



# Seminar for Money Service Operators – Licensing Requirements and Key Compliance Issues under the AMLO

Money Service Supervision Bureau

25 May 2018



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

## Regulation of Operation of Money Service



# Licensing Requirements



**Changes** that require  
the CCE's **prior approval**



# Prior approval

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

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

Form 4

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

[AMLO s38(1) and s39(1)]

Form 5



# Change in Particulars

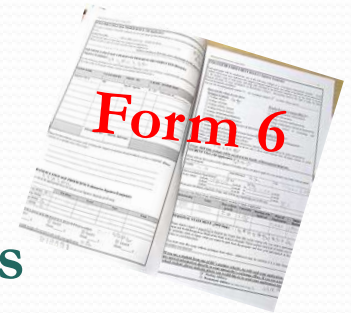
The licensee must notify the CCE **in writing** of the following changes **within one month** beginning on the date on which the changes take place



## Notify the CCE the following changes (I)

### Change in

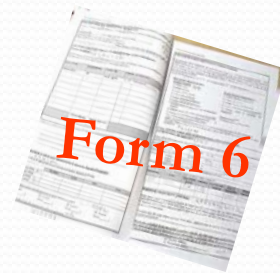
- business / corporation name
- the nature of money service business
- principal (correspondence) address
- contact information
- business premises information
- telephone and fax no. of business premises
- information of other business being run on the business premises





## Notify the CCE the following changes (II)

- 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
- bank account used for operating money service business



[AMLO s40(1)]

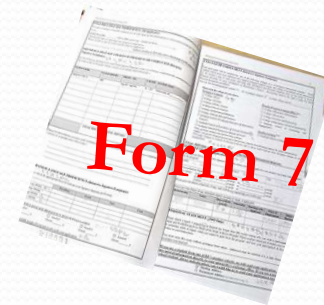


# Cessation of Money Service Business

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 of HK\$50,000; and
  - ◆ imprisonment for 6 months
- section 39A(1), 40(1) and 41(1) of the AMLO
  - ◆ fine of HK\$50,000

## Disciplinary actions

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



# CUSTOMER DUE DILIGENCE



# What is Customer Due Diligence?

## Guideline 4.1.3

### (a) Identify and Verify customer's identity



Using reliable, independent source documents, data or information

### (b)

➤ *Where there is a beneficial owner in relation to the customer, identify and take reasonable measure to verify the beneficial owner's identity*



➤ *In the case of a legal person or trust, measures to enable the FI to understand the ownership and control structure of the legal person or trust*

- (d) If a person purports to act on behalf of the customer:
- (i) Identify the person and verify the person's identity **using reliable and independent source documents, data or information**
  - (ii) Verify the person's **authority** to act on behalf of the customer



### (c)

Obtain information on the **purpose** and **intended nature of the business relation**





# When to apply CDD?

## Guideline 4.1.9

- (a) At the outset of a business relationship;



- (b) Before performing any occasional transaction:  
(i) equal to or exceeding and aggregate value of 120,000; or  
(ii) a wire transfer equal to or exceeding an aggregate value of \$8,000;

## When to apply CDD?



- (d) When the FI doubts the veracity of adequacy of any information previously obtained for the purpose of identifying the customer or for the purpose of verifying the customer's identity



Where FIs become aware that the CDD thresholds are met or exceeded, full CDD procedures must be applied

## Guideline 4.1.10

- (c) When the FI suspects that the customer or the customer's account is involved in ML/TF;



# Identification and verification of a person purporting to



## act on behalf of the customer

### Guideline 4.4.1 & 2



Authorized Representative

I am John Doe ,  
I act on behalf  
of ABC  
Company

Please provide  
your  
HKID/Passport

Verify the Person's identity



MSO

Do you have  
written  
authority?

Verify the Person's authority

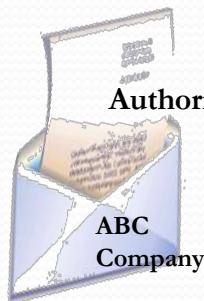
Sources of documents, data  
or information:

- (A) a government body;
- (B) the relevant authority or any other relevant authority;
- (C) any authority in a place outside Hong Kong that performs functions similar to those of the relevant authority or any other relevant authority; or
- (D) any other reliable and independent source that is recognized by the relevant authority.

