



# **Seminar for Money Service Operators (MSOs)**

## ***Licensing Requirements, Importance of Risk Identification & Ongoing Monitoring***

**Money Service Supervision Bureau**

**3 OCTOBER 2017**



# Application for Renewal of Licence

- Not later than **45 days before** the licence is due to expire





# Means of submitting application

- Electronic means
  - Money Service Operators Licensing System

- Paper mode



 **香港海關**  
**CUSTOMS AND EXCISE DEPARTMENT**  
表格 2  
金錢服務經營者牌照續期申請  
**Form 2**  
**Application for Renewal of a**  
**Money Service Operator (MSO) Licence**

香港法例 第 615 章《打擊洗錢及恐怖分子資金籌集(金融機構)條例》  
Anti-Money Laundering and Counter-Terrorist Financing  
(Financial Institutions) Ordinance, Chapter 615

請用正楷及黑色筆填寫表格，填寫本表格前，請先閱讀填表須知。  
Please fill in the form in capital letter and black ink and read the Guidance Notes before completing this form.

第 1 部 - 申請人的業務詳情  
Part 1 - Particulars of the Applicant's Business

金錢服務經營者牌照號碼 MSO Licence No.	
牌照日期(日/月/年) Date of Expiry (dd/mm/yyyy)	
業務/法團名稱(英文)(請填明在何處註冊) Name of Business / Corporation (in English) (as shown in the Business Registration Certificate)	
業務/法團名稱(中文)(請填明在何處註冊) Name of Business / Corporation (in Chinese) (as shown in the Business Registration Certificate)	





# **Part 5 of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO)**

## **Regulation of Operation of Money Service**





# Licensing Requirements





**Changes** that require the  
Commissioner of Customs and  
Excise's (CCE) **prior approval**





# Prior approval

- a person proposing to become licensee's director/ultimate owner/partner

(AMLO s35(1), s36(1) and s37(1))

A photograph of a document titled 'Form 4' in red text. The document is a form for the 'Application for Prior Approval' under the Anti-Money Laundering and Counter-Terrorist Financing (AMLO) regulations. It contains various sections for personal information, business details, and declarations.

- add premises to operate a money service or operate a money service at any particular premises

(AMLO s38(1) and s39(1))

A photograph of a document titled 'Form 4' in red text. The document is a form for the 'Application for Prior Approval' under the Anti-Money Laundering and Counter-Terrorist Financing (AMLO) regulations. It contains various sections for personal information, business details, and declarations.





# Change in Particulars

- The licensee must notify the CCE **in writing** of the following changes **within one month** beginning on the date on which the changes take place



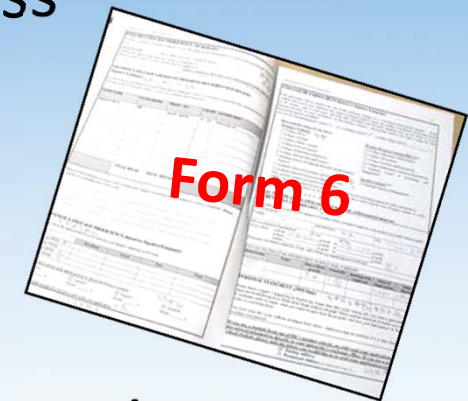




# Notify the CCE of the following changes (I)

## Change in:

- business / corporation name
- the nature of money service business
- principal (correspondence) address
- contact information
- business premises information
- telephone and fax no. of business premises
- information of other business being run in the business premises



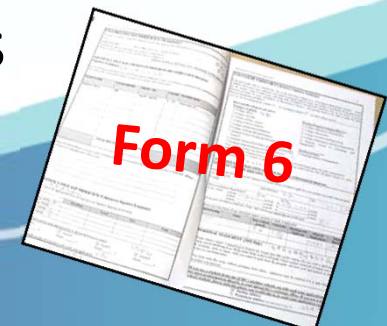


# Notify the CCE of the following changes (II)

## Change in:

- bank account used for operating money service business
- occupants of domestic business premises
- particulars of sole proprietor / partners / directors / ultimate owners
- partners / directors / ultimate owners
- “Fit and Proper” status of sole proprietor / partners / directors / ultimate owners

