



Seminar for Money Service Operators –

Licensing Requirements and Key Compliance Issues under the AMLO

Money Service Supervision Bureau

27 May 2016



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An application for the Renewal of a Licence

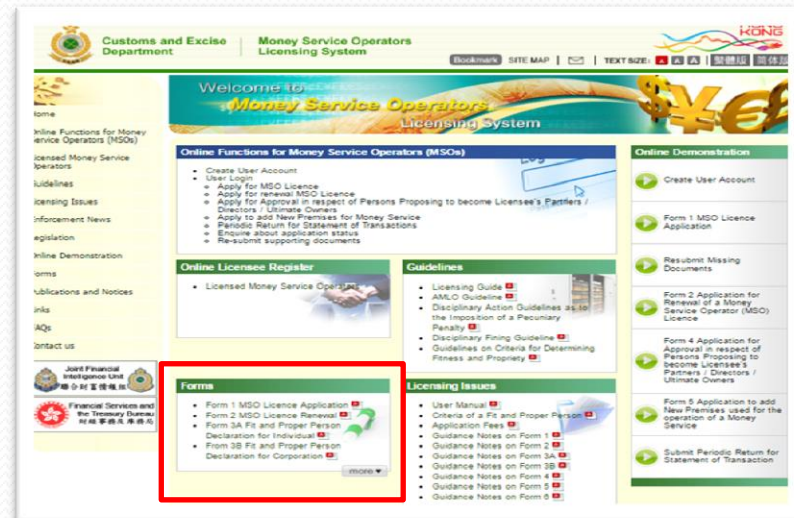
Not later than 45 days before the licence is due to expire



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.

香港海關使用
For Official Use Only
Receipt Date: _____
Application No.: _____
Licence No.: _____
Approval Date: _____

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.	
屆滿日期(年/月/日) Date of Expiry (dd/mm/yyyy)	
業務/法團名稱(英文)(須與登記證上牌照名稱一致) Name of Business / Corporation (in English) (as shown in the Business Registration Certificate)	
業務/法團名稱(中文)(須與登記證上牌照名稱一致) Name of Business / Corporation (in Chinese) (as shown in the Business Registration Certificate)	
業務名稱(英文)(選擇)	



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))

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

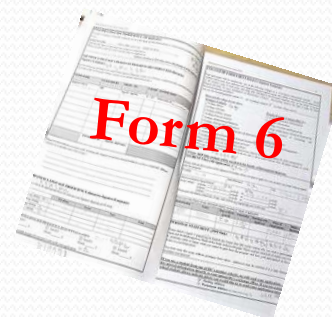
The licensee must notify the CCE **in writing** of the following changes **within one month** beginning on the date on which the changes take place



Needs to 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
- bank account used for operating money service business

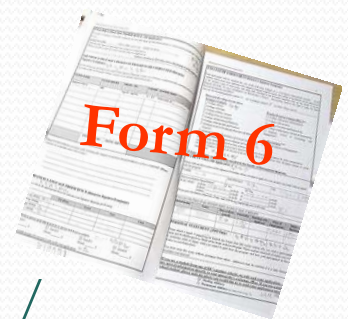




Needs to notify the CCE of the following changes (II)

- 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

[AMLO s40(1)]



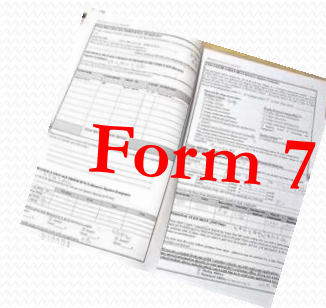


Cessation of Money Service Business

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

Disciplinary actions

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



CUSTOMER DUE DILIGENCE



What are Customer Due Diligence Measures?

Guideline 4.1.3

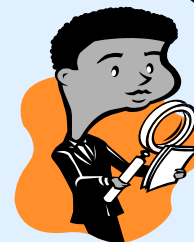
(a) Identify and Verify customer's identity



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 relationship**





When to apply CDD?

