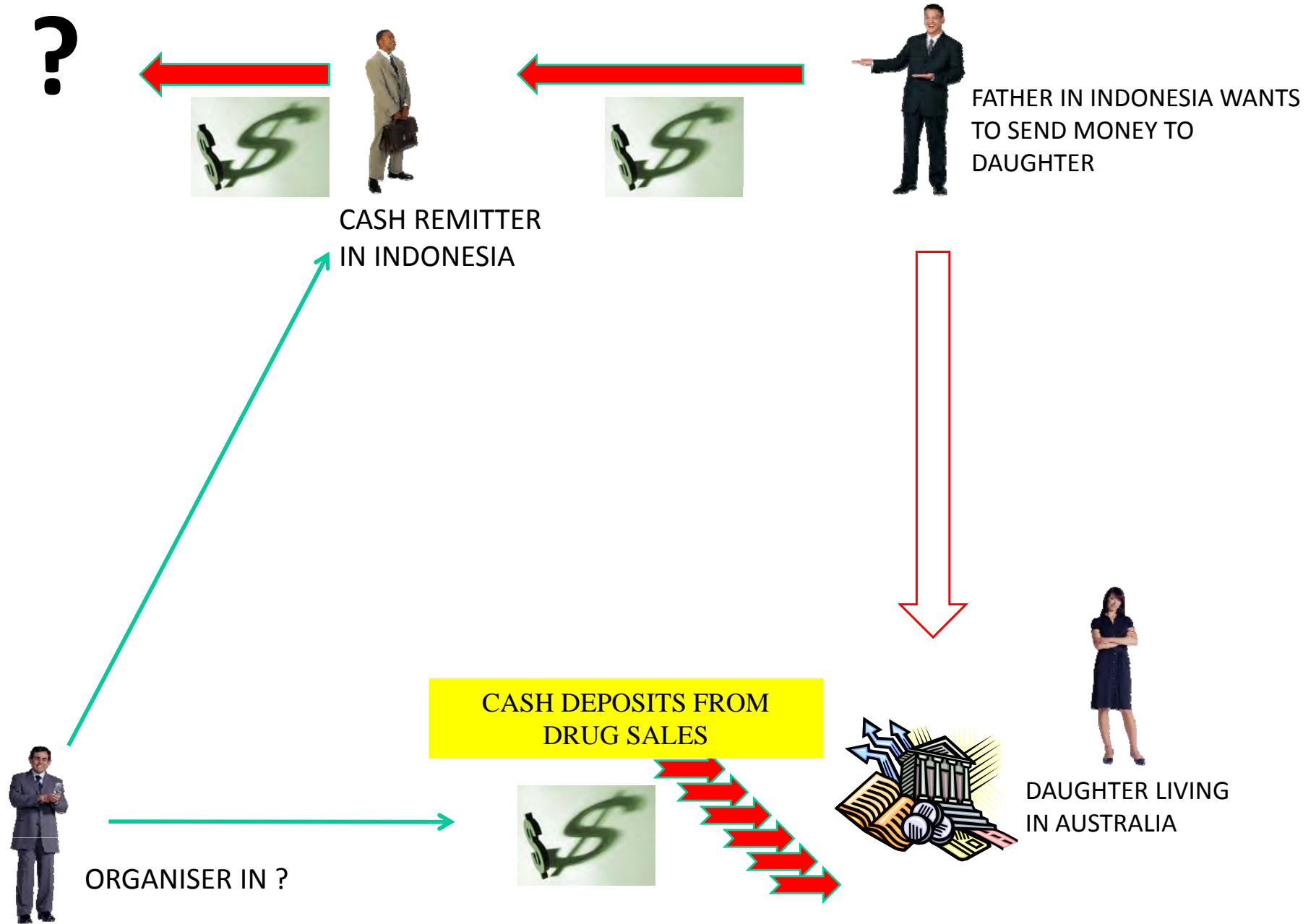
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- The ever increasing challenge of pursuing the proceeds of crime in foreign jurisdictions.



Allegation was that Peter Foster had obtained US\$580,000 via a loan from the Bank of the Federated States of Micronesia and there were irregularities regarding the land in Fiji which was used as security.

Cuckoo Smurfing – moving the money (fast).