(AMLO s40(1))



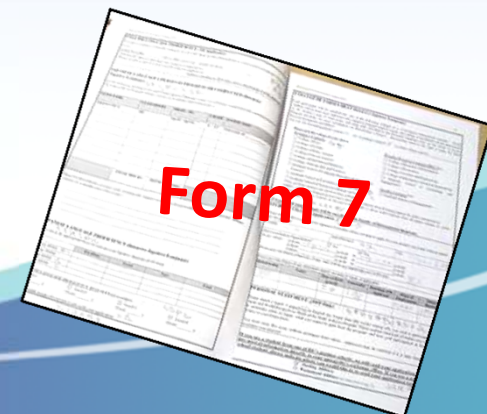


# Cessation of Money Service Business

A licensee must:

- before the date of cessation, notify the CCE in writing of that intention and the date of cessation; and
- return the licence to the CCE for cancellation or amendment within **7** days beginning on the date of cessation

(AMLO s41(1))







# Licence ceases to be valid

- if the licensee is an **individual**, on the **death** of the individual;
- if the licensee is a **partnership**, on the **dissolution** of the partnership; or
- if the licensee is a **corporation**, on the commencement of winding up of the corporation.

(AMLO s42)





# Breach of Licensing Requirements

## *Criminal offences*

- section 35(1), 36(1), 37(1), 38(1) and 39(1)
  - fine : HK\$50,000
  - imprisonment : 6 months
- section 40(1) and 41(1)
  - fine : HK\$50,000

## *Disciplinary actions*

- Section 43
  - public reprimand;
  - remedial action; and
  - pecuniary penalty not exceeding HK\$1,000,000





# **Anti-Money Laundering/ Counter-Terrorist Financing (AML/CFT) Systems**







# AML/CFT Policies, Procedures and Controls

- to take all reasonable measures to ensure that proper safeguards exist to mitigate the risks of ML/TF
- to prevent a contravention of any requirement under Part 2 or 3 of Schedule 2 (i.e. Customer Due Diligence and Record-keeping Requirements)
- to establish and implement adequate and appropriate AML/CFT systems taking into account factors including products and services offered, types of customers, geographical locations involved

(AML Guideline 2.1 - 2.2 )





# Timing of Identification and Verification of Identity





# Timing of Identification and Verification of Identity

- if cannot complete CDD, **must not** establish business relationship or carry out an occasional transaction
- assess whether this failure provides grounds for knowledge or suspicion of ML/TF and to report to JFIU

(AML Guideline 4.7)







# Risk Identification & Assessment





# Risk Identification & Assessment (I)

- identify the risks inherent in the industry and faced by this particular business
- establish and implement adequate & appropriate AML/CFT systems taking into account the following risk factors:
  - ✓ customer
  - ✓ product/service
  - ✓ delivery/distribution channel
  - ✓ country/geographical location





# Risk Identification & Assessment (II)

- Customer Risk

- ✓ customers with businesses that handle large amounts of cash
- ✓ customers with complex business ownership structures with the potential to conceal underlying beneficiaries
- ✓ customers who are potential Politically Exposed Persons (PEPs)
- ✓ customers who are not local to the business
- ✓ new customers/customers carrying out regular large transactions
- ✓ non face-to-face customers
- ✓ source of wealth cannot be easily verified







# Risk Identification & Assessment (III)

- Product/Service Risk
  - ✓ product/service that inherently have provided more anonymity
  - ✓ ability to pool underlying customers/funds





# Risk Identification & Assessment (IV)

- Delivery/Distribution Channel Risk
  - ✓ non face-to-face account opening approach – sales through online, postal or telephone channels
  - ✓ business relationship is indirect – business sold through intermediaries





