

香港海關 Customs and Excise Department

Money Service Operators Licensing Regime

April 2021 Money Service Supervision Bureau Customs and Excise Department

Part 1

Introduction



Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO)

- Under the AMLO, the Customs and Excise Department (C&ED) is the relevant authority for the supervision of MSOs.
- Money service means a money changing service or a remittance service.
- A person who operates a money service must obtain a licence.



Financial Action Task Force (FATF)

- An inter-governmental body sets international standards, develops relevant measures to combat money laundering & terrorist financing (ML/TF)
- Hong Kong is a member jurisdiction of FATF
- Mutual Evaluation

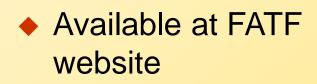


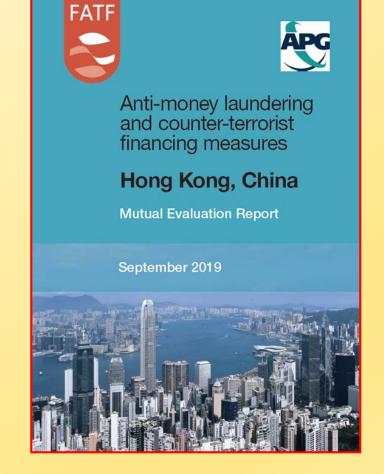


FATF

<u>Mutual Evaluation Report (MER)</u> <u>of Hong Kong</u>

 Published on 4 September 2019







<u>Mutual Evaluation Report (MER)</u> <u>of Hong Kong</u>

- FATF recommendations for MSOs:
 - Implement effective AML/CFT measures
 - Deepen the understanding of risks of ML, TF and Proliferation Financing (PF); Targeted Financial Sanctions; and Enhanced Customer Due Diligence

Way forward

To uplift the compliance level of the sector





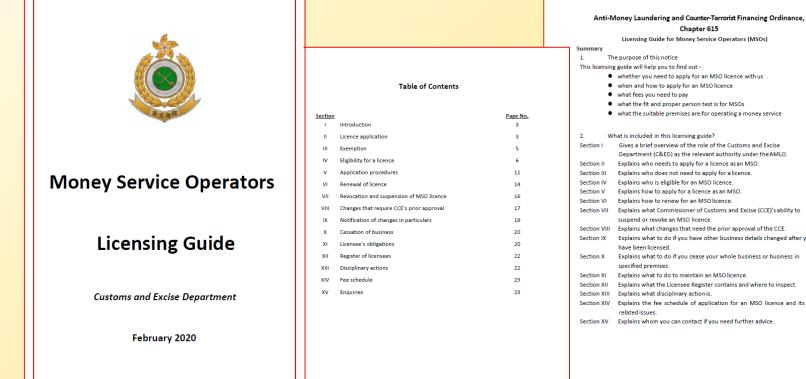
Part 2

Licensing Requirements



Licensing Guide

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Chapter 615 Licensing Guide for Money Service Operators (MSOs) The purpose of this notice This licensing guide will help you to find out:-• whether you need to apply for an MSO licence with us when and how to apply for an MSO licence what fees you need to pay what the fit and proper person test is for MSOs what the suitable premises are for operating a money service What is included in this licensing guide? Gives a brief overview of the role of the Customs and Excise Department (C&ED) as the relevant authority under the AMLO. Explains who needs to apply for a licence as an MSO. Explains who does not need to apply for a licence. Explains who is eligible for an MSO licence. Explains how to apply for a licence as an MSO. Explains how to renew for an MSO licence. Explains what Commissioner of Customs and Excise (CCE)'s ability to suspend or revoke an MSO licence Section VIII Explains what changes that need the prior approval of the CCE. Explains what to do if you have other business details changed after you have been licensed. Explains what to do if you cease your whole business or business in specified premises. Explains what to do to maintain an MSO licence. Section XII Explains what the Licensee Register contains and where to inspect. Section XIII Explains what disciplinary action is. Section XIV Explains the fee schedule of application for an MSO licence and its related issues. Section XV Explains whom you can contact if you need further advice.

