Implementation of United Nations Security Council Resolution (UNSCR) 1373 (2001)

1. By virtue of Chapter VII of the Charter of the United Nations, United Nations Security Council Resolution (UNSCR) 1373 is binding on all Member States. It imposes binding obligations on all States to suppress and prevent terrorism.

2. The United Nations Security Council has reiterated its determination to take all necessary steps in order to ensure full implementation of the resolution. The Security Council Counter-Terrorism Committee (CTC) was established pursuant to UNSCR 1373 to monitor the implementation of the resolution. The CTC has received, as of 30 May 2002, 155 reports on the implementation of UNSCR 1373 from UN Member States and other entities. Sub-Committees of the CTC are reviewing the reports and will complete the first review by mid-June 2002. In response to each report, the CTC will be writing, in confidence, to the Governments concerned offering its comments and States will be given three months to revert to the CTC with a further report.

3. The UN website indicated that the CTC was taking action with those Member States who had not yet submitted a progress report on the implementation of UNSCR 1373. On 20 May 2002, the Chairman of the CTC said that he had met both the Africa Group and the Caribbean Community, and that he was scheduled to meet the Pacific Islands Forum. The majority of non-submitters were members of these groups.

4. To our knowledge, all major common law jurisdictions (such as Australia, United Kingdom, Canada, Singapore, India and United States) have already enacted laws or introduced other measures giving effect to UNSCR 1373. We also note that the SAR's other major trading partners like the Mainland, the EU, France, New Zealand and Japan have also introduced legislation to implement UNSCR 1373.

Compliance with the Financial Action Task Force on Money Laundering (FATF)

Recommendations and Counter-Measures by the FATF

1. The FATF is not just a standard-setting body. It also assesses member jurisdictions' compliance with its standards, devises and strengthens counter-measures and works towards improving members' implementation of its recommendations. Failure to comply with its standards can lead to counter measures which have serious implications for the financial sector.

2. In October 2001, in addition to the its existing 40 Recommendations which are universally accepted as the best standards and practices in countering money laundering, the FATF promulgated 8 Special Recommendations to combat terrorist financing. The FATF also required its members to complete a self-assessment against the Special Recommendations by January 2002. That assessment included a commitment to come into compliance with the Special Recommendations by June 2002, and to put in place action plans to implement the Recommendations not already in place. In June 2002, the FATF plans to initiate a process to identify jurisdictions that lack appropriate measures to combat terrorist financing and to discuss the next steps, including possible counter-measures for jurisdictions that do not counter terrorist financing.

3. In deciding on the counter-measures against jurisdictions who fail to comply with the Special Recommendations, the FATF intends to draw reference from the existing counter-measures against the Non-cooperative Countries/Territories on money laundering (NCCTs). At present, the FATF has announced worldwide 19 countries as NCCTs[*], and has called upon the financial institutions in its member jurisdictions to give special attention to businesses and transactions with persons, including companies and financial institutions, in these countries. It is also applying additional counter-measures, including enhanced surveillance and reporting of financial transactions to Nauru, which was considered to have taken inadequate steps to improve its anti-money laundering regime. Such counter-measures include more stringent requirements for identification of beneficial owners before business relationships are

[*] Cook Islands; Dominica; Egypt; Guatemala; Grenada; Hungary; Indonesia; Israel; Lebanon; Marshall Islands; Myanmar; Nauru; Nigeria; Niue; Philippines; Russia; St. Kitts and Nevis; St. Vincent and the Grenadines and Ukraine

established with individuals or companies from an NCCT, warning non-financial sector businesses that transactions with entities within an NCCT might run the risk of money laundering, and taking into account the fact that a bank is from an NCCT when considering requests for approving the establishment in FATF member jurisdictions of subsidiaries or branches or representative offices of that bank.

4. Apart from the NCCT exercise, the FATF also utilizes an annual self-assessment mechanism among members and a mutual evaluation process which takes place every four years to ensure that all members' anti-money laundering regimes are constantly improved to meet the standards it prescribes. Hong Kong undertakes such self-assessment every year, and has been the subject of two mutual evaluations. The third round of mutual evaluation is planned to commence in 2003.

5. Apart from the above, the FATF can also suspend a jurisdiction's membership if the jurisdiction is repeatedly found not to be in compliance with its directives. A case in point was Austria whose membership was temporarily suspended in 2000 due to its failure to rectify the deficiencies in respect of its anonymous accounts.