



Seminar for Money Service Operators – Licensing Requirements and Key Compliance Issues under the AMLO

Money Service Supervision Bureau

25 September 2015



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Telephone Scams



Circular

14 August 2015

Alert to Telephone Scams in Conducting Business

- unusual or have no apparent legitimate purpose
- inconsistent with the expected pattern of the customer
- ask the customer questions for clarification if necessary



Part 5 of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO)

Regulation of Operation of Money Service



Licensing Requirements



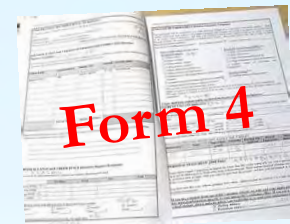
Changes that require the CCE's prior approval



Prior Approval

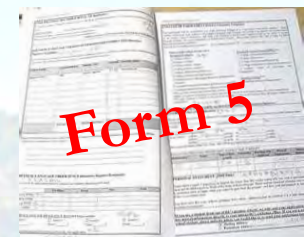
1. a person proposing to become licensee's director/ultimate owner/partner

[AMLO s35(1), s36(1) and s37(1)]



2. add premises to operate a money service or operate a money service at any particular premises

[AMLO s38(1) and s39(1)]





Breach of Licensing Requirements

Criminal offences

- Section 35(1), 36(1), 37(1), 38(1) and 39(1)
 - ◆ Fine : HK\$50,000
 - ◆ Imprisonment : 6 months

Disciplinary actions

- Section 43
 - ◆ public reprimand;
 - ◆ remediate action; and
 - ◆ pecuniary penalty not exceeding HK\$1,000,000



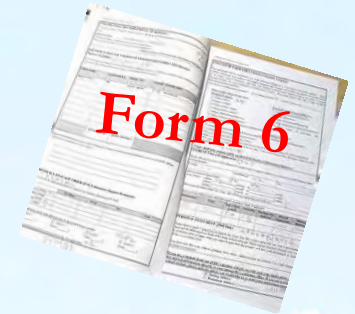
The licensee must notify the CCE **in writing** of the following changes **within one month** beginning on the date on which the