



# **Anti-Money Laundering Seminar for Money Service Operators**

## ***Licensing Requirements, Importance of Risk Identification & Ongoing Monitoring***

**Money Service Supervision Bureau**

**23 December 2019**



# Application for Renewal of Licence

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

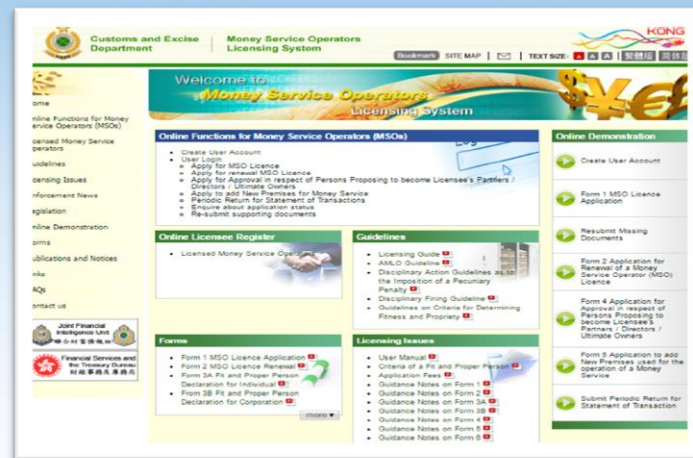




# Means of submitting application

- 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條例》  
Anti-Money Laundering and Counter-Terrorist Financing 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<br>MSO Licence No.   |  |
| 屆滿日期 (日/月/年)<br>Date of Expiry (dd/mm/yyyy)  |  |
| 業務法團名稱 (英文) (商業登記證上所載名稱)<br>Name of Business / Corporation<br>(in English) (as shown in the Business Registration Certificate) |  |
| 業務法團名稱 (中文) (商業登記證上所載名稱)<br>Name of Business / Corporation<br>(in Chinese) (as shown in the Business Registration Certificate) |  |



# **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  
Commissioner of Customs and  
Excise's (CCE) **prior approval**

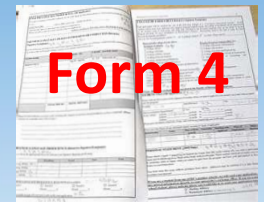




# Prior approval

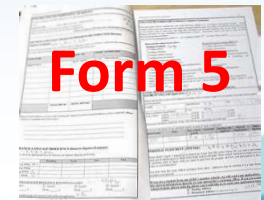
- A person proposing to become licensee's director/ultimate owner/partner

(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))





# Display original of the licence

- 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.



# 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

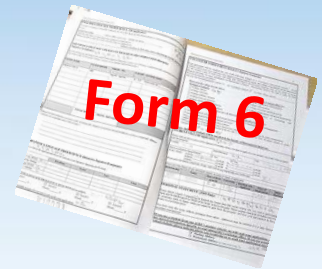




# Notify the CCE of the following changes (I)

## 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



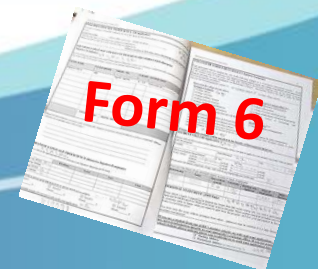


# Notify the CCE of the following changes (II)

## 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))



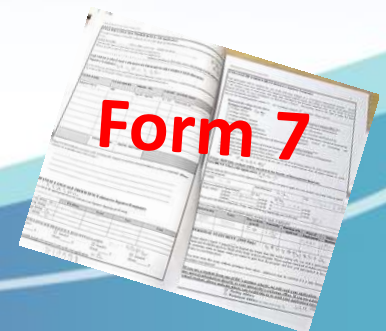


# Cessation of Money Service Business

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 and**
  - **Imprisonment : 6 months**
- Section 39A(1), 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 Financing of Terrorism (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 of AMLO (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 through immediate completion and submission of STR.

(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





# Points to note



# Record-keeping Requirements (I)

## Transaction Record

- Keep the original or a copy of the documents
- For a period of at least five years after the completion of a transaction, regardless of whether the business relationship ends during the period





# Record-keeping Requirements (II)

## Customer record

- 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
- For a period of at least five years throughout the business relationship with the customer and after the end of the business





## 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.





# Thank You