Money Laundering

- Increased prevalence of professional money laundering syndicates providing a service to criminal syndicates
- The 'Heads' of money laundering syndicates predominantly based overseas
- Utilisation of complicit alternative remittance services in Australia and overseas (particularly in the Asia region)



Targeting The Money Before It Goes - Alternative Remitter Strategy

- Since October 2009, this strategy has resulted in cash seizures in excess of AUD 16 million dollars – seizure to restraint
- 12 persons charged with Commonwealth money laundering offences



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Locating POC Overseas Using Existing International Processes

- Police to Police assistance
- Egmont (FIU to FIU)
- CARIN style networks
- Mutual Legal Assistance



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CARIN@afp.gov.au

CARIN is an informal network of English speaking judicial and law enforcement practitioners, who are expert in the field of asset tracing, freezing, seizure and confiscation.



More... Map Satellite Earth



North Pacific Ocean

Greenland

Canada

United States

México

North Atlantic Ocean

South Atlantic Ocean

South Pacific Ocean

- CARIN
- ARINSA
- RRAG

CARIN 57 Members as at November 2010



Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, Ireland, Isle of Man, Israel, Italy, Jersey, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Montenegro, The Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America

9 International Organisations:



Europol, Egmont Group, Eurojust, International Criminal Court (ICC), International Monetary Fund (IMF), Interpol, OLAF, United Nations Office on Drugs and Crime (UNODC), World Bank



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Sourcing Key Records

- Government Records (travel, income declarations, tax, property ownership etc)
- Banking Records
- Company/Business Records
- Witness Testimony
- Execution of Warrants on Premises
- Suspect Interviews, (arrest and extradition issues)



Options For Restraint and Confiscation

- Registration of an Australian issued indictment based restraint and conviction based orders.
- Registration of an Australian issued non indictment based restraint and non conviction based orders.
- Seeking domestic orders in the foreign country based on your evidence.
- Obtaining domestic repatriation orders compelling the Australian based suspect to return funds to Australia.

FATF 40 + 9

- **Rec 1. Criminalise Money Laundering**, applies to all serious offences, threshold approach, applies to offences committed overseas.
- **Rec 3. Identify, trace, seize and freeze proceeds of crime** (encourage NCB forfeiture)
- **Rec 38. Assist countries to freeze and confiscate proceeds of crime**



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AGD - AMLAT

Assistance to developing countries

- FATF [APG-ML] Mutual Evaluation Reports
Strategic Implementation Workshops
Assistance to countries following their mutual evaluation in prioritising and addressing identified deficiencies.



Cook Islands SIP Workshop



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AGD - AMLAT

Assistance to developing countries

Legislation

Development

Money laundering and asset
confiscation laws



Indonesia – Discussion on draft POC laws



AMLAT is working with:

- **Vietnam** to develop improved asset confiscation and investigation laws.
- **Indonesia** to develop unexplained wealth confiscation laws and NCB laws.
- **Sri Lanka** to develop improved asset confiscation laws.
- **Pakistan** to enhance AML/CFT laws



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Draft Unexplained Wealth Law

Any person who has assets disproportionate to their income or disproportionate to any additional source of wealth who cannot prove their legal source of origin may have such assets confiscated on the basis of this Law.

Note:

Indicators of the existence of assets as include: State Official Assets Reports and Personal Tax Reports



Vietnam Criminal Procedures Code

Article 76 – Dealing with material evidences:

Material evidences shall be dealt with in the following manners:

- c) Material evidences which are money or properties obtained by committing crime, shall be put into state treasury.
- d) Material evidences which are easy to be destroyed or difficult to preserve, shall be sold in conformity with provision of law.
- e) Unvalued and useless material evidences shall be confiscated and destroyed.



Vietnam MER Comment

The Penal Code and the Criminal Procedure Code do not provide for confiscation of:

- a) property intended for the use in the commission of money laundering/terrorist financing offences; and
- b) property of corresponding value.



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Awareness Raising

Regional Conferences and workshops



Head of PPATK (FIU)
Yunus Husein



Regional Asset Forfeiture Workshop - Bali



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Solomon Islands Money
Laundering Workshop

Training & Mentoring



PNG Proceeds of Crime
Workshop



Direct case mentoring:

- Cook Islands Money Laundering and asset confiscation matters (their first use of these provisions)
- PNG continuing to progress their early success in using NCB laws to target the proceeds of corruption.
- Vietnam – attempts to register an Australian restraining order clarified legislative deficiencies.



