



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



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Customs and Excise Department

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.



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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



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Mutual Evaluation Report (MER) of Hong Kong

- ◆ Published on
4 September 2019
- ◆ Available at FATF
website



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Mutual Evaluation Report (MER) of Hong Kong

- ◆ 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



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Part 2

Licensing Requirements



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Licensing Guide



Money Service Operators

Licensing Guide

Customs and Excise Department

February 2020

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Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Chapter 615

Licensing Guide for Money Service Operators (MSOs)

Summary

1. 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

2. What is included in this licensing guide?

- Section I Gives a brief overview of the role of the Customs and Excise Department (C&ED) as the relevant authority under the AMLO.
- Section II Explains who needs to apply for a licence as an MSO.
- Section III Explains who does not need to apply for a licence.
- Section IV Explains who is eligible for an MSO licence.
- Section V Explains how to apply for a licence as an MSO.
- Section VI Explains how to renew for an MSO licence.
- Section VII 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.
- Section IX Explains what to do if you have other business details changed after you have been licensed.
- Section X Explains what to do if you cease your whole business or business in specified premises.
- Section XI 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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Licensing Requirement

◆ 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.



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Licensing Requirements

- ◆ The F&P Guideline was issued in April 2018.



CUSTOMS AND EXCISE DEPARTMENT

Guideline on Criteria for Determining Fitness and Propriety

For the grant of a licence under section 30, in Part 5, of the
Anti-Money Laundering and Counter-Terrorist Financing
Ordinance, Chapter 615

April 2018

Guideline for Determining Whether an Applicant for a Licence to Operate a Money Service is a Fit and Proper Person

The Guideline sets out the criteria which will be followed by the Commissioner of Customs and Excise ("CCE") in determining whether the applicant for a licence to operate a money service ("applicant") is a fit and proper person and to outline the considerations, which the CCE will have regard to in considering the grant of a licence to operate a money service ("licence").

- Introduction**
1. Section 30(3)(a), in Part 5, of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Chapter 615 ("AMLO") provides that the 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.
 2. Section 30(4), in Part 5, of the AMLO details the matters the CCE must have regard to in determining whether an applicant is a fit and proper person. In addition to the matters he must have regard to, the CCE may take into account any other matter he considers relevant.
 3. Whilst an applicant falling within section 30(4) will be subject to scrutiny as to his fitness and propriety to operate a money service, the CCE will have regard to the facts and circumstances of each individual applicant before determining whether he/she is a fit and proper person.

Application of the Guideline

4. The Guideline applies to every applicant for a licence under Section 30 of the AMLO. The Guideline is applicable to both the applicant for a licence as well as to the person who will hold the licence.

Criteria for Determining Fitness and Propriety

5. In assessing an applicant's fitness and propriety, the CCE will take into account the following factors, which will be considered in the context of all the facts and circumstances of each individual case:
 - a. Whether the person has failed to comply with any requirement imposed under the AMLO or any regulation made by the CCE.
 - b. Whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings under the Bankruptcy Ordinance.
 - c. Whether the person, being a corporation, is in the course of being wound-up or where a receiver, or such other person having the powers and duties of a receiver, has been appointed in relation to or in respect of any property of the corporation.
 - d. Whether the person has failed to comply with any conditions imposed by the CCE on the licence.
 - e. Whether the person has been convicted of a criminal offence which is not listed in section 30(4)(a) and (b), in Part 5, of the AMLO, but which has a significant and negative bearing on his/her honesty, integrity and reliability.
6. The Guideline provides general guidance and are not intended to be exhaustive or comprehensive. In assessing the fitness and propriety of an applicant, each case will be considered on its own merits, taking into account all relevant factors including, but not limited to, the criteria set out in the AMLO and paragraph 5.
7. For avoidance of doubt, the Guideline is advisory. An applicant for a licence to operate a money service or a licensee should seek legal advice where necessary if he/she has concerns about the AMLO and the application of its provisions to him/her.


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Licensing Requirements

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



**CUSTOMS AND EXCISE
DEPARTMENT**

**Supplementary Guideline
on Criteria for Determining
Fitness and Propriety**

January 2020

CCE will have regard to the facts and circumstances of each individual applicant before determining whether he/she is a fit and proper person.

4. Section 34, in Part 5, of the AMLO provides that the CCE may suspend or revoke a licence where the CCE is of the opinion that any of the individual/partner/director/ultimate owner in relation to the licence is no longer a fit and proper person to operate a money service/to be associated with the business of operating a money service.