### Guideline 4.4.3



Authorization



ABC  
Company



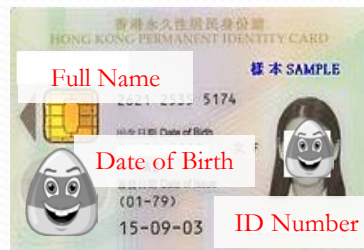
# Verification (Hong Kong Residents)

## Guideline 4.8.2

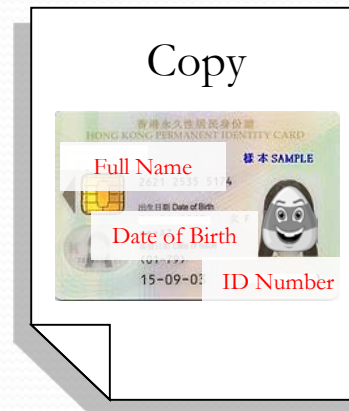
Hong Kong Residents



Verification



Record Keeping

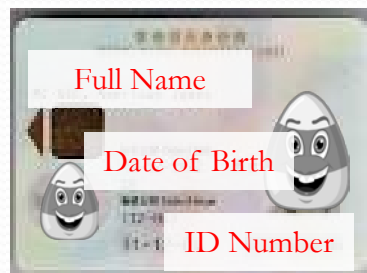




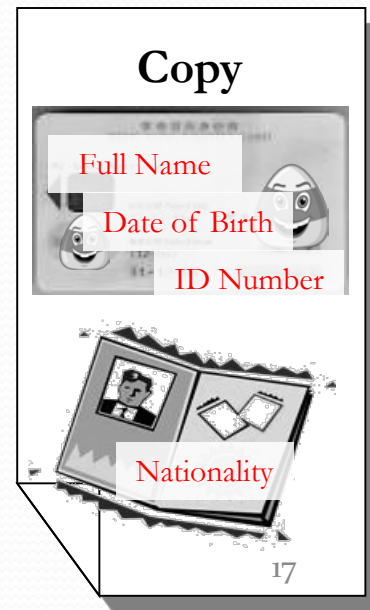
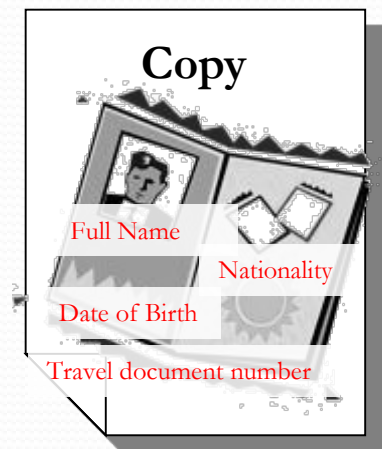
# Verification(non-residents)

## Verification of non-residents

### Guideline 4.8.4



Record Keeping





# Verification (Non-residents)



Hong Kong



Overseas


Non-residents who are physically present should produce:  
– valid/ unexpired travel documents

Non-residents who are not physically present should produce:

- (1) Valid international passport/ other travel documents
- (2) Relevant national identity card bearing the individual's photograph
- (3) Valid national driving licence bearing the individual's photograph

**Travel documents are referring to passport or other documents bearing the holder's photograph for certifying the holder's identity, nationality, place of residence or permanent domicile**



- 
- ① Permanent Resident Identity Card of Macau Special Administrative Region
  - ② Mainland Travel Permit for Taiwan Residents
  - ③ Seaman's Identity Document
  - ④ Taiwan Travel Permit for Mainland Residents
  - ⑤ Permit for residents of Macau issued by Director of Immigration
  - ⑥ Exit-entry Permit for Travelling to and from Hong Kong and Macau for Official Purposes
  - ⑦ Exit-entry Permit for Travelling to and from Hong Kong and Macau



## Definition of Politically Exposed Persons (PEPs)

Guideline  
4.13.5



Head of State



Head of Government



Senior Politician



Senior government,  
judicial or military  
official



Senior Executive of a  
state-owned corporation



Important political  
Party official



- (i) Spouse, partner, child or parent of an individual;
- (ii) Spouse or partner of a child of such an individual



Close associate of an individual



## Special requirements when customer is a politically exposed person

- obtain approval from its senior management; and
- take reasonable measures to establish the customer's or beneficial owner's source of wealth and the source of the funds that will be involved in the proposed business relationship.



# Ongoing monitoring on customers or transactions (1)

## Guideline 3.6

Why do we need to conduct  
Ongoing monitoring?

