# Anti-Money Laundering & Counter-Terrorist Financing Requirements for Trust or Company Service Providers

#### Contact us



Unit 1208, 12th Floor, One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong



3142 2822



enq@tcsp.cr.gov.hk



3586 9987



www.tcsp.cr.gov.hk



### Trust or Company Service Provider ("TCSP") Licensees are required to

- mitigate the risk of money laundering / terrorist financing ("ML / TF"); and
- comply with the anti-money laundering / counter-terrorist financing ("AML / CTF")
  requirements under the Anti-Money Laundering and Counter-Terrorist Financing
  Ordinance, Chapter 615 ("the AMLO").

## **Relevant Legislation**

Anti-Money **Drug Trafficking** Laundering and (Recovery of Counter-Terrorist Proceeds) **Financing** Ordinance. Ordinance, Chapter 405 Chapter 615 **United Nations** Organized and (Anti-Terrorism **Serious Crimes** Measures) Ordinance, Ordinance, Chapter 455 Chapter 575

TCSP licensees must assess the ML / TF risk of their businesses, develop and implement policies, procedures and controls on the following aspects



# **Customer Due Diligence ("CDD")**

## CDD are required to be performed by TCSP licensees

before establishing a business relationship with the customer

before conducting any occasional transaction that involves an amount ≥ HK\$120.000

when they suspect that the customer or the customer's account is involved in ML / TF

when they doubt the veracity or adequacy of any information previously obtained

TCSP licensees should take steps to keep customer information up-to-date and undertake periodic reviews of existing records of customers.

#### **Application of CDD**

Depending on the circumstances of the transactions, TCSP licensees may need to take additional measures, i.e. Enhanced Customer Due Diligence ("EDD"), or may conduct Simplified Customer Due Diligence ("SDD").



#### Customer

- Financial institution ("FI")
- Institution similar to FI established in an equivalent jurisdiction and supervised by a relevant authority
- Corporation listed on any stock exchange
- Regulated investment vehicle
- The Government / any public body in Hong Kong
- Government of / body in an equivalent jurisdiction

#### **Product**

- Provident, pension, retirement or superannuation scheme
- Insurance policy for the purposes of a provident, pension, retirement or superannuation scheme
- Life insurance policy:
  - annual premium ≤ HK\$8,000

- Non face-to-face transactions
- Politically exposed persons
- Customer is a corporation which has issued bearer shares
- Customer from or transaction connected with a jurisdiction which has insufficiently adopted recommendations of the Financial Action Task Force
- Situations specified by the Registrar

Apply **EDD** 

- Apply CDD measures
- Depending on the circumstances of the transaction:
  - further verify the customer's identity
  - take supplementary measures to verify information relating to the customer
  - obtain senior management approval

If yes, apply SDD

If not, apply **CDD** 

- Identify and verify
  - identity of the customer
  - identity and authority of a person who purports to act on behalf of the customer
- Understand the purpose and intended nature of the business relationship with the customer

- Identify and verify
  - identity of the customer
  - identity of the customer's beneficial owner
  - identity and authority of a person who purports to act on behalf of the customer
- Understand the purpose and intended nature of the business relationship with the customer

## **Record-keeping Requirements**

Original or copy of the documents, records, data and information in respect of customers and their transactions should be kept in accordance with the requirements of Schedule 2 to the AMLO

## In respect of each customer

Records should be kept throughout the continuance of the business relationship with the customer and for a period of at least 5 years after the end of the business relationship. These include:

- Records obtained in the course of identifying and verifying the identity of:
  - the customer
  - the beneficial owner
  - the person who purports to act on behalf of the customer
  - other connected parties
- Records kept on the purpose and intended nature of the business relationship
- Files relating to the customer's business relationship and business correspondence with the customer and any beneficial owner of the customer

## In respect of each transaction

Records should be kept for at least 5 years after the completion of a transaction regardless of whether the business relationship ends during the period. These include:

- Records obtained in connection with the transaction:
  - the identity of the parties involved
  - the nature and date of the transaction
  - the type and amount of currency involved
  - the origin of the funds
  - the form of the funds offered or withdrawn
  - the destination of the funds
  - the form of instruction and authority
  - the type and identifying number of any account involved in the transaction

# Under Schedule 2 to the AMLO, TCSP Licensees should ensure

Audit trail for funds movement in transactions is clear and complete Customer and customer's beneficial owner can be properly identified and verified

All customer / transaction records and information are available on a timely basis to the Registrar of Companies, other authorities and auditors Requirements specified in the "Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Trust or Company Service Providers" and other requirements imposed by the Registrar are complied with