



COMPANIES REGISTRY

REGISTRY FOR TRUST AND COMPANY SERVICE PROVIDERS

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

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## Trust or Company Service Provider (“TCSP”) licensees are required to

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

### Relevant Legislation



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



## Application of customer due diligence

Depending on the circumstances, in addition to conducting customer due diligence ("CDD"), TCSF licensees may need to conduct enhanced customer due diligence ("EDD") or take additional measures, while in certain situations, TCSF licensees may apply simplified customer due diligence ("SDD")

### Situations:

- before establishing a business relationship with the customer
- before conducting any occasional transaction that involves an amount  $\geq$  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 a 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  $\leq$  HK\$8,000
  - ◇ single premium  $\leq$  HK\$20,000

### Apply SDD<sup>1</sup>

- 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

### When situation involves:

- Customer not physically present for identification purposes (except customer's identity has been verified by a digital identification system recognized by the Registrar of Companies ("the Registrar"))
- Customer or customer's beneficial owner being a politically exposed person
- Customer is a corporation which has issued bearer shares
- Customer from or transaction connected with a jurisdiction identified by the Financial Action Task Force as having strategic AML/CTF deficiencies
- Situations specified by the Registrar in a written notice and any other situation that by its nature may present a high risk of ML/TF

### Apply EDD or additional measures<sup>2</sup>

- In addition to conducting CDD, to apply the following measures depending on specific circumstances:
- further verify the customer's identity
  - take supplementary measures to verify information relating to the customer
  - obtain senior management approval
  - establish the source of wealth and funds of customer and/or beneficial owner
  - conduct enhanced ongoing monitoring
  - take additional measures to mitigate the risk of ML/TF involved

<sup>1</sup> SDD must not be applied when licensees suspect that the customer, the customer's account or the transaction is involved in ML/TF, or when licensees doubt the veracity or adequacy of any information previously obtained.

<sup>2</sup> For the applicable EDD measures and additional measures, please refer to Chapters 5 and 6 of the "Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Trust or Company Service Providers".

## Record-keeping requirements

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

| In respect of each customer  | In respect of each transaction  |
|--|---|
| <p>Records must be kept throughout the continuance of the business relationship with the customer and for a period of <b>at least 5 years</b> after the end of the business relationship. For occasional transaction involving an amount <math>\geq</math> HK\$120,000, records must also be kept <b>at least 5 years</b> beginning on the date on which the occasional transaction is completed.</p> <p>The above includes:</p> <ul style="list-style-type: none"><li>● 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</li><li>◇ the person who purports to act on behalf of the customer</li><li>◇ other connected parties</li></ul></li><li>● Records kept on the purpose and intended nature of the business relationship</li><li>● Files relating to the customer's business relationship and business correspondence with the customer and any beneficial owner of the customer</li></ul> | <p>Records must be kept for <b>at least 5 years</b> after the completion of a transaction regardless of whether the business relationship ends during the period.</p> <p>These include:</p> <ul style="list-style-type: none"><li>● Records obtained in connection with the transaction:<ul style="list-style-type: none"><li>◇ the identity of the parties involved</li><li>◇ the nature and date of the transaction</li><li>◇ the type and amount of currency involved</li><li>◇ the origin of the funds</li><li>◇ the form of the funds offered or withdrawn</li><li>◇ the destination of the funds</li><li>◇ the form of instruction and authority</li><li>◇ the type and identifying number of any account involved in the transaction</li></ul></li></ul> |

### 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, 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

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

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