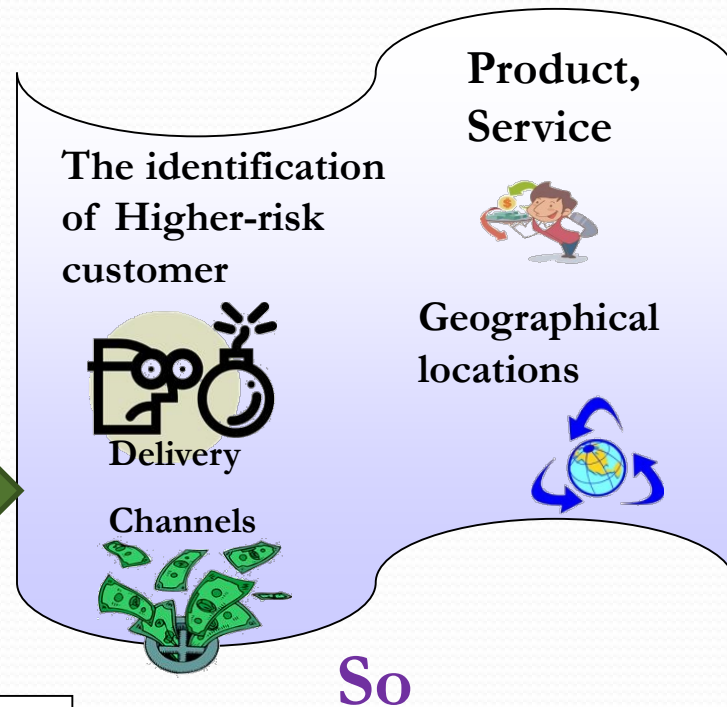


Since

May change  
constantly



Review policies and  
procedures



So

Guideline 3.7



# Ongoing monitoring on customers or transactions (2)

How to monitor customers' activities and detect suspicious transactions?



Ensure the documents are up-to-date and relevant

Monitor customer transactions and activities



Identify any transactions that are complex, large or unusual patterns of transactions.



**Guideline 5.1**



# Ongoing monitoring on customers or transactions (3)

## Guideline 5.3

Any possible characteristics we should consider monitoring?

## These includes:

**1** Nature and type of transactions

**Suspicious!**

e.g. Abnormal size or frequency of the transactions



**2** Nature of a series of transactions



e.g. a number of cash deposits

**3** Large transactions



**4** Any suspicion in geographical origin/destination of a payment or receipt?



**5** The customer's normal activity or turnover





# Ongoing monitoring on customers or transactions (4)

## Guideline 5.4

Stay alert if there are changes on the basis of the business relationship with the customer over time



What kind of changes we should pay high attention to?

1

New products or services that pose higher risk are entered into

2

Created



4

To add 10 million more for this transaction

3

Wow! So much?



Sudden change in stated activity or turnover of a customer, particularly for sudden increase





The above examples are for reference only. For details, please refer to "AMLO" and related guidelines.



# Points to note



# Points to note



1. Only recording the transactions exceeding the threshold



## Suggestion

- Should keep records for all money changing transactions

2. Full name / identity of the customers are not recorded down for remittance transactions

## Suggestion

- Should record the full name of the customers



Useful for detecting and preventing any abnormal or suspicious activities so as to achieve effective ongoing monitoring and to make sure complete information collected for the transactions





# Points to note



3. Insufficient understanding & record-keeping for the source of fund and transaction purpose of the customers

## Suggestion

- Should record the source of fund and purpose of transaction on remittance slip, or ask for further supporting documents when necessary, to reduce the risk of money laundering and terrorist- financing



# Points to note



## 4. How to conduct CDD for company customers

### Suggestion

- By obtaining company information from documents registered with Company Registry, identify and verify the customers' ownership and company structure, and then take reasonable measures to further verify the identity of authorized person and beneficial owner





# Points to note



5. Risk-based approach to monitoring

## Suggestion

- By assigning risk rating to individual customers to ensure the transactions are consistent with the nature of business/ risk profile and source of funds



# Points to note

6. Record-keeping of customer records in a systematic manner by filing the customer records in a computer system

## Suggestion

- Filing the customer records obtained throughout the CDD procedures, for example, sorting customer names in alphabetical order or according to their ID no. or assigning customer numbers for individual customers for easy reference.