Guideline 4.1.9

When to apply CDD?



- (a) At the outset of a business relationship



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

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



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

Guideline 4.1.10

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



Identification and verification of a person purporting to



act on behalf of the customer

Guideline 4.4.1 & 2



Authorized Person

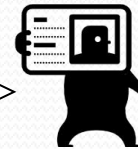
I am Chan Tai Man, I act on behalf of ABC Company

Please provide your HKID/Passport

Verify the Person's identity



MSO



Guideline 4.4.3



Written authority

Sources of documents, data or information:

- (A) a governmental 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.

Verify the Person's authority

Do you have the written authority?



Verification(Hong Kong Residents)

Guideline 4.8.2

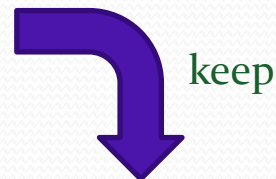
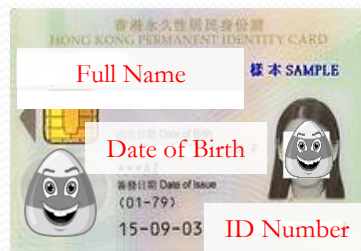
Hong Kong Residents



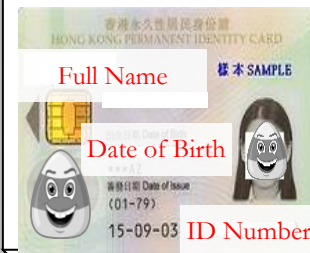
MSO



Verify



Copy

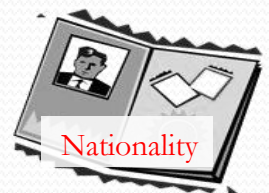
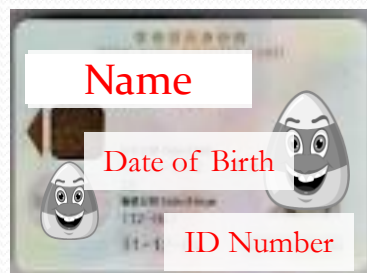




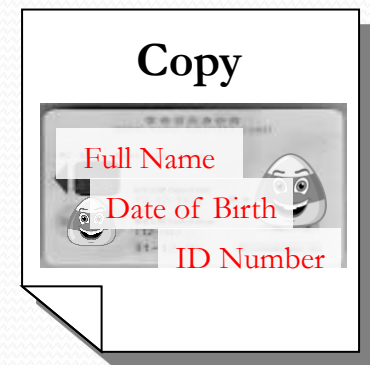
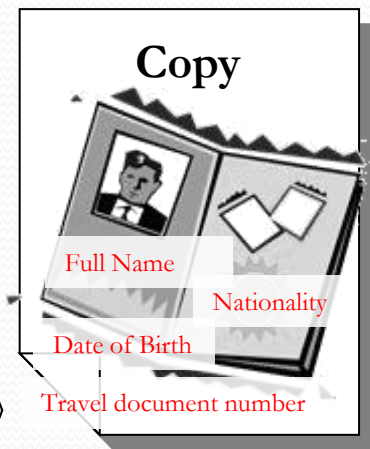
Verification(non-permanent residents)

Make reference to
the following
documents

Guideline 4.8.4



Record
Keeping





Verification(Non-residents)



In Hong Kong

Non-residents who are physically present should produce:

- valid/ unexpired travel documents





Verification(Non-residents)



Overseas

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

Example

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

Travel Documents



Definition of Politically Exposed Persons (PEPs)

In a place outside the People's Republic of China:

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 regularly

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 or 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 Examples are

有新嘢...



New products or services that pose higher risk are entered into

②

Created



④

To add 10 million more for this transaction

③



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

Wow! So much?





