



MSSB/MIS_01/2017

13 April 2017

Circular to Money Service Operators

Record-Keeping Requirements in Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance

We would like to draw the Money Service Operators' ("MSOs") attention that, apart from complying with the customer due diligence requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("AMLO"), MSOs must also abide by the record-keeping requirements set out in sections 20 and 21 of Schedule 2 of the AMLO, which are cited below for reference:

Section 20 Duty to keep records

- (1) A financial institution must —
 - (a) in relation to each transaction it carries out, keep the original or a copy of the documents, and a record of the data and information, obtained in connection with the transaction in accordance with Part 2 of this Schedule; and
 - (b) in relation to each of its customers, keep —
 - (i) 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 in accordance with Part 2 of this Schedule; and
 - (ii) 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.
- (2) Records required to be kept under subsection (1)(a) must be kept for a period of 6 years beginning on the date on which the transaction is completed, regardless of whether the business relationship ends during that period.
- (3) Records required to be kept under subsection (1)(b) 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.
- (4) A relevant authority may, by notice in writing to a financial institution, require the financial institution to keep the records relating to a specified transaction or customer for a period specified by the relevant authority that is longer than that referred to in subsection (2) or (3), as the case requires, if —
 - (a) the relevant authority is satisfied that the records are relevant to an ongoing criminal or other investigation carried out by it; or
 - (b) the records are relevant to any other purposes as specified by the relevant authority in the notice.
- (5) A financial institution to whom a notice is given under subsection (4) must keep the relevant records for the period specified in the notice.



Section 21 Manner in which records are to be kept

Records required to be kept under section 20 of this Schedule must be kept in the following manner —

- (a) 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
- (b) 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.

The Customs and Excise Department reminds all licensed MSOs to comply with the customer due diligence and record-keeping requirements as stipulated in the AMLO which came into effect on April 1, 2012. The maximum penalty on conviction is imprisonment for seven years and a fine of \$1,000,000.

Should you have any queries regarding the contents of this circular, please contact us on 3759 3735.

Money Service Supervision Bureau

Customs and Excise Department

End

This circular is not a legal document. It only serves to remind MSOs of their legal obligations. In case of doubt about legal issues, MSOs should refer to the AMLO or if necessary, seek assistance from legal advisors.