Application of the Guideline

5. The Guideline applies to every applicant for a licence under section 30 and renewal of a licence under section 31 of the AMLO, as well as licensed money service operators (i.e. licensees) which or who must satisfy and continue to satisfy after the grant of licence that they are fit and proper persons to be so licensed. It follows that failure of any licensees to meet the fit and proper criteria may reflect adversely on the fit and proper person status and would be a ground for suspension or revocation of the licence by virtue of section 34, in Part 5, of the AMLO. For the purpose of this Guideline, unless otherwise specified, a reference to the "person" herein may mean an applicant for the grant or renewal of a licence or a licensee which includes an individual and a corporation as the case may be.

Examples of matters the CCE considers relevant

6. The CCE takes into account the following matters which are examples regarded as any other matter that the CCE considers relevant in determining whether an applicant or a licensee is a fit and proper person in considering the grant of a licence:

- a. Whether the person has failed to comply with any conditions imposed by the CCE on the licence.
- b. Whether the person has any record of non-compliance with the AMLO or relevant regulation, which resulted in the taking of

administrative action, prosecution, issue of written warning or has been disciplined by the CCE for the non-compliance.

c. Whether the person is in compliance with guidelines promulgated for money service operators in the regulatory regime, such as the Licensing Guide and the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism issued for Money Service Operators.

d. Whether the person has the ability to carry out the money service business competently, honestly and fairly and, in a manner which is not detrimental, or likely to be detrimental, to the interests of the customers or members of the public. Examples are the contravention of any law designed for consumer protection, or the licensee has been the subject of any complaint made reasonably and in good faith relating to the licensee's conduct of carrying on the business.

e. Whether the person has been the subject of any proceedings of a criminal or disciplinary nature or has been notified of any potential proceedings or of any investigation which might lead to those proceedings under any law in any jurisdiction.

f. Whether the person has genuine intention and readiness to carry on the money service business to which it was proposed in the licence application. Examples are the person provided nil money service for a prolonged period after the grant of licence.

g. Whether the person has established effective anti-money laundering and counter-financing of terrorism ("AML/CFT") systems to ensure compliance with all applicable requirements under the money service operator regulatory regime. Examples are the person must have a competent compliance officer of a sufficient level of seniority and authority within the licensee to oversee the establishment and maintenance of the company's AML/CFT systems.

h. Whether the person is equipped with the skills, knowledge,



Licensing Requirements

- ◆ 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 of senior management (where key business decision is made). If there is any back-end office in or outside Hong Kong, elaborate the function/purpose of this office and its whereabouts.
5	Customers and location of customers	Provide information on the potential and expected customers including their geographical location and nationality, mode of contacting with the customers etc.
6	Business operation in Hong Kong and its key objective	Elaborate in detail on what business operation will take place in Hong Kong and the reason of obtaining a licence locally. The business operation should detail the entire transaction process such as placing the transaction order, handling and processing of order, movement of funds, compliance function, and accounting and record keeping function, etc.
7	Delivery channels of product and service offered	Provide information on the type of product and service to be offered and the timeline of launching these product and service. Elaborate the product and service offered. If there are any other delivery channels, elaborate the details.
8	Bank account	Provide information on the bank account used for business operations. Not applicable if the applicant is a sole proprietor or partner.
9	Profitability and financial information of the business	Provide information on the profitability and financial information of the business. Provide two years of financial statements.
10	Organizational structure	<i>Organization of the group of companies in Hong Kong</i> 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. <i>Organization of the international group of companies outside Hong Kong</i> Elaborate the international group of companies to which the applicant belongs. Attach an organizational chart of the international group of companies and provide a brief description and business carried out by each entity within the group.
11	Local business premises	If the applicant's business premises are shared by "other businesses" (including businesses not belong to the applicant), elaborate the nature of the "other businesses". Elaborate whether the "other businesses" in the applicant's business premises are also owned by the applicant/director or partner or staff of the applicant. Elaborate whether the "other businesses" in the applicant's business premises have any business relationships with the applicant. If yes, elaborate the nature of the business relationships.
12	Local human resources	<i>Management team of the applicant</i> 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. <i>Employee of the applicant</i> Elaborate the composition of the employees. Total number of employees, their position, roles and responsibilities (e.g. compliance functions, reporting of suspicious transactions), full time/part time, the reporting 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.



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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.