The above examples are for reference only.
For details, please refer to "AMLLO" 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

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.
- Filing the customer records in a computer system

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





CASE SHARING



Case Sharing

October 2014

A Chinese female was 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

February 2015

A MSO was convicted for *operating after expiry of licence*

- Fined \$30,000 in total



June 2015

A MSO was convicted for *contravention of CDD*

- Fined \$428,000 in total



Case Sharing

June 2015

A MSO was convicted for *contravention of record-keeping requirements*

- Sentenced to 200 hours of community service

October 2015

A MSO was reprimanded publicly for *contravention of CDD and record-keeping requirements*

April 2016

A MSO was convicted for *breaching licensing requirements*

- Fined \$4,000 in total



Contravention of CDD and Record-keeping Requirements

➤ Criminal offences

- ◆ Imprisonment for 7 years
- ◆ \$1,000,000

➤ Disciplinary actions

- ◆ public reprimand;
- ◆ remedial action; and
- ◆ pecuniary penalty not exceeding HK\$10,000,000



Phone Scams





Recommendations to MSO

- Conduct CDD measure, maintain accurate record-keeping and inquire the purpose of the transaction
- Identify suspicious transactions and then alert customers to the suspicions
- Reject and terminate any suspicious transaction
- Report it to the Authority concerned



Questions to suspicious remittance

Example:

- Have you requested to remit money to other people's accounts as a deposit or other purposes by the enforcement authorities, bank or courier company ?
- Have you requested to transfer money to an unknown account to help your relatives out of trouble?
- Have you requested to make the payment in ransoms for releasing your relatives / friend?
- Have you requested to pay for overseas legal charge?



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 60 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.

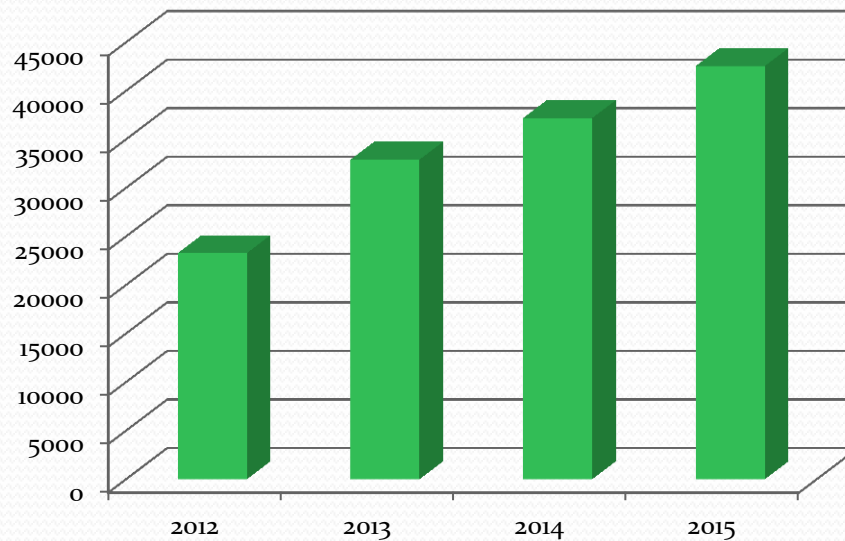


Suspicious Transaction Report (STR)





STR Received



2012	23,282
2013	32,907
2014	37,188
2015	42,555



Breakdown of STR filed by different sectors in 2015

Sector	STR received in 2015	Percentage
Banks	34,959	82.15
Money Service Operator	3,566	8.38
Securities	1,095	2.57
Legal	894	2.1
Insurance	495	1.16
Money Lender	33	0.08
Real Estate	31	0.08
Trust & Corporate Service	22	0.05
Dealers in Precious Products	6	0.01
Accounting	6	0.01
Others	1,488	3.41
Total	42,555	100



STR

- 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)



Joint Financial Intelligence Unit (JFIU)

Means:

