



Seminar for Money Service Operators (MSOs)

Licensing Requirements, Importance of Risk Identification & Ongoing Monitoring

Money Service Supervision Bureau

26 SEPTEMBER 2016



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Application for Renewal of Licence

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

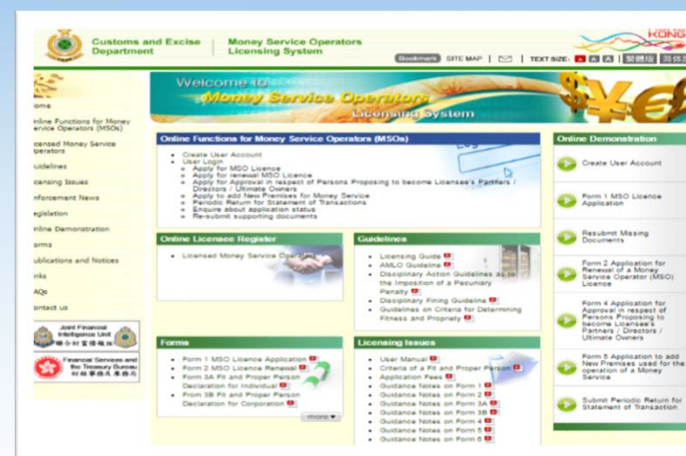




Means of submitting application

- 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.	
屆滿日期(年/月/日) Date of Expiry (dd/mm/yyyy)	
業務法團名稱(英文)(請與商業登記處/牌照局名稱一致) Name of Business / Corporation (in English) (as shown in the Business Registration Certificate)	
業務法團名稱(中文)(請與商業登記處/牌照局名稱一致) Name of Business / Corporation (in Chinese) (as shown in the Business Registration Certificate)	
業務名稱(英文)(如適用) Business Name (in English) (if applicable)	



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**

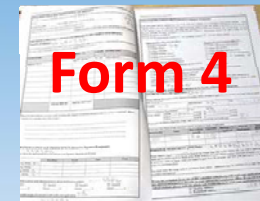




Prior approval

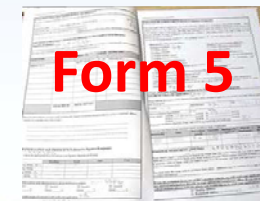
- a person proposing to become licensee's director/ultimate owner/partner

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



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

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





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

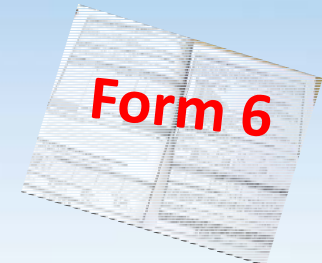




Notify the CCE of the following changes (I)

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



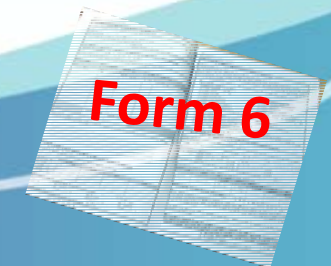


Notify the CCE of the following changes (II)

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





Thank You

