



香港海關
Customs and Excise Department

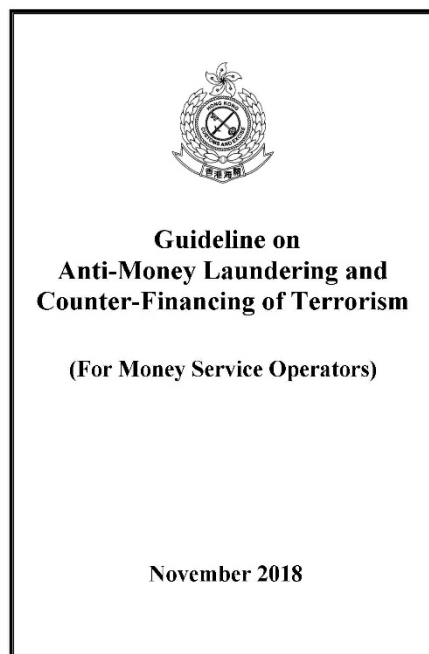
Compliance Functions and Statutory Obligations of Money Service Operators

9 July 2021

Money Service Supervision Bureau

Trade Controls Branch

Guideline on Anti-Money Laundering & Counter-Financing of Terrorism



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<i>Tipping off</i> s.23A(5), DTROP ¹ & OSCO, s.12(5), UNATMO	7.6	It is an offence ("tipping off") to reveal to any person any information which might prejudice an investigation; if a customer is told that a report has been made, this would prejudice the investigation and an offence would be committed. The tipping-off provision includes circumstances where a suspicion has been raised internally within an MSO, but has not yet been reported to the JFIU.
AML/CFT Systems in relation to suspicious transaction reporting		
	7.7	An MSO should implement appropriate AML/CFT Systems in order to fulfil its statutory reporting obligations, and properly manage and mitigate the risks associated with any customer or transaction involved in an STR. The AML/CFT Systems should include: (a) appointment of an MLRO (see Chapter 3); (b) implementing clear policies and procedures over internal reporting, reporting to the JFIU, post-reporting risk mitigation and prevention of tipping off; and (c) keeping proper records of internal reports and STRs.
	7.8	An MSO should have measures in place to check, on an ongoing basis, that its AML/CFT Systems in relation to suspicious transaction reporting comply with relevant legal and regulatory requirements and operate effectively. The type and extent of the measures to be taken should be appropriate having regard to the risk of ML/TF as well as the nature and size of its business.
<i>Money laundering reporting officer</i>		
	7.9	An MSO should appoint an MLRO as a central reference point for reporting suspicious transactions and also as the main point of contact with the JFIU and law enforcement agencies. The MLRO should play an active role in the identification and reporting of suspicious transactions. Principal functions of the MLRO should include having oversight of: (a) review of internal disclosures and exception reports and, in light of all available relevant information, determination of whether or not it is necessary to make a report to the JFIU; (b) maintenance of all records related to such internal reviews; and (c) provision of guidance on how to avoid tipping off.
<i>Identifying suspicious transactions and internal reporting</i>		
	7.10	An MSO should provide sufficient guidance to its staff to enable them to form suspicion or to recognise the signs when ML/TF is taking place. The guidance should take into account the nature of the transactions and customer instructions that staff is likely to encounter, the type of product or service and the means of delivery.
	7.11	An MSO may adopt, where applicable, the "SAFE" approach promoted by the JFIU, which includes: (a) screening the account for suspicious indicators; (b) asking the customers appropriate questions; (c) finding out the customer's records; and (d) evaluating all the above information. Details of the "SAFE" approach are available at JFIU's website (www.jfiu.gov.hk).
	7.12	An MSO should establish and maintain clear policies and procedures to ensure that:



Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) Systems

- Core mind-set: RBA
- Adopting a risk-based approach to establish and implement adequate and appropriate AML/CFT systems
 - 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 to the AMLO (i.e. CDD and Record-keeping requirements)



Risk-based Approach (RBA)

- Institutional Risk Assessment
 - To identify, assess and understand the ML/TF risks of the MSO itself
(AMLO Guideline 2.2 – 2.9)
- Customer Risk Assessment
 - To assess the ML/TF risks associated with a business relationship, e.g. customers to MSOs
(AMLO Guideline 2.12 – 2.15)



Customer Due Diligence (CDD) Measures

- CDD must be carried out at the outset of a business relationship; before performing any specified occasional transaction or when suspicion arisen in the course of customer identification/verification
(AMLO Guideline 4.2)

- Additional Measures / Enhanced Due Diligence (“EDD”) measures must be applied to high ML/TF risk situations, e.g. Politically exposed persons (“PEPs”)

(AMLO Guideline 4.9)



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Enhanced Due Diligence / Additional Measures

- Obtaining additional information, e.g.
 - Customer, e.g. occupation, volume of assets
 - Source of funds or Source of wealth
 - Reason for the transaction
- Updating more regularly the identification data of customer/beneficial owner
- Requiring the first payment made by the customer's bank account



EDD Measures

- Management approval to commence / continue the relationship
- Enhanced ongoing monitoring of the business relationship: more and frequent controls applied and selecting patterns of transactions that need further examination



Ongoing Monitoring

- MSOs must continuously monitor its business relationship with a customer in two aspects:
 - Ongoing CDD
 - Transaction monitoring



Ongoing Monitoring

- Ongoing CDD
 - Reviewing from time to time the documents, data and information relating to customer
 - Ensuring the obtained CDD information up-to-date and relevant
 - Developing policies and procedures on the frequency of periodic review



