



# Anti-Money Laundering & Counter-Financing of Terrorism Requirements for Trust or Company Service Provider Licensees

## ***Important***

This pamphlet is intended to provide a general guide. It should be read in conjunction with the provisions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615) and the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Trust or Company Service Provider Licensees).

## **Contact us**



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



2867 2600



enq@tcsp.cr.gov.hk



3586 9987



[www.tcsp.cr.gov.hk](http://www.tcsp.cr.gov.hk)



## Trust or company service provider (“TCSP”) licensees are required to

- mitigate the risks of money laundering and/or terrorist financing (“ML/TF”); and
- comply with the requirements under Schedule 2 of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615) (“the AMLO”).

### Relevant Legislation



TCSP licensees must adopt a risk-based approach, based on the institutional ML/TF risk assessment, in the design and implementation of their anti-money laundering and counter-financing of terrorism policies, procedures and controls with a view to managing and mitigating ML/TF risks, which must include:



## Application of customer due diligence

In addition to conducting customer due diligence ("CDD"), TCSP licensees may, depending on the circumstances, need to conduct enhanced due diligence ("EDD") or take additional measures. In certain situations, TCSP licensees may apply simplified due diligence ("SDD")<sup>1&2</sup>.

### Situations:

- Before establishing a business relationship with the customer
- Before conducting any occasional transaction involving an amount ≥ HK\$120,000
- When licensees suspect that the customer or the customer's account is involved in ML/TF
- When licensees doubt the veracity or adequacy of any information previously obtained

### Apply CDD

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

### When customer is:

- Financial institution ("FI")
- Institution similar to FI, established in an equivalent jurisdiction and supervised by a relevant authority for requirements similar to those imposed under Schedule 2 to the AMLO
- Corporation listed on any stock exchange
- Regulated investment vehicle
- The Government/any public body in Hong Kong
- Government of/body in an equivalent jurisdiction

### When product involves:

- 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
  - ◇ single premium ≤ HK\$20,000

### Apply SDD

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

### Situations:

- Situation that by its nature may present a high ML/TF risk
- Situations specified by the Registrar of Companies ("the Registrar") in a written notice
- Customer or customer's beneficial owner being a politically exposed person ("PEP")<sup>3</sup>
- Customer not physically present for identification purposes (except customer's identity has been verified by a digital identification system recognized by the Registrar)

### Apply EDD or additional measures<sup>4</sup>

- In addition to conducting CDD, to apply the following measures depending on specific circumstances:
- Obtain senior management approval
  - Establish the customer's or beneficial owner's source of wealth and funds
  - Further verify the customer's identity
  - Take supplementary measures to verify information relating to the customer
  - Ensure that the first payment is carried out through an account in the customer's name with a bank subject to similar CDD standards
  - Take additional measures to mitigate the risk of ML/TF involved
  - Conduct enhanced ongoing monitoring

<sup>1</sup> In addition to the situations with their applicable SDD measures listed below, a TCSP licensee may apply SDD in relation to a business relationship or transaction if it determines that, taking into account its risk assessment, the business relationship or transaction presents a low ML/TF risk. Please refer to the examples of possible SDD measures and further guidance set out in paragraph 4.8 of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Trust or Company Service Provider Licensees) ("the Guideline").

<sup>2</sup> SDD must not be applied or continued to be applied where a TCSP licensee no longer considers that there is a low degree of ML/TF risk, or it suspects ML or TF, or there are doubts about the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification.

<sup>3</sup> For respective requirements of different types of PEPs, please refer to paragraph 4.9 of the Guideline.

<sup>4</sup> For the applicable EDD measures and additional measures, please refer to Chapters 4 and 5 of the Guideline.

## Record-keeping requirements

Original or copy of the documents, records, data and information in respect of transactions carried out by TCSP licensees and in respect of customers must be kept in accordance with the requirements of Schedule 2 to the AMLO.

In respect of each customer	<p>The following documents and records must be kept throughout the continuance of the business relationship with each customer and for a period of <b>at least 5 years</b> beginning on the date on which the business relationship ends:</p> <ul style="list-style-type: none"><li>• Documents and records obtained in the course of identifying and verifying the identity of:<ul style="list-style-type: none"><li>◇ the customer</li><li>◇ the beneficial owner/beneficiary</li><li>◇ the person who purports to act on behalf of the customer</li><li>◇ other connected parties to the customer</li></ul></li><li>• Other documents and records obtained throughout the CDD and ongoing monitoring process, including SDD and EDD</li><li>• Documents and records kept on the purpose and intended nature of the business relationship</li><li>• Documents and records relating to the customer's account and business correspondence with the customer and any beneficial owner of the customer</li><li>• Results of any analysis undertaken</li></ul> <p>For occasional transaction involving an amount <math>\geq</math> HK\$120,000, the above documents and records must be kept for a period of <b>at least 5 years</b> beginning on the date on which the occasional transaction is completed.</p>
In respect of each transaction	<p>Documents, and a record of the data and information, obtained in connection with each transaction TCSP licensee carries out must be kept for a period of <b>at least 5 years</b> beginning on the date on which the transaction is completed, regardless of whether the business relationship ends during the period. Such documents and record must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.</p>

### TCSP licensees must ensure that

Audit trail for funds movement in transactions is clear and complete

All CDD information and transaction records are available swiftly to the Registrar, other authorities and auditors upon appropriate authority

Compliance with the relevant requirements specified in the Guideline and other guidelines issued by the Registrar can be demonstrated

## Financial sanctions, terrorist financing and financing of proliferation of weapons of mass destruction

TCSP licensees must comply with the legislation and regulations in relation to financial sanctions, terrorist financing and financing of proliferation of weapons of mass destruction. Please refer to the information pamphlet "Requirements Relating to Financial Sanctions, Terrorist Financing and Financing of Proliferation of Weapons of Mass Destruction (For Trust or Company Service Provider Licensees)" for further details.