Time-saving and facilitate to verify the identity of the customers or look up the customer information again in future





# Points to note



## Schedule 2, Section 20 Duty to keep records

- for a period of at least **5 years** beginning on the date on which the transaction is completed





# Points to note

## Schedule 2, Section 21 Record-keeping Manner



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





# Points to note

Guideline 4.3

## Ultimate owner

In relation to an individual :

- (a) means another individual who ultimately owns or controls the money service business of the first-mentioned individual; or
- (b) if the first-mentioned individual is acting on behalf of another person, means the other person.



# Points to note

Guideline 4.3

## Ultimate owner

In relation to a partnership, means an individual who:

- (a) is entitled to or controls, directly or indirectly, more than a **25%** share of the capital or profits of the partnership;
- (b) is, directly or indirectly, entitled to exercise or control the exercise of more than **25%** of the voting rights in the partnership; or
- (c) exercises ultimate control over the management of the partnership.



# Points to note

Guideline 4.3

## Ultimate owner

In relation to a corporation, means an individual who:

- (a) owns or controls, directly or indirectly, including through a trust or bearer share holding, more than **25%** of the issued share capital of the corporation;
- (b) is, directly or indirectly, entitled to exercise or control the exercise of more than **25%** of the voting rights at general meetings of the corporation; or
- (c) exercises ultimate control over the management of the corporation.



# United Nations sanctions

## Early Alert System

- recently implemented by C&ED for promptly notifying MSOs of the latest / updated information of UN Sanctions
- upon receiving of the Early Alert, it is MSOs' obligations of taking necessary actions to ensure that UNSC sanctions resolutions and sanctions lists are incorporated into screening databases, whether internal or provided by external vendors, as soon as practicable after promulgation by the UNSC
- take reasonable preventive measures to guard against remittance to and from the sanctioned entities
- file STRs for suspicious transactions



# United Nations sanctions

- To help enhance the effectiveness of MSOs' screening and other actions with regard to United Nations sanctions, the C&ED will issue alert circulars whenever new or revised sanctions resolutions or sanctions lists relating to terrorism, terrorist financing and proliferation are promulgated by the United Nations Security Council (UNSC).
- MSOs are also advised to browse the UNSC Sanctions Committee website for other relevant new or revised sanctions resolutions or sanctions lists promulgated by UNSC from time to time. (<https://www.un.org/sc/suborg/en/sanctions/information>)



## Points to note

- Under section 39A(1) of the AMLO, a licensee who is licensed to operate a money service at premises specified in the licence must **display the original of the licence** in a conspicuous place at the specified premises.
- A licensee who, without reasonable excuse, contravenes section 39A(1) commits an offence and is liable on conviction to a maximum fine of \$50,000. Any breach of the requirements under sections 39A(1) of the AMLO is subject to the imposition of disciplinary actions by the CCE.



# CASE SHARING



# Case Sharing

## October 2014

Woman convicted for *operating a money service without a licence*

- Jailed for 2 months, suspended for 2 years and disqualified from holding a licence for a period of 12 months

## June 2015

Money service operator convicted for *contravention of record-keeping requirements*

- Sentenced to 200 hours of community service

## October 2015

Customs reprimands licensed money service operator for *contravention of customer due diligence and record-keeping requirements*

- Public reprimand



# Enforcement News

## April 2016

Money service operator convicted for *breaching licensing requirements*

- Fined \$4,000 in total

## July 2016

Woman convicted for *operating a money service without a licence*

- Fined \$25,000 in total

## October 2016

Money service operator convicted for *contravention of customer due diligence requirements*

- Fined \$24,000 in total

## January 2017

Money service operator convicted for *contravention of customer due diligence and record-keeping requirements*

- Fined \$126,000 in total



# Enforcement News

## January 2017

Money service operator convicted for *operating a money service without a licence*

- Fined \$28,000 in total

## June 2017

Money service operator convicted for *operating a money service without a licence*

- Fined \$10,000 in total

## August 2017

Money service operator convicted for *operating a money service without a licence*

- Fined \$16,000 in total

## November 2017

Money service operator convicted for *operating a money service without a licence*

- Fined \$15,000 in total

## December 2017

Disciplinary action on money service operator for *contravention of AMLO*

- Pecuniary Penalty of \$21,000 in total



# Enforcement News

## March 2018

Woman and Man were convicted for *jointly operating a money service without a licence*  
- Fined \$30,000 in total and each disqualified from holding a licence for a period of 6 months

## March 2018

Man was convicted for *operating a money service without a licence*  
- Fined \$40,000

## May 2018

Money service operator convicted for *breaching licensing requirements*  
- Fined \$32,000 in total



## Case Sharing

All licensed money service operators must comply with customer due diligence and record-keeping requirements as stipulated in the Ordinance.