Ongoing Monitoring

- Transaction Monitoring
 - Scrutinizing transactions to ensure that they are consistent with the customer's risk profile
 - Identifying transactions that are complex, large in amount, of unusual patterns and transactions with no apparent economic or lawful purpose
 - Maintaining adequate and effective transaction monitoring systems and processes



Ongoing Monitoring

- Risk-based approach to Transaction Monitoring:
 - The extent of monitoring should be commensurate with the ML/TF risk profile of a customer
 - Additional measures must be taken when monitoring business relationships that pose a higher risk



Ongoing Monitoring

- Systems and Processes should be developed by considering the following factors:
 - Size and complexity of its business
 - ML/TF risks arising from its business
 - Nature of its systems and controls
 - Monitoring procedures existed to serve other business need
 - Nature of the products and service provided



Ongoing Monitoring

- If there are any grounds for suspicion, MSOs should:
 - obtain explanation of transaction/activity
 - document the findings/outcomes of steps taken
 - record the rationale of any decision made
 - file Suspicious Transaction Report with the JFIU



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 ensure risk mitigation procedures and controls run effectively



Internal Monitoring System

- Conduct regular audits
- Review and update of risk controls
- Provision of regular and timely information to senior management
- Training of employees on legal responsibilities and risk alert



Compliance Inspection

- Section 9 of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance
- For ascertaining compliance with any provision of the Ordinance / any notice or requirement given or imposed / any condition imposed



Compliance Inspection

Authorized person may

- enter the business premises
- inspect, copy or record details of any record/document relating to the business carried on or any transaction
- Inquire the MSO or any other person who may have information relating to/in possession of any record or document



Specified record/document at specified time and place

- Written notice
- Transaction period
- Transaction summary
(e.g. sender, receiver, amount, reference number... etc in spreadsheet format)



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Customs and Excise Department

香港海關
金錢服務監理科
九龍九龍灣德輔道中19號
南豐商業中心12樓1218-22室

CUSTOMS AND EXCISE DEPARTMENT
HONG KONG
Money Service Supervision Bureau
Units 1218-22, 12/F, Nan Fung Commercial Centre,
19 Lam Lok Street, Kowloon Bay, Kowloon.

Our Ref: [REDACTED]
To : [REDACTED]
Date: [REDACTED]

Dear Sir/Madam,

Routine Inspection pursuant to section 9 of the
Anti-Money Laundering & Counter-Terrorist Financing Ordinance ("AMLO")
Chapter 615, Laws of Hong Kong

Pursuant to section 9 of the AMLO, I am writing to inform you that the following authorized person will conduct a routine inspection in relation to the compliance requirements of a licensed Money Service Operator namely [REDACTED] with details as follows:

Date : [REDACTED]
Time : [REDACTED]
Address : Units 1218-22, 12/F, Nan Fung Commercial Centre,
19 Lam Lok Street, Kowloon Bay, Kowloon.
Authorized Person : [REDACTED]

For the purpose of the inspection, you are required to bring the following documents and records relating to the money service business carried on, or any transaction carried out, by [REDACTED] to the above address as scheduled.

Documents/Records	Transaction Period
(1) Business Plan	[REDACTED]
(2) AML Policy Statement	
(3) Customer Records (Full Set)	
(4) Transaction Summary (Full Set)	
(5) Transaction Records (Full Set)	
(6) Bank Statements (Full Set)	

For the customer and transaction records, please refer to Chapter 8 of the Guideline on Anti-Money Laundering & Counter-Terrorist Financing.

Please note that late provision of the required documents is considered as failure to comply with section 9(3) and 9(5) of the AMLO, i.e., to produce the documents or records within the specified time and place as well as to answer questions as raised by the authorized persons, you are liable to be prosecuted under section 10 of the AMLO and shall be liable on summary conviction to a fine of \$50,000 and to imprisonment for 6 months.

Should you have any question, please contact [REDACTED] at 2707 7 [REDACTED] during office hours.

Yours sincerely,
([REDACTED])
for Commissioner of Customs and Excise

Acknowledge receipt by: [REDACTED] Date : [REDACTED]
(Signature and Business Chop)

CUSTOMS AND EXCISE DEPARTMENT
HONG KONG
Money Service Supervision Bureau
Units 1218-22, 12/F, Nan Fung Commercial Centre,
19 Lam Lok Street, Kowloon Bay, Kowloon.

《金銀業條例》
規條

單人將姓名稱為 [REDACTED]
詳情如下：

2樓1218-22室

[REDACTED] 經營金錢服務或連

《恐怖分子資金籌集指引》第8章。

例》第9(3)及9(5)條，即須在
出的問題。如你未能遵從要求，根
判罰款50,000元及入獄6個月。

等。

海關關長

([REDACTED] 代行)

確認收妥： [REDACTED]
(簽名及公司蓋印)

日期： [REDACTED]

What our officers will do

- Documentary review
- Process walk-through
- Interviews and inquiry
- Inquiry at connected parties
- Sample-based testing



Statutory Obligations

- To give access / produce to authorized person and verify the record or document within the time and at specified place
- To answer any question regarding the record or document (if without knowledge - fact and reason by statutory declaration)



Statutory Obligations

Violation:

- on conviction on indictment - fine of \$200,000 and to imprisonment for 1 year; or
- on summary conviction- fine at level 5 (\$50,000) and to imprisonment for 6 months.





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Customs and Excise Department

- The End -

Thank you !

Contact Information

Tel : 2707 7837

Email : msoenquiry@customs.gov.hk