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<u>Licensing Requirement</u>

- Fit and Proper (F&P) Person Criteria
 - The Commissioner of Customs & Excise (CCE) may grant a licence to an applicant only if he is satisfied that the individual/ each partner/ each director/ ultimate owner is a fit and proper person to operate a money service/ to be associated with the business of operating a money service.
 - In addition to the matters he must have regard to, the CCE may take into account any other matter that he considers relevant in determining whether an applicant is a fit and proper person.





Licensing Requirements

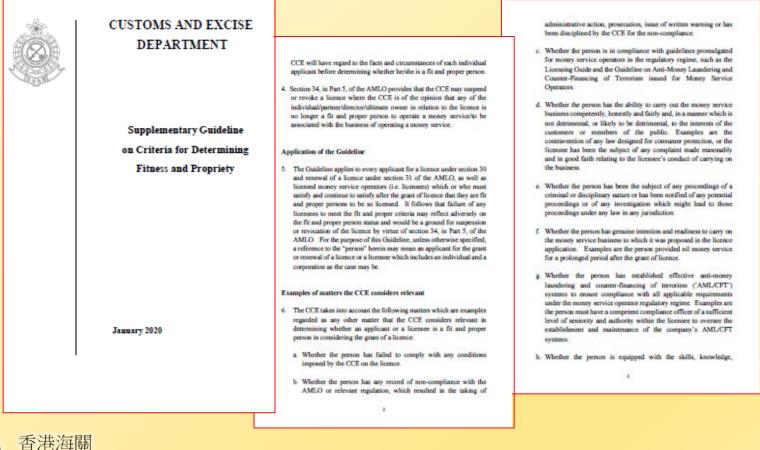
The F&P Guideline was issued in April 2018.

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Licensing Requirements

Supplementary F&P Guideline was issued on 8 January 2020.





<u>Licensing Requirements</u>

- Suitability of a particular premises used for the operation of a money service
 - Particular premises should be accessible by C&ED officers for carrying out their regulatory functions
 - Not suitable cases such as the premises are being used by other MSO or they are designated for other specified uses
- Information of a local place for storage of books and records (LPS) in Hong Kong
- Information of a local management office (LMO) in Hong Kong for operating money service business without a particular premises



Licensing Requirements

 The Guidelines for Submission of Business Plan was issued on 8 January 2020.

Guidelines for Submission of Business Plan by Applicant for Money Service Operator Licence/Licensee These guidelines set out key elements that should be included in the business plan so as to allow the Money Service Supervision Bureau ("MSSB") to have a comprehensive understanding of the applicant's proposed money service business and its mode of operation. At a minimum, the applicant should include in the business plan the following items set out in the table below. The business plan should ensure that the applicant pays attention to both the broad operational and compliance objectives of the new business. The MSSB is obliged to look into the applicant's entire business operation from the anti-money laundering and counter-terrorist financing ("AML/CFT") perspective. As such, it is important that the applicant will provide all necessary information to MSSB for examination and has the necessary resources to execute the business plan and comply with both the statutory and regulatory requirements. Failure to provide this information may delay or hinder the processing of your application. In addition, the applicant is required to confirm in writing in the business plan that he/she is well aware of and will comply with the statutory requirement that if there is any change in the particulars that are provided to the Commissioner of Customs and Excise ("Commissioner") for the grant or renewal of money service operator ("MSO") licence, the licensee must notify the Commissioner in writing of change within one month beginning on the date on which the change takes place.