- The maximum penalty on conviction is **imprisonment for seven years and a fine of \$1 million.**
- Commissioner of Customs & Excise may take disciplinary actions including **publicly reprimanding the MSO, ordering the MSO to take remedial actions and to pay a pecuniary penalty not exceeding \$10 million.**



# Reference

- Website of MSSB:

[https://eservices.customs.gov.hk/MSOS/index?request\\_locale=en](https://eservices.customs.gov.hk/MSOS/index?request_locale=en)



# Phone Scams



香港警務處  
Hong Kong Police Force

防止罪案科  
Crime Prevention Bureau



攜手同心防罪行 Join Hands, Prevent Crime

## Beware of Telephone Deception

Mom, I have been arrested!  
I need bail money!

I'm a Mainland Public Security  
Officer, we suspect you of money  
laundering!  
You must pay a surety bond!

There are some problems  
with your parcel.  
You have incurred a fine!

**ALWAYS VERIFY A  
CALLER'S IDENTITY  
DON'T GET CONNED**

### Police Advice - If you receive a call from someone you do not know:-

- Do not disclose your bank account number or online banking password.
- Do not deposit money into a stranger's bank account.
- Do not pass on the personal data of your children, relatives or friends.
- Do not readily believe what callers say. Call your friends and relatives to verify if they know the caller.
- If you suspect a caller is trying to con you, hang up and call the Police.



香港警務處流動應用程式  
HKP Mobile App



Call 999 to report crime

CPB (2015/048)



# Recommendations to MSO

- Execute customer due diligence and record keeping ;
- Identify the potential victims and the suspicious transactions ;
- Reject and terminate any suspicious remittance or transactions ;
- Remind the potential victims, delay the transactions and make STR ;



## Questions to suspicious remittance

Example:

- Are you requested to do the Send Remittances by the enforcement authorities, bank or delivery company?
- Are you requested to transfer money to an unknown account to help your relatives out of fake trouble?
- Are you requested to make the payment in ransoms for releasing your relatives / friend?
- Are you requested to pay for overseas legal charge?

Where appropriate, **CAUTION! THEY WOULD BE SUSPICIOUS.**



# Money Service Operators were commended at the Good Citizen Award Presentation Ceremony

## Press Releases

Forty citizens commended for helping police fight crime (with photos)

\*\*\*\*\*

Forty citizens who helped the Police fight crime were

Two of the awardees, [REDACTED], worked in the same money exchange shop. They helped six elderly people, who were wooed to remit money to rescue relatives in the Mainland, to uncover telephone scams and avoid suffering monetary loss between April last year and January this year.

With the help of today's awardees, more than 80 persons were arrested for a variety of offences including robbery, burglary, theft, indecent assault and wounding. Each of the awardees received a certificate and a cheque of \$3,000 at the ceremony.

Two of the awardees, [REDACTED], worked in the same money exchange shop. They helped six elderly people, who were wooed to remit money to rescue relatives in the Mainland, to uncover telephone scams and avoid suffering monetary loss between April last year and January this year.

Another two awardees, [REDACTED], assisted the Police to recover \$160,000 of lost property. In December last year, three cash boxes were dropped off from a cash escort vehicle, with banknotes scattered on the road. Two passengers on board of a taxi, which was driven by Mr Lau, got off and picked up some of the banknotes. Mr Lau provided information to the Police, leading to the identification of the passengers. Ms Chan, who worked at the vicinity where the passengers boarded the taxi, also helped the Police in identifying the suspects. Both passengers were arrested, while one of them was later convicted and sentenced to a five-month imprisonment.

Presented twice a year, the Award is organised by the Police Public Relations Branch and sponsored by the HKGCC. More than 4 000 persons have been commended over the years.



## Report to Police

- In case of emergency, call 999 for immediate assistance;
- Report to nearby police station or police officer on patrol;
- If a suspicious transaction is identified, the information can be passed to the Joint Financial Intelligence Unit;
- In case of non-urgent inquiries on any matters relating to “Telephone Deception” , please contact the designated unit on 2726 6285 during office hours between 9 am and 6 pm.