2	AML/CFT Framework in Hong Kong	<p>Elaborate the relevant AML/CFT framework</p> <ul style="list-style-type: none"> What is Money Laundering ("ML"), Terrorist Financing ("TF") and Proliferation Financing ("PF"). State the legal obligations of money service operator ("MSO") in respect of ML, TF and PF under different legislation. Why is it important to have an AML applicant's business What are the three stages of ML. Typical signs or indicators for ML, TF What is Suspicious Transaction Report applicant's legal obligations. Actions required by applicant if a sus Procedure of handling STR and timing What is tipping off and the applicant's
3	Customer Due Diligence (CDD)	<p>Elaborate the relevant workflow and</p> <ul style="list-style-type: none"> What is CDD. Statutory obligations of CDD require State company policy on different tran carrying CDD including treatment o for walk-in customer. What is Customer Risk Assessment applicant's legal obligation. Procedures for carrying out the CRA. Regular CDD and its application with <ol style="list-style-type: none"> MSO should indicate how the para the Guideline on AML/CFT issue "Guideline") will be complied with transactions will be dealt with. Simplified Due Diligence ("SDD") within the company. Enhanced Due Diligence ("EDD") within the company <ol style="list-style-type: none"> What is Politically Exposed Person What is the MSO's policy on Doi International Organization PEPs

Ver. (12/2019)

Guidelines for Submission of AML/CFT Policy by Applicant for Money Service Operator Licence/Licence		
<p>These guidelines aim to provide practical guidance to assist applicants to draw up their own policies, procedures and controls (collectively known as "policy") in the relevant operational areas, taking into consideration of their proposed business plan and special circumstances so as to meet the relevant anti-money laundering and counter-terrorist financing ("AML/CFT") statutory and regulatory requirements.</p> <p>Please note that each applicant has its unique way of conducting money service business including products and services offered, distribution channels, organizational structure, customer base and geographical risks, etc. It is important for applicant to complete a self AML/CFT risk assessment and put in place a set of policy to mitigate the risks of money laundering and terrorist financing ("ML/TF"). The policy must be based on the applicant's risk assessment and meet its particular business risk profile.</p> <p>The items tabulated below are by no mean exhaustive and applicant must consider any other important issues that are peculiar to its business model and to facilitate the formulation of practical and effective policy.</p>		
Item No.	Required Information	Detail of the required information
1	Introduction to the Policy	<ul style="list-style-type: none"> The applicant (Name) must take all reasonable measures to ensure that proper safeguards exist to prevent a contravention of any requirement under Part 2 or 3 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance ("AMLO") and to mitigate ML/TF risks. The applicant is required by section 19(3) of the AMLO to establish and maintain effective procedures not inconsistent with the AMLO for the purpose of carrying out the duties under sections 3, 4, 5, 9, 10 and 13 of Schedule 2. The applicant adopts a risk-based approach in the design and implementation of the AML/CFT policies with a view to managing and mitigating ML/TF risks. Qualified Compliance Officer (Name) and Money Laundering Reporting Officers (Name) are employed to implement appropriate AML/CFT policies and procedures including suspicious transaction report. The line of reporting should be clearly stated.

Ver. (12/2019)



Guideline on Anti-Money Laundering and Counter-Financing of Terrorism

(For Money Service Operators)

November 2018



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Part 3

AML/CFT Compliance Obligations



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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



AML/CFT Compliance Obligations

◆ 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



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AML/CFT Compliance Obligations

- ◆ 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 Compliance Obligations

- ◆ 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



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Part 4

Points to Note for Licence Application/Renewal



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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)



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Common Issues in Licence Application/Renewal

- ◆ 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



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Common Issues in Licence Application/Renewal

- ◆ 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



Examples of Non-compliance

- ◆ 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



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Examples of Non-compliance

- ◆ 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



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Examples of Non-compliance

◆ 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.