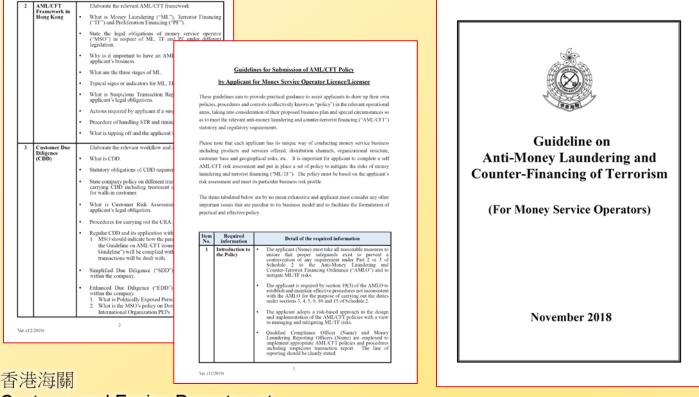
Item No.	Required information	Detail of the required information
1	Company name	Provide information on the company name, business name, website address, business logo and trademark that will be used to promote the money service business.
2	Company history	Provide information on the applicant's history, the source of capital and whether the applicant is associated with or controlled by any entities or group company.
3	Key executives of senior management	Provide information on the key executives of the senior management including their nationality, employment history, qualification and education level.

4	Location of key management	Location decision	on of nisma	senior manageme ade).	nt (where key business
			ate the	e function/purpose	n or outside Hong Kong, of this office and its
5	Customers and location of customers	custom	ters in	ncluding their geo	potential and expected graphical location and ith the customers etc.
6	Business operation in Hong Kong and its key objective	place i locally transac	n Hong The tion pr ng and ance f	g Kong and the reast business operation rocess such as plac	iness operation will take son of obtaining a licence s should detail the entire ing the transaction order, ler, movement of funds, nting and record keeping
7	Delivery channels of product and service offered	Provid offered	e infor 1 and 1	mation on the type o the timeline of lau	f product and service to be hching these product and
		Elat are proc fore If fo rece over Elab again agen	10	Organizational structure	Organization of the group of companies (<u>in Hong Kong</u> Elaborate the group of companies (include the parent company, local branches and subsidiaries), their locations and respective functions. Attach an organizational chart of the group of companies and provide a brief description and business carried out by each entity within the group. Organization of the <u>international group of companies</u> <i>mislide</i> <u>Hong Kong</u> Elaborate the international group of companies to which the international group of companies to which the international group of companies and provide a brief description and business carried out by each entity within
8	Bank account	Prov busi acco Note	п	Local business premises	the group. If the applicant's business premises are shared by "other businesses" (including businesses not belong to the applicant), claborate the faulting of the "other businesses".
		If th acco deta with			Elaborate whether the "other businesses" in the applicant's business premises are <u>also owned</u> by the applicant/director or partner or staff of the applicant. Elaborate whether the "other businesses" in the applicant's
9	Profitability and financial information of the	Prov turn two			business premise <u>have any business relationships</u> with the applicant. If yes, elaborate the nature of the business relationships.
	business	the l	12	Local human resources	Management team of the applicant Elaborate the composition of the management team. Total number of the members, their position, roles and responsibilities (e.g. compliance functions, reporting of suspicious transactions), full time/part time, the reporting
					lines. Employee of the applicant Elaborate the composition of the employees. Total number of employees, their position, roles and responsibilities (e.g. control of the employees) of the employees of the employees of the employees of the employees of the employees of the lines.
			13	Use of outsourced services	Provide the name and nature of any outsourced services used by the applicant for AML/CFT purpose. For example, external audit function, any specified intermediary.
			14	Computerized / screening systems	Elaborate the computerized systems and other automation systems used in the business.



Licensing Requirements

 Guideline on Anti-Money Laundering and Counter-Financing of Terrorism and Guidelines for Submission of AML/CFT Policy were issued and revised on November 2018 and January 2020 respectively.