Telephone: (852) 2866 3366

Fax: (852) 2529 4013

Email: jfiu@police.gov.hk

Mail: GPO Box 6555 Hong Kong



THE END



Development of the Anti-Money Laundering and Counter- Terrorist Financing (AML/CFT) Mutual Evaluation



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- Risk Assessment Work
- Financial Action Task Force (FATF)
- Mutual Evaluation (ME)



Concepts of:

- Risk Assessment (RA)
- Risk-Based Approach (RBA)
- National Money Laundering and Terrorist Financing (ML/TF) Risk Assessment (NRA)



AML Guideline

Guideline on Anti-Money Laundering and Counter- Terrorist Financing

(For Money Service Operators)

March 2015

National ML/TF Risk Assessment (NRA)



FATF GUIDANCE

National Money Laundering and Terrorist Financing Risk Assessment

February 2013



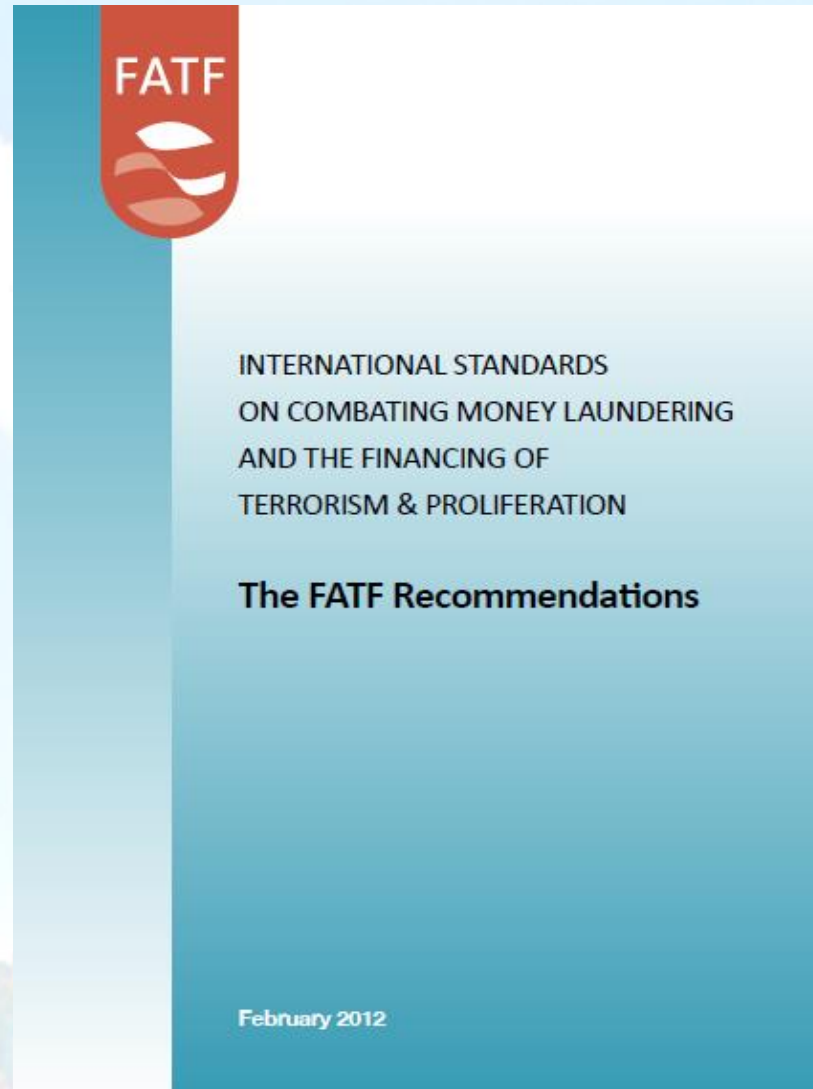


Financial Action Task Force (FATF)

- Intergovernmental body established in 1989 by the Ministers of its member jurisdictions
- Set out the international anti-money laundering and counter-terrorist financing (AML/CFT) standards
- 40 Recommendations
- Ensure the compliance of its member states