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Prosecutor pairing program

- PNG
- Malaysia
- Indonesia



THE MONEY TRAIL



Li Kai Cheung

- Calamvale house bought for \$600,000 in 2005
- \$110,000 in his bank accounts

Xie Jianling

(wife of Li Yunnan, who has been jailed in China)

- Sunnybank Hills house bought for \$625,000 in 2003



- \$226,000 in her bank accounts
- \$2.1 million in an account under the name of her father, Xie Linze
- \$51,000 in accounts under husband's name
- \$82,000 under the name of her son, Li Xi

Huang Yanzhen

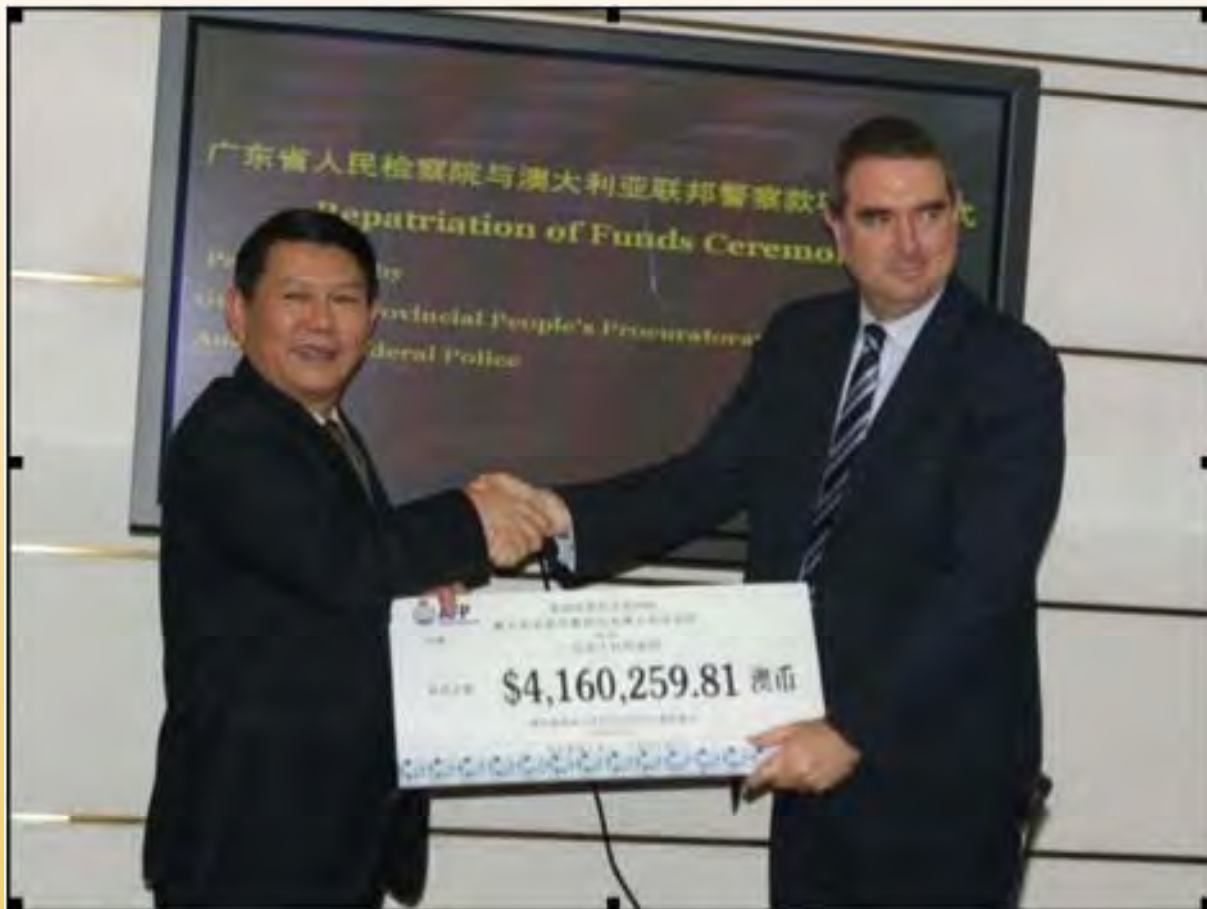
(Li Kai Cheung's separated wife)



- Kuraby house bought for \$550,000 in 2004
- \$138,000 in her bank accounts
- \$600,000 under the name of her sister, Wong Yin Fun
- \$210,000 under the name of her son, Li Zhenzhong



Demonstrating the benefits of international cooperation to all parties is helped by large value repatriation of funds such as Operation Distal – Chinese fugitive who fled to Australia.



OP DISTAL

Proceeds of Crime returned to China in November 2009

AFP Chief Operating Officer Andrew Wood presenting China's Guangdong Provincial People's Procuratorate Director General Zheng Hong with a cheque for **AUD \$4,160,259.81.**



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QUESTIONS