Part 3

AML/CFT Compliance Obligations



- Customer Due Diligence (CDD) Requirements (Pt. 2, Sch. 2, AMLO)
 - Identification and verification of the identity of customer, beneficial owner and person acting on behalf of the customer
- Ongoing Monitoring
 > Ongoing CDD
 - Transaction monitoring

Due Diligence



- Record-keeping Requirements
 - (Pt. 3, Sch. 2, AMLO)
 - Retention of records relating to CDD and transactions
 - Original or copy of documents
 - Data and information kept either on microfilm or in the database of a computer.
 - For a period of at least five years after the completion of a transaction







- Changes that require Prior Approval
 - (S.35 to 39, AMLO)
 - Director, Partner, Ultimate owner
 - Operation premises
- Notify C&ED of the changes (S.40, AMLO)
 - within one month beginning on the date on which the changes take place
- Failure to meet the requirement
 - Subject to prosecution and/or disciplinary proceeding



- AML/CFT Systems
 - Risk-based Approach
- Suspicious Transaction Reports (STR)
 - Statutory obligation to report any property that is criminal proceeds or terrorist property
- Institutional Risk Assessment
 - identify, assess and understand the ML/TF risks





Part 4

Points to Note for Licence Application/Renewal



Licence Application/Renewal

- Application procedures
 - Form 1 & Annex for New licence
 - Form 2 & Annex for licence renewal (45 days before expiry)
- Requisite information and documents
 Checklist attached to the Forms
- How long will the application be processed?



(Refer to Licensing Guide for more details)



<u>Common Issues in</u> <u>Licence Application/Renewal</u>

- Failure in Fit and Proper Person Test
- Failure to submit required information or documents within specified period
- Proposed premises not suitable to be used for operation of a money service
- Breach of licensing requirements/conditions





<u>Common Issues in</u> <u>Licence Application/Renewal</u>

- Breach of licensing requirements/conditions, such as
 - Failure to submit information of LPS/LMO
 - Failure to submit business plan/AML Policy
 - Business plan and AML Policy submitted not in compliance with guidelines issued by C&ED
 - Failure to submit quarterly Statement of Transaction in a timely manner
 - Failure to complete continuous training course/seminar within the specified period



- Anti-money Laundering/Counter-Terrorist Financing Policy (AML Policy)
 - Submitted standardised AML Policy based on template.
 - Failed to draw up policies and controls with reference to business nature and risk level
 - Failed to comply with the requirements under the AML Guideline and the Guidelines for Submission of AML/CFT Policy





- Non-compliance with the requirements under the AML Guideline in relation to, for example:
 - Establishment of an independent audit function
 - Conducting risk assessment
 - Establishment of procedure for ongoing monitoring
 - Maintenance of database of names of terrorists and sanction lists
 - Mechanism for submission of suspicious transaction reports
 - Policy for staff training





Business Plan

- Submitted standardized "Business Plan" based on template
- Failure to elaborate on the entire delivery channel
- Particular premises for operation of a money service
 - Non-compliance with the specified use or the terms and conditions for the use of the premises under the tenancy agreement
 - Applicant who is neither landlord nor tenant cannot fully control the use of the premises.



Tenancy Agreement

Some applicants/licensees are not the landlord/tenant of the specified premises

The use of premises are not suitable for money service operation

	Schedule I 附表—
The Premises 物 業	Shop no. 6, G/F, Happy Mansion, 6 Jordan Road, Jordan, Kowloon
The Landlord 業 主	Mg. Veronica Ann chan
Address 地址	: Tel. No.:
The Tenant 租 客	: DEF Holdings Limited
Address地址	:
Term 租 期	: From (both days inclusiv 由 2019年12月20日至 2021年12月19日止(包括首尾南 天
Rent 租 金	: 服 \$ 15,000 per mouth Fifteen thousand Horg Korg dollars per mouth 每月編港幣
Security Deposit 保証金	:HK\$30,000/Thirty-thousand thoy Kong dothars only. 港幣 萬 千 百 拾元正
The Tenant shall Industrial 租客除將該物業	not use or permit to be used the Premises or any part thereof for any purpose other than for purpose only.[P.S Please select one item : e.g. 作
任何部分做其他	用途
	is Payments 雜項費用 g payments payable in respect of the Premises during the Term: - 曾用
*(a) Management	fee paid by Landlord / Tortant * (at current rate) (per month) (subject to revision from time to tim 注 / 租磐支付 (每月管理費以管理處實收為準)
*(b) Government F	Rates paid by Landlord / Defant * (subject to actual amount demanded by the Government) / 積勢支付 (每季以政府實收為準)
地租由業主	Sent paid by Landlord / Torman [*] (subject to actual amount demanded by the Government) / 程密支付(纽琴以政府實收為準) inapplicable. 删去不適用者。
3 Rent Free Por	
	iod 免租期 e entitled to a rent free period from theNILtoto



