MEKONG CLUB

Filipino Workers in Taiwan

This case study was written in collaboration with Migrasia. We thank Migrasia for their ongoing work in this field, and their support in providing vital information for our members.

Overview

Financial institutions are in a unique and vital position to identify patterns of transactional behaviours that point to modern slavery. Below we have set out an ongoing case study involving migrant workers from the Philippines working in Taiwan. The case study provides a detailed analysis of how modern slavery perpetrators carry out their operations in recruiting, trafficking and exploiting migrant workers. Although the case study spans across two jurisdictions, namely Hong Kong and Taiwan, the example below will focus primarily on the Taiwanese element. The case study also demonstrates indicators and red flags that allow for financial institutions and other stakeholders to clearly pinpoint transactional trends of “bad actors” involved in continuing modern slavery.

These bad actors or traffickers often use debt bondage as a means of exploiting migrant workers after they recruit them using job opportunities. Debt bondage occurs whereby cash is loaned from the trafficker to the worker which the latter must work off. Often times, the trafficker charges excessive interest which often leaves the worker continually exploited and unable to pay off the loans satisfactorily.

Case Study: Filipino Migrant Workers in Taiwan

A Philippines-based employment agency recruits migrant workers by offering job opportunities as domestic workers in Taiwan. The migrant workers are charged excessive and illegal placement fees which they cannot afford. The agency therefore refers the migrant workers to take out a loan from a Philippines-based money lender that is colluding with the agency. The agency also takes custody of the workers’ passport, working visa and employment contract and this is given directly to the money lender. This is to add increased pressure on the worker to ensure that the loan is taken out to pay the excessive agency fees.

A copy of the loan agreement is often not given to the migrant worker. The terms of the agreements are also kept vague and the true, excessive interest rates (ranging between 73% to 119% per annum) of the loans are often not communicated to the migrant worker. The loan agreement would often specify a sum in PHP and its equivalent in a foreign currency. However, the unfavourable exchange rate is not disclosed to the worker, which leads to excessive loan payment amounts. The money lender often provides a standard package in which workers are usually provided PHP 86,000 (NTD 50,145)[1] and the workers have to pay monthly installments of NTD 7,292 for 12 months.

Before the loan monies are given to the workers, the money lender coerces the workers to open bank accounts and to obtain cheque books (which are signed by the workers) from a bank in the Philippines. The workers are then coerced and intimidated into surrendering their cheque books to the money lender which will only be used for coercive purposes (more information below). The bank accounts will not be used by the migrant workers nor will salaries be paid into them.

1. Exchange rate as of 6 May 2021

The Philippines-based money lender subsequently assigns the loan to a Taiwanese company ("the creditor") which collects the payments from the migrant worker. Once the migrant worker begins working in Taiwan, he/she is given instructions to pay off the loan. This is by cash or by deposit using payment slips (with bar codes) at convenience stores. The workers are given payment receipts, a photo of which is sent to the creditor company via Line or other messaging platform.

Even though the payment slips are meant to be issued by the creditor, the payments are transferred directly to an account of another Taiwanese company ("company #2"). The use of convenience stores and the account of a third-party company helps to conceal the true flow of funds.
When the worker fails to make a payment, the creditor or company #2 uses a variety of methods to coerce the worker into paying:

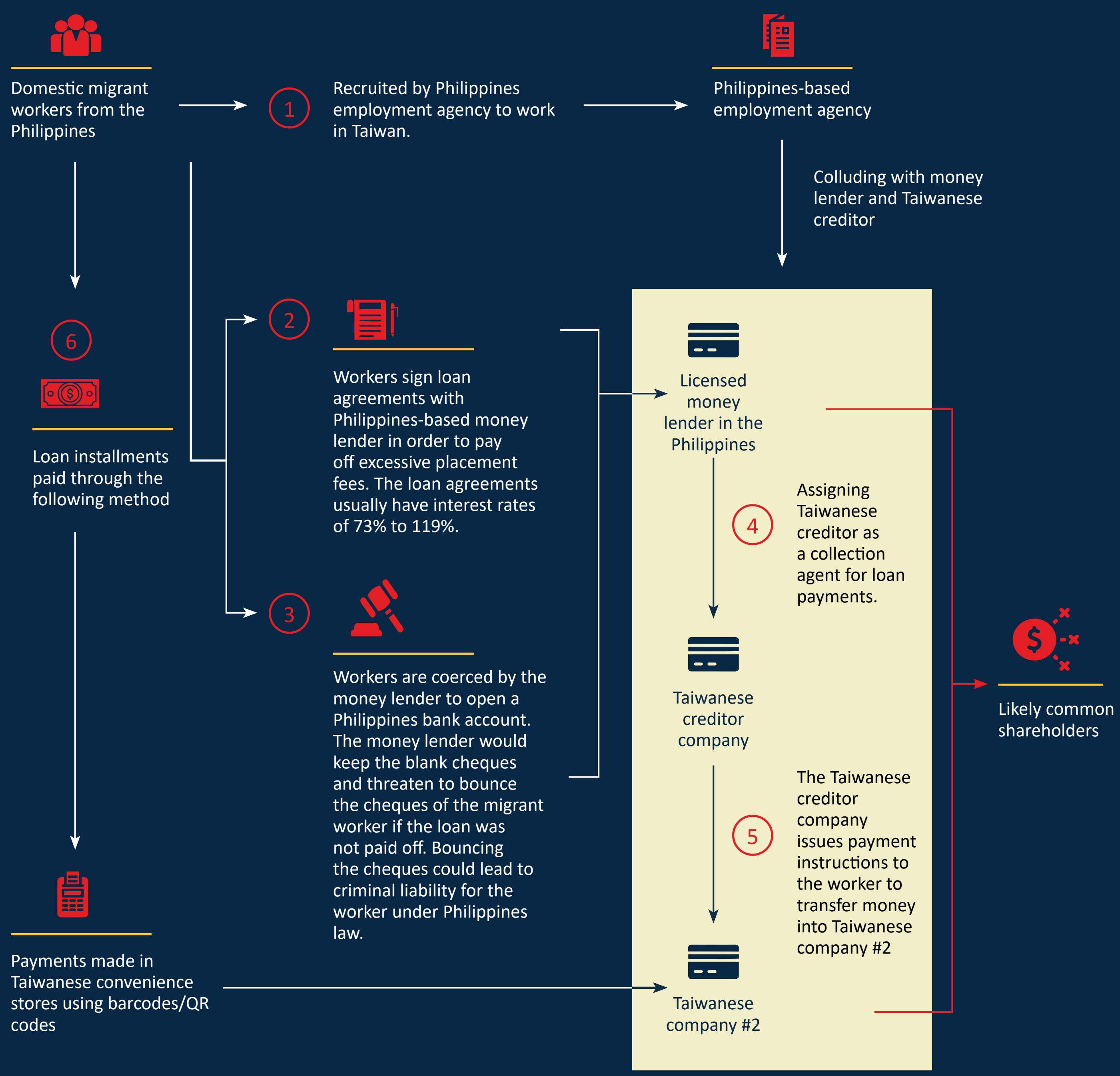
- Harassment through social media by disclosing the workers' personal details on the creditor's or company #2's profile;
- Sending demand letters to the migrant workers' place of employment. These letters are often addressed to the migrant worker's employer and disclose personal information to the employer in a means to embarrass the migrant worker into making payments;
- Initiating civil proceedings against the migrant workers in Taiwanese courts;
    - The creditor or company #2 would provide a false copy of the loan agreement to the court to underrepresent the interest rate as being under 20% per annum;
    - The court proceedings are often conducted in Chinese, which places the worker in a disadvantaged position as he/she is unfamiliar with the language;
- The Philippines-based money lender would threaten to bounce the blank cheques of the migrant worker which could lead to criminal liability for the worker under Philippines law despite such conduct being illegal. Even though migrant workers are afforded legal protection and immunity under Section 17 of the Philippines Expanded Anti-Trafficking in Persons Act of 2012, the act of bouncing the blank cheques and subsequent filing of a bounced check case will often result in arrest warrants being issued against the migrant workers who may be detained upon returning to the Philippines.

When the workers attempt the close the bank accounts, the staff at the banks would explain that they cannot close the accounts without the money lender's approval even though the account is under the workers' name. Bribery and suspected collusion between the bank staff and the money lender are suspected.

The creditor has committed numerous predicate offences under Taiwanese law. These offences include but are not limited to the following: charging and collecting excessive interest rates that are above 20% [2], money laundering (continued dealings with loan monies that exceed the legal interest rate)[3] and fraud (as the Philippines money lender and the creditor jointly demanded loan payments even though the loan was assigned to the creditor). Furthermore, it is possible that the collusion

2. This is in violation of the Civil Code Article 205 and Article 344 of the Criminal Code of Taiwan
3. In Taiwan, the excessive interest rates may amount to usury committed by the creditor. This is an unlawful act under the Money Laundering Control Act.

between the creditor and the Philippines money lender could constitute violations of Taiwan's Human Trafficking Prevention Act which, among other things, explicitly prohibits the exploitation and coercion of migrant workers for loan granting and collection. The Philippines money lender has also violated Republic Act 10022 of Philippines Law by granting loans to overseas Filipino workers with an interest rate exceeding 8% per annum which will be used for payment for job placement fees. It is likely that the loan was granted in the Philippines to avoid liability under the Criminal Code in Taiwan. It is suspected that the money lender, creditor and company #2 are owned by the same person(s).



Red Flags & Indicators

Indictors and red flags that financial institutions and convenience store employees should look out for:

In the Philippines

- Migrant workers requesting cheque books right before leaving the Philippines to work overseas. These checkbooks cannot be used as payment mechanisms for overseas payments;
- Employment agency or money lending company staff accompanying prospective migrant workers into bank branches to open accounts;
- A large number of "bounced cheques" which were issued to migrant workers. Especially if these checks are presented to be cashed during a period where the migrant worker would be working overseas and no salaries are paid into the accounts;
- Customers that are unable to articulate a reason for opening an account. In these situations, prospective migrant workers usually tell bank staff that they are "opening an account because the employment agency instructed me to";
- Potential collusion between customer facing bank staff and money lenders.

In Taiwan

- Migrant workers entering into convenience stores on a regular basis with payment slips that have barcodes on them in order to make loan payments;
- Dormant bank accounts held by migrant workers currently located in Taiwan;
- When conducting due diligence on a new client (particularly by financial institutions), litigation searches on an individual or their affiliated companies may yield former patterns of behaviour that indicate involvement in cross border debt bondage;
    - Litigation searches on the Taiwan High Court website potentially can reveal a large number of civil lawsuits filed against migrant workers over loans.[4]

4. https://law.judicial.gov.tw/FJUD/default_AD.aspx

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