



MSSB/MIS_04/2022

Circular

16 June 2022

Circular to Money Service Operators
Anti-Money Laundering / Counter-Terrorist Financing
Record-keeping Requirements

The Customs and Excise Department (“C&ED”) would like to remind Money Service Operators (“MSOs”) of the importance of keeping accurate and up-to-date records and documents in relation to money service business, in compliance with the requirements set out in the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) and the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Money Service Operators) (“the Guideline”).

Under Part 3 of Schedule 2 as read with Section 9 of the AMLO, authorized officers have the powers to inspect, make copies or record details of any customer or transaction records required to be kept.^{Note 1} Accordingly, MSOs should utilize a central database for keeping all customer records to enable information/documents are available swiftly upon request by the Commissioner of Customs & Excise (“CCE”). The Money Service Operators Licensing Guide also specifies that licensees are required to set up a local place of storage for keeping the full set of books and records in respect of money service transactions, thus to facilitate access for inspection by the C&ED officers.^{Note 2}

MSOs must maintain customer and transaction records as well as other relevant records and documents that are necessary and sufficient to meet the record-keeping requirements. Among others, MSOs should keep:

- (a) the original or a copy of the documents, and a record of the data and information, obtained in the course of identifying and, where applicable, verifying the identity of the customer and/or beneficial owner of the customer and/or persons who purport to act on behalf of the customer and/or other connected parties to the customer;^{Note 3}
- (b) the original or a copy of the documents, and a record of the data and information, obtained in connection with each transaction MSOs carry out, including but not limited to records on sending/receipt of instructions using any instant messaging software/mobile application, internet email or phone which should be sufficient to permit reconstruction of individual transactions;^{Note 4}
- (c) screening records of the customer, any beneficial owner of the customer and all relevant parties in a transaction including the recipient and intermediary, together with enhanced checking results (where applicable), should be documented or recorded electronically;^{Note 5}
- (d) other documents and records obtained throughout the Customer Due Diligence (“CDD”) and ongoing monitoring process, including Simplified Due Diligence and Enhanced Due Diligence;^{Note 6}
- (e) where applicable, the original or a copy of the documents, and a record of the data and information, on the purpose and intended nature of the business relationship;
- (f) the original or a copy of the records and documents relating to the customer’s account (e.g. account opening form or risk assessment form) and business correspondence with the

^{Note 1} Section 9, and Sections 3 & 20 of Schedule 2 to the AMLO.

^{Note 2} Paragraph 4.11 of the Money Service Operator Licensing Guide.

^{Note 3} Paragraph 8.3 of the Guideline; for CDD requirements, please refer to Chapter 4 of the Guideline.

^{Note 4} Paragraph 8.5 of the Guideline.

^{Note 5} For PEP screening requirements, please refer to Chapter 4 of the Guideline; for sanction screening requirements, please refer to Chapter 6 of the Guideline.

^{Note 6} For ongoing-monitoring requirements, please refer to Chapter 5 of the Guideline.



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- customer and any beneficial owner of the customer (which at a minimum should include business correspondence material to CDD measures or significant changes to the operation of the account);^{Note 7} and
- (g) the results of any analysis undertaken (e.g. inquiries to establish the background and purposes of transactions that are complex, unusually large in amount or of unusual pattern, and have no apparent economic or lawful purpose).^{Note 8}

Pursuant to Section 20 of Schedule 2 to the AMLO, along with the special requirements for wire transfer and remittance transaction stipulated in Schedule 2 of the AMLO, all of the above-mentioned documents and records should be kept throughout the continuance of the business relationship with the customer and for a period of at least five years after the end of the business relationship. Similar requirements are also applicable to occasional transactions equal to or exceeding the CDD threshold (i.e. \$8,000 for wire transfers/remittances and \$120,000 for other types of transactions).^{Note 9}

As for risk assessment, MSOs are obliged to keep records of the institutional risk assessment processes, results and regular reviews thereof.^{Note 10} Besides, MSOs should keep records and relevant documents of customer risk assessments so that MSOs can demonstrate to the CCE, among others: (a) how the customers' money laundering and terrorist financing ("ML/TF") risks are assessed; and (b) the extent of CDD measures and ongoing monitoring is appropriate based on the customers' ML/TF risks.^{Note 11}

After MSOs have taken steps to identify suspicious transactions, the findings and outcomes as well as the rationale of any decision made should be properly documented in writing and be available to the CCE, other competent authorities and auditors.^{Note 12} MSOs must establish and maintain a record of all internal ML/TF reports made to the Money Laundering Reporting Officer and Suspicious Transaction Reports filed to the Joint Financial Intelligence Unit.^{Note 13}

Finally, MSOs are reminded to keep records of Anti-Money Laundering / Counter-Terrorist Financing ("AML/CFT") training irrespective of what kind of training approach is adopted. MSOs should monitor and maintain records of who have been trained, when the staff received the training and the type of the training provided; and the training records should be maintained for a minimum of 3 years.^{Note 14}

Efficient and sufficient record-keeping is an essential part of effective AML/CFT compliance for MSOs. Not only does it show that an MSO is compliant with AML/CFT obligations, but it may also be used as evidence in a situation where the MSO is being exploited for ML/TF. The C&ED expects each MSO to establish clear record-keeping policies and procedures, and to ensure adherence of every department within the MSO to the record-keeping manner in order to comply with all applicable requirements under the MSO regulatory regime.

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End

^{Note 7} Paragraph 8.3 of the Guideline; for customer risk assessment requirements, please refer to Chapter 2 of the Guideline.

^{Note 8} Paragraph 8.3 of the Guideline; for suspicious transaction reporting requirements, please refer to Chapter 7 of the Guideline.

^{Note 9} Paragraph 8.4 of the Guideline.

^{Note 10} Paragraph 2.3 of the Guideline.

^{Note 11} Paragraph 2.15 of the Guideline.

^{Note 12} Paragraph 5.14 of the Guideline.

^{Note 13} Paragraph 7.29 of the Guideline.

^{Note 14} Paragraph 9.7 of the Guideline.