The name of company on the signboard must tally with the name of business/corporation as stated on the Business Registration Certificate.

e			表格 2 FORM		(215 5 約約)
u: A ORIGINAL	1	(商) BUSINESS REGIS	8發記條例) (第:	10 维) ANCE (Chapter 310)	regulation 5]
##		BUSINESS F	EGISTRATION B		
DUPLIGATE	////	第一 <i>分开了正式和</i>	BUILDING	NIGER HE BERNHEIT HEIT	
弟務 / 法制所用者编 Nume of Business' Corporation	ABC COMPA	ANY LIMITED			
常務 / 分行名周	******	*****	* * * * * *	********	
Business/ Branch Name	******		*****	*******	***
地址 Address	SHOP NO. 6 JORDAN, KO		Y MANSION,	6 JORDAN ROAD,	
業務世町 Nature of Business	CORP				
)当他地位 Status	SODY CORPOR	RATE			
也死日期 Date of Commencement	這個目間 登記證號 Date of Expiry Certificate			统记得及6 Fee and Lev	
09/12/2020	10/12/2021	/12/2021 12345678		\$250 (登記費 FEE = \$ (徵費 LEVY = \$	0) 250)
箭注意下列《南紫臺	記條例)的規定	: Pleas Regis	e note the follo tration Ordinan	ving requirements of t ce:	he Business
	不表示該業務或認該業務的最后已遭	合該第	gistration certifica all not be deemed w in relation to st	ides that the issue of the or a branch registrati to imply that the require the business or to the per oyed therein have been co	ments of any sons carrying
 第12條規定各第 證或有效的分行 示。 	務須將其有數的電 登記離於每一營業	1 Mar 10 10	rtificate or valid	tes that valid business branch registration certif ddress where husiness is	icate shall be
		PR AND LEWY DE	RE STATED IN PR	INTED FIGURES.	



Inadequate knowledge on MSO business

- Insufficient operation experience and academic qualifications
- Incompetent senior management oversight
- Channel for money service operation
 - Failure to provide any bank account in the name of the company
 - Use of third-party bank account
 - Failure to provide any agreement for acting as agent
 - Failure to elaborate on measures taken to protect customer funds



Source of Capital

Failure to elaborate on the source of capital

Customer Due Diligence (CDD)
 Failure to carry out CDD measures

Screening and Enhanced Checking
 Failure to set up/ use a screening system to identify politically exposed persons/ persons on UN sanction lists



Duty to Keep Records

Non-compliance with the statutory and regulatory record-keeping requirements

Suitable Agent

Assign/appoint irrelevant persons to deal with the licence application





Part 6

New Licensing Measure

Competence Assessment for MSOs



Objective of the Assessment

 Ensuring <u>senior management</u> of a licensed MSO is equipped with fundamental knowledge and clear understanding of anti-money laundering and counter-financing of terrorism (AML/CFT)

 Maintaining a high level of compliance with the AML/CFT standards in the MSO sector



Licensing Requirement

Licensing Guide revised in March 2021:

- At least one member of the senior management of a licence applicant/a licensee pass the Assessment
- The Assessment result will constitute a substantial weighting in determining the overall F&P person status
- Implementation timeline
 - New Licence Application: 1 June 2021
 - Renewal Application: Q3 of 2021 (tentatively)
- Failure to attend the Assessment due to circumstantial factors



Eligible Person(s) for the Assessment

The eligible person is someone who:

- must be the senior management of the licence applicant/licensee;
- has a direct involvement in making decision; and
- is held accountable in the compliance functions and systems of the company.