The FATF 40 Recommendations





Mutual Evaluation (ME) Process

A peer-review mechanism to maintain consistent and effective implementation of the FATF standards





Mutual Evaluation (ME) Process (Cont'd)

- FATF's working group meetings and Plenary
- Mutual Evaluation Report (MER)
- Regular follow-up process
- Enhanced follow-up process



Mutual Evaluation of Hong Kong 2007

Development after the 2007 ME

- November 2007: No statutory backing for customer due diligence (CDD) and record-keeping requirements
- October 2010: Hong Kong Government introduced the draft AML Bill
- July 2011: the AML Bill was passed into law as the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO), Cap. 615
- April 2012: The AMLO came into force



Relevant Authorities under the AMLO

Financial Institutions	Relevant Authorities
Banks and Deposit-taking Companies	Hong Kong Monetary Authority (HKMA)
Licensed Corporations	Securities and Futures Commission (SFC)
Insurers, Insurance agents and Insurance brokers	Office of the Commissioner of Insurance (OCI)
Money Service Operators and the Postmaster General	Commissioner of Customs and Excise (CCE)



Mutual Evaluation Reports of Hong Kong

2008 MER



THIRD MUTUAL EVALUATION REPORT
ANTI-MONEY LAUNDERING AND
COMBATING THE FINANCING OF TERRORISM
HONG KONG, CHINA

11 JULY 2008

2012 Follow Up MER



4TH FOLLOW UP REPORT

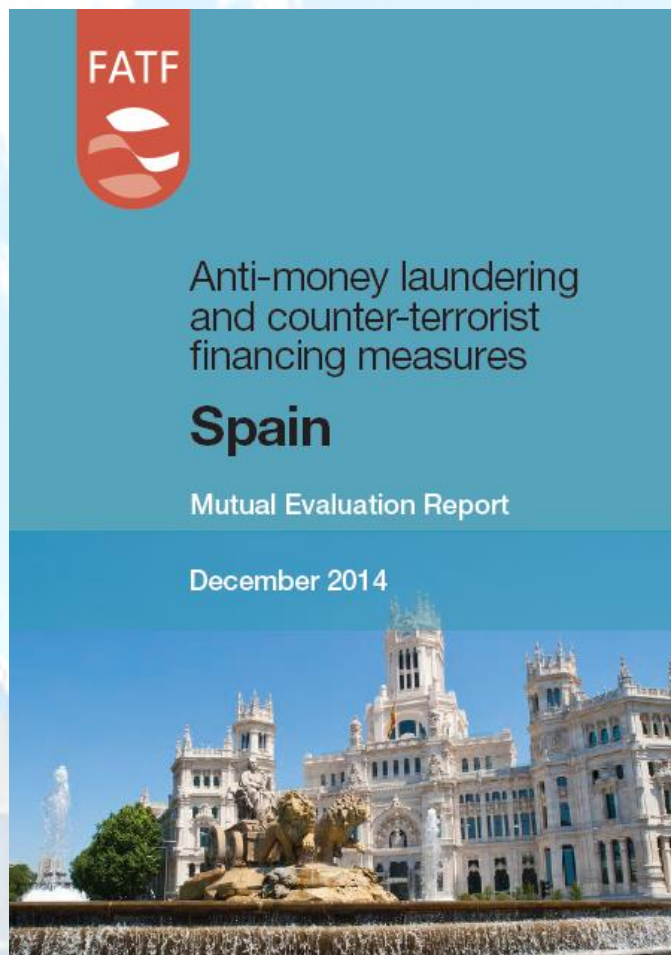
Mutual Evaluation of Hong Kong, China

19 October 2012





Mutual Evaluations of other Jurisdictions





Upcoming Mutual Evaluation of Hong Kong

**ML/TF Risk Assessment Report to be
submitted to the FATF**



Related Areas

- AML Training
- Computer System
- AML/CFT System
- Staff Screening



Thank You