# Risk Identification & Assessment (V)

- Country/Geographical Location Risk
  - ✓ having strong links to terrorist activities
  - ✓ increased vulnerabilities to corruption
  - ✓ inadequate systems to prevent and detect ML/TF

(AML Guideline 2.3 - 2.8 & 3.4 - 3.5)







# High-risk Situations





# High-risk Situations

- obtaining additional information on the customer and updating more regularly the customer profile including the identification data
- obtaining additional information on the intended nature of the business relationship, the source of wealth and source of funds
- obtaining the approval of senior management to commence or continue the relationship
- conducting enhanced monitoring of the business relationship, by increasing the number and timing of the controls applied and selecting patterns of transactions that need further examination

(AML Guideline 4.11)





# Ongoing Monitoring







# Continuous CDD Obligations

The CDD obligations to be imposed on MSOs are on-going. MSOs should continuously ensure that CDD measures are taken appropriately and customer information is up-to-date. MSOs should conduct CDD measures when it

- finds any suspicious or unusual transaction by the customer
- finds any material change in the operation of the customer's account
- becomes aware that it lacks sufficient information about the customer





# Ongoing Monitoring (I)

- Continuously monitor business relationship with a customer by :
  - ✓ reviewing from time to time CDD documents, data and information
  - ✓ scrutinizing transactions with customers to ensure they are consistent with the customer's risk profile
  - ✓ identifying transactions that are complex, large or unusual or patterns of transactions with no apparent economic or lawful purpose

(AML Guideline 5.1)





# Ongoing Monitoring (II)

- Risk-based approach to monitoring:
  - ✓ the extent of monitoring should be linked to the risk profile of the customer which has been determined through the risk assessment
  - ✓ must take additional measures when monitoring business relationships that pose a higher risk

(AML Guideline 5.7 - 5.8)







# Ongoing Monitoring (III)

- Methods and Procedures
  - ✓ should take into account the following factors
    - ▣ the size and complexity of its business;
    - ▣ its assessment of the ML/TF risks arising from its business
    - ▣ the nature of its systems and controls
    - ▣ the monitoring procedures that already exist to satisfy other business needs
    - ▣ the nature of the products and services
    - ▣ exception reports (e.g. large transactions report) will help stay apprised of operational activities of the customer

(AML Guideline 5.9)





# Ongoing Monitoring (IV)

- examination of transactions that are complex, large or unusual, or patterns of transactions which have no apparent economic or lawful purpose
- findings/outcomes properly documented in writing
- proper records of decision made, by whom, and rationale

(AML Guideline 5.10)





# Ongoing Review







# Ongoing Review

- adjust risk assessment of a particular customer from time to time or based upon information received from a competent authority
- review the extent of the CDD and ongoing monitoring to be applied to the customer
- keep policies and procedures under regular review and assess risk mitigation procedures and controls are working effectively





# Internal Monitoring System





# Internal Monitoring System

- conduct regular audits to test the procedures are adhered to throughout the business
- review and update of risk controls
- provision of regular and timely information to senior management
- training of employees on legal responsibilities and risk alert





# Points to note





# Record-keeping Requirements (I)

## Transaction Record

- keep the original or a copy of the documents
- must be kept for a period of six years beginning on the date on which the transaction is completed, regardless of whether the business relationship ends during the period





# Record-keeping Requirements (II)

## Customer Record

- the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and verifying the identity of the customer or any beneficial owner of the customer; and
- the original or a copy of the files relating to the customer's account and business correspondence with the customer and any beneficial owner of the customer.
- must be kept throughout the continuance of the business relationship with the customer and for a period of 6 years beginning on the date on which the business relationship ends.





## Schedule 2, Section 21 Record-keeping Manner

- If the record **consists of a document**, either :
  - (i) the original of the document must be kept; or
  - (ii) a copy of the document must be kept either on microfilm or in the database of a computer; or
- If the record **consists of data or information**, a record of the data or information must be kept either on microfilm or in the database of a computer.







# Thank You