Eligible Person(s) for the Assessment

Senior Management is confined to:

- Natural person: sole proprietor / partners
- Legal person: sole director / directors
- Compliance Officer?
- Not more than 3 eligible persons to attend the Assessment



The eligible persons of a company / corporation must attend the same session of the Assessment

Nomination for the Assessment

- Nomination to attend the Assessment would be made only for once and under the following circumstances:
 - A new licence application is filed;
 - Within 90 days before the expiry of the licence and the licensee has no eligible person who has passed the Assessment; and
 - Upon notification by a licensee of the resignation of the only eligible person who has passed the Assessment.



Mode and Scope of the Assessment

35 Multiple Choice questions (Chinese/English)

Assessment time: 1 hrs & 15 mins.

 7 modules of AML/CFT knowledge (each consists of 5 questions)

"Pass" in the Assessment:

- Not more than 2 mistakes in each module; and
- Total score is 25 or above.



Modules of the Assessment

- The 7 modules are:
 - General knowledge on AML/CFT and Counter Proliferation Financing
 - Part 1-7 of the AMLO
 - Schedules to the AMLO
 - Guidelines promulgated by the C&ED
 - MSO's systems and controls (i) Institutional governance and strategy
 - MSO's systems and controls (ii) AML/CFT control areas
 - MSO's systems and controls (iii) Demonstrating and monitoring compliance



Suggested Reference

- Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)
- Guideline on Anti-Money Laundering and Counter-Financing of Terrorism issued by C&ED for MSOs
- Licensing Guide issued by C&ED to MSOs
- Guidelines issued by C&ED to MSOs
- Circulars issued by C&ED to MSOs

Website of the Money Service Operators Licensing System (https://eservices.customs.gov.hk/MSOS/index)



Assessment Schedule

- For New Licence Application:
 - Attend the Assessment within 30 days upon attending the interview with C&ED
 - If failed, re-take the Assessment after 30 days upon the notification of result
- For Renewal Application:
 - Attend the Assessment within 30 days upon the issue of reminder letter (90 days before the expiry of the licence)
 - If failed, re-take the Assessment after 30 days upon the notification of result and before the expiry of the licence



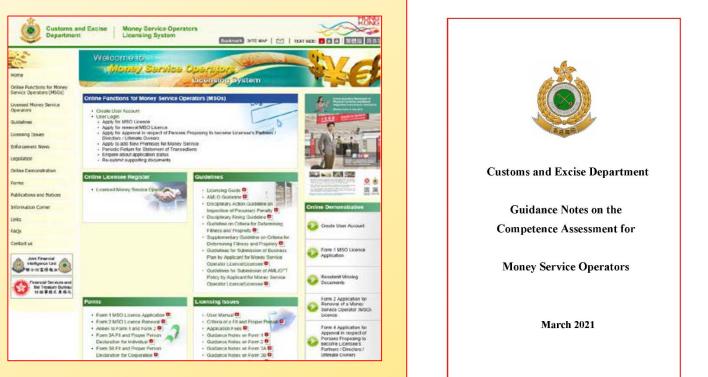
Assessment Schedule

- For the case that the licensee no longer has at least one member of the senior management who passed the Assessment:
 - Except for sole proprietorship, the licensee has to attend the Assessment within 30 days upon notification to the C&ED of change in partnership or directorship
 - If failed, re-take the Assessment after 30 days upon the notification of result
- If the licence is due for renewal within 180 days, the Assessment will follow the procedures for renewal application.



Information of the Assessment

 Guidance Notes on the Assessment for MSOs published by C&ED in March 2021





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Part 6

Q & A





香港海關 Customs and Excise Department



Thank you !

Contact Information

Tel : 2707 7837 Email :msoenquiry@customs.gov.hk