Examples of Non-compliance

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



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Schedule I
附表一

The Premises
物業 : Shop no. 6, G/F, Happy Mansion, 6 Jordan Road, Jordan, Kowloon

The Landlord
業主 : Ms. Veronica Ann Chan

Address 地址 : _____ **Tel. No.:** _____

The Tenant
租客 : DEF Holdings Limited

Address 地址 : _____ **Tel. No.:** _____

Term 租期 : From 2019 年 12 月 20 日 to 2021 年 12 月 19 日止 (both days inclusive)
(包括首尾兩天)

Rent 租金 : HK\$ 15,000 per month Fifteen thousand Hong Kong dollars per month
每月港幣 _____ 港幣 _____ 元 _____ 角 _____ 分

Security Deposit
保證金 : HK\$ 30,000 Thirty thousand Hong Kong dollars only.
港幣 _____ 萬 _____ 千 _____ 百 _____ 拾元正

Ms. Dee Siu Mei

Schedule II
附表二

1. User 用途
The Tenant shall not use or permit to be used the Premises or any part thereof for any purpose other than for Industrial purpose only. [P.S. - Please select one item: e.g.]

租客除將該物業作 工業 用途外, [例如: _____] 不可將該物業或其任何部分做其他用途。

2. Miscellaneous Payments 雜項費用

a) The following payments payable in respect of the Premises during the Term: -
租期內下列費用

* (a) Management fee paid by Landlord / Tenant * (at current rate) (per month) (subject to revision from time to time)
管理費由業主 / 租客支付 (每月管理費以管理處實收為準)

* (b) Government Rates paid by Landlord / Tenant * (subject to actual amount demanded by the Government)
差餉由業主 / 租客支付 (每季以政府實收為準)

* (c) Government Rent paid by Landlord / Tenant * (subject to actual amount demanded by the Government)
地租由業主 / 租客支付 (每季以政府實收為準)

* Delete where inapplicable. 刪去不適用者。

3. Rent Free Period 免租期
The Tenant shall be entitled to a rent free period from the NIL to NIL (both days inclusive) provided that the Tenant shall be responsible for the charges of Government Rent, Government Rates, management fees, water, electricity, gas, telephone and other outgoings payable in respect of Premises during such rent free period.
租客可享有 零 天免租期 (由 _____ 至 _____) (包括首尾兩天), 但租客仍應負責繳付免租期內一切地租、差餉、管理費、水、電、煤氣及電話費用及其他一切雜費支出。

Examples of Non-compliance

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

請沿虛線剪下並將有效的商業/分行登記證展示在營業地點。
6 Please cut along the dotted line and display the valid business-branch registration certificate at business address.

正本
ORIGINAL

表格式 2 FORM 2
《商業登記條例》(第310章)
BUSINESS REGISTRATION ORDNANCE (Chapter 310)
(商業登記規則)
BUSINESS REGISTRATION REGULATIONS
商業/分行登記證 Business/Branch Registration Certificate

複本
DUPLICATE

公司 / 法團名稱
Name of Business/
Corporation

ABC COMPANY LIMITED

營業 / 分行名稱
Business/
Branch Name

地址
Address

SHOP NO. 6, G/F, HAPPY MANSION, 6 JORDAN ROAD,
JORDAN, KOWLOON

業務性質
Nature of Business

CORP

法團地位
Status

BODY CORPORATE

生效日期
Date of Commencement

09/12/2020

到期日期
Date of Expiry

10/12/2021

登記證號碼
Certificate No.

12345678-000

登記費及徵費
Fee and Levy (APP)

\$250

(登記費 FEE = \$ 0)
(徵費 LEVY = \$ 250)

請注意下列《商業登記條例》的規定：
Please note the following requirements of the Business Registration Ordinance:

1. 第 6(6)條規定任何業務獲發商業登記證或分行登記證，並不表示該業務或經營該業務的人或受僱於該業務的僑民已遵從有關的任何法律規定。
1. Section 6(6) provides that the issue of a business registration certificate or a branch registration certificate shall not be deemed to imply that the requirements of any law in relation to such business or to the persons carrying on the same or employed therein have been complied with.

2. 第 12 條規定各業務須將其有效的商業登記證或有效的分行登記證附於每一營業地點展示。
2. Section 12 provides that valid business registration certificate or valid branch registration certificate shall be displayed at every address where business is carried on.

換領新登記證及繳費收訖，RECEIVED FEE AND LEVY HERE STATED IN PRINTED FIGURES.

06/08/2019 236678376 \$250.00

NR08101B (12/2010)



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Examples of Non-compliance

- ◆ 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



Examples of Non-compliance

- ◆ 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



Examples of Non-compliance

- ◆ 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



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Part 6

New Licensing Measure

Competence Assessment for MSOs



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Objective of the Assessment

- ◆ Ensuring senior management 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>)



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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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Guidance Notes on the
Competence Assessment for
Money Service Operators

March 2021



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Part 6

Q & A



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- The End -

Thank you !

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