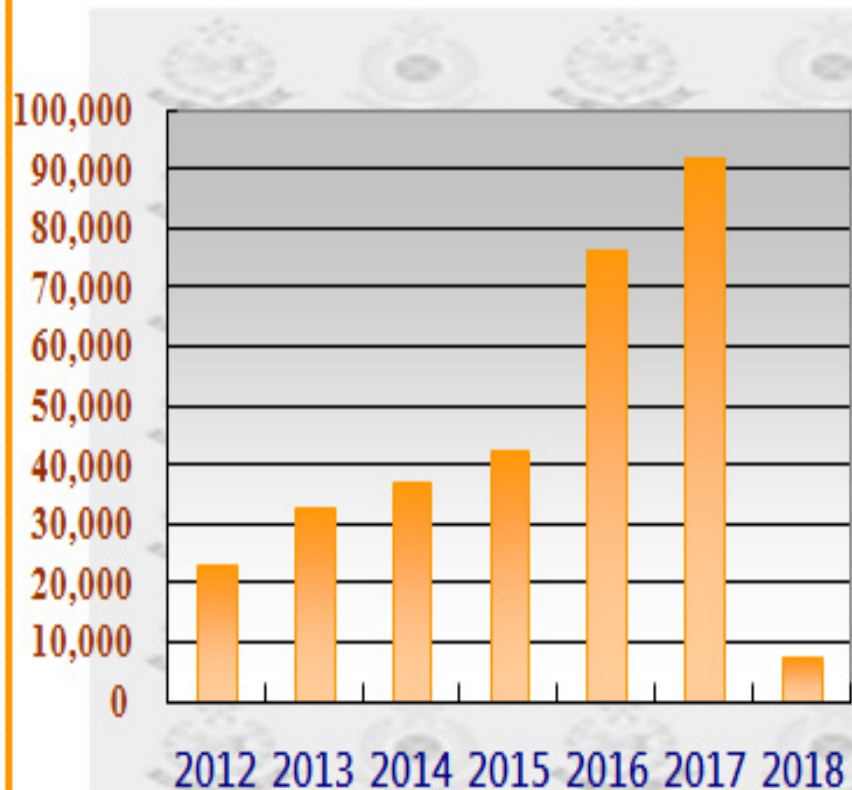


# Suspicious Transaction Report





# No. of STR Received



2012

23,282

2013

32,907

2014

37,188

2015

42,555

2016

76,590

2017

92,115

2018

7,783



## Breakdown of STR filed by different sectors in 2017

Sector	No. of STR received in 2017	Percentage (%)
Banks	86,029	93.39
Insurance	1,094	1.19
Securities	2,090	2.27
Money Service Operator	908	0.99
Money Lender	28	0.03
Stored Value Facilities Licensees	590	0.64
Real Estate	71	0.08
Dealers in Precious Products	60	0.07
Legal	555	0.60
Accounting	19	0.02
Trust & Corporate Services	31	0.03
Others	640	0.69
<b>Total</b>	<b>92,115</b>	<b>100</b>



# Suspicious Transaction Report

- Avoid reporting repeatedly
- Provide contact information
- Create file reference
- Complete report without missing pages
- Include relevant description and rationale
- Neat and clear font/ writing
- Fill in the latest version of STR report

**REPORT MADE UNDER SECTION 25A OF THE  
DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ORDINANCE OR  
ORGANIZED AND SERIOUS CRIMES ORDINANCE /  
SECTION 12 OF THE UNITED NATIONS (ANTI-TERRORIST MEASURES) ORDINANCE  
TO THE JOINT FINANCIAL INTELLIGENCE UNIT ("JFIU")**

Date:
Ref. No.:

**(A) SOURCE**

Name of Institution:	Tel. No.:
Reporting Officer:	Fax No.:
Signature:	Email:

**(B) SUSPICION**

(Please provide details of transaction and property arousing suspicion and any other relevant information relating to money laundering associated predicate offence(s) and/or terrorist financing. Please also include any explanation given by the person(s) conducting the transaction and/or dealing with the property. Particulars of account holder, person conducting the transaction and the transactions are to be given in the following sections)

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合規事項(續)

## Joint Financial Intelligence Unit (JFIU)

### Means:

Telephone: (852) 2866 3366

Fax: (852) 2529 4013

Email: [jfiu@police.gov.hk](mailto:jfiu@police.gov.hk)

Mail: GPO Box 6555 Hong Kong



# THE END