



## **Circular to Money Service Operators**

### **Revisions to Licensing Guide**

We would like to draw your attention to the revised Licensing Guide published by the Customs and Excise Department (“C&ED”) on 18 February 2020. The revised Licensing Guide comes into immediate effect and applies to an applicant for grant or renewal of a money service operator (“MSO”) licence or a licensee as the case may be.

The revised Licensing Guide explains new or renewal licence application procedures in details, it also sets out notes on licensing requirements imposed on all MSO licence applicants and licensees. Failure to comply with requirements set out in the revised Licensing Guide will result in the new/renewal licence application being deemed as invalid which will not be processed by C&ED and/or result in refusal to grant licence, or if a licence has been granted, the licensee may be subject to criminal sanction, disciplinary sanctions and/or administrative sanctions such as suspension and revocation of licence.

Examples of revisions (non-exhaustive) set out in the revised Licensing Guide are extracted below for reference.

- (a) Paragraph 3.1: The Commissioner of Customs and Excise (“CCE”) will not accept any application for grant or renewal of licence if an applicant has been exempted from the MSO licensing requirements.
- (b) Paragraph 4.3: Licence applicants and licensees may refer to the Guideline on Criteria for Determining Fitness and Propriety and its Supplementary Guideline issued by the CCE for further details.
- (c) Paragraph 4.5: If there are no particular premises for operating your money service, you must provide a local management office (“LMO”), a correspondence address, and a local place for storage of books and records (“LPS”) in the application form.
- (d) Paragraph 4.6: The following examples are considered NOT suitable to be registered for the operation of a money service: (i) Particular premises are situated in a wholly residential building; (ii) Particular premises are being used by other MSO for operating a money service or being declared by other applicant for grant/renewal of an MSO licence; (iii) Particular premises that are not accessible without the permission or assistance of the occupant/owner of other business sharing the same premises in which the area occupied/owned by another party becomes de facto the entrance to the particular premises; or (iv) Business name displayed on the signboard of the particular premises is different from the business name registered in the Business Registration Certificate



which is submitted for the grant or renewal of an MSO licence or notification of changes in particulars in connection with the licence application.

- (e) Paragraph 4.8: Where other business is being run on the same premises of an applicant, the money service business of the MSO must be clearly partitioned and distinguished from the other business. Sharing the premises with other MSO to operate money service business will not be accepted by the CCE.
- (f) Paragraph 4.10: Where the premises in respect of which an application is made belong to mixed commercial and residential building, the applicant should secure the written consent of every occupant of the premises for any authorized person to enter the premises for routine inspection. In addition, all applicants are required to have a local place for storage of books and records.
- (g) Paragraph 4.15(i): An applicant is required to employ a competent compliance officer (“CO”) as the focal point for the oversight of applicant’s anti-money laundering and counter-terrorist financing (AML/CFT) systems and compliance measures. Except that the sole proprietor, partner, director, or ultimate owner of the applicant is also the CO, the CO must be the applicant’s employee under the definition of Employment Ordinance, Cap. 57, Laws of Hong Kong.
- (h) Paragraph 5.1: An applicant needs to complete an application form (Form 1) and the relevant annex and submit a (i) Business Plan; and (ii) AML Policy.
- (i) Paragraph 5.9: For example, the CCE may refuse to grant a licence on the following situations and inform the applicant by notice in writing of his decision:...(d) an applicant fails to provide the information of a LPS; (e) an applicant who chooses to operate a money service without particular premises fails to provide the information of a LMO; (f) an applicant fails to provide Business Plan and AML Policy in accordance with the relevant guidelines promulgated by C&ED; (g) an applicant fails to employ a competent CO; (h) an applicant submits an incomplete or invalid application; or (i) an applicant has been exempted from the MSO licensing regime by virtue of section 25 of the AMLO.
- (j) Paragraph 7.1: The following is a non-exhaustive list of examples that the CCE may revoke or suspend a licence ... (d) the licensee fails to maintain a LPS or the LPS falls foul of the requirements set out in this licensing guide; (e) where a licensee operates a money service without particular premises, the licensee fails to maintain a LMO or the LMO falls foul of the requirements set out in this licensing guide; (f) where a licensee fails to submit a periodic return on time; (g) where a licensee’s holding of the licence fails to fulfill the purpose (i.e. provision of money service) for which the licence was issued. An example is a money service has never been provided by the licensee; (h) where a licensee fails to comply with any requirements provided under the AMLO including requirements stipulated in Part 5 of the AMLO; or (i) where a licensee fails to employ or maintain a competent CO.
- (k) Paragraphs 8.10 and 9.3: If a licensee contravenes sections 35(1) [i.e. the CCE’s approval is required for addition of director], 36(1) [i.e. the CCE’s approval is



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required for addition of ultimate owner], 37(1) [i.e. the CCE's approval is required for addition of partner], 38(1) [i.e. the CCE's approval is required for adding of new business premises], 39(1) [i.e. the CCE's approval is required for operating a money service at any particular premises], or 40(1) [i.e. licensee is required to notify the CCE in writing of any change in particulars], apart from criminal sanction taken by C&ED, the licensee may also be subject to disciplinary and/or administrative sanctions such as suspension and revocation of licence.

- (l) Paragraph 9.1: A licensee needs to notify the CCE the following changes by completing the Notification of Change in Particulars (Form 6): ... (l) Change in bank account used for operating money service business; (m) Change in local management office; (n) Change in local place for storage of books and records; (o) Change in CO or Money Laundering Report Officer (MLRO); (p) Change in particulars of Business Plan and AML Policy.
- (m) Paragraph 11.1: A licensee is obliged to comply with all the applicable provisions of the AMLO and guidelines issued by the CCE. A non-exhaustive list of obligations of a licensee is provided as follows: (i) A licensee must report on suspicious transactions; (ii) A licensee must develop and maintain an effective AML Policy to mitigate ML/TF risk; ... (viii) A licensee must submit periodic return to the CCE in a timely manner; and (ix) Where bank account(s) is used for operation of the money service business, the bank account must be in the name of the licensee's company, the sole proprietor, partner, director or ultimate owner of the licensee.

All MSO licence applicants or licensees are strongly advised to review the revised Licensing Guide carefully and ensure that they are in compliance with the requirements set out therein. The revised Licensing Guide, relevant Licensing Forms and Guidance Notes are available on the C&ED's website at [https://eservices.customs.gov.hk/MSOS/index?request\\_locale=en](https://eservices.customs.gov.hk/MSOS/index?request_locale=en).

Should you have any queries regarding the contents of this circular, please contact us at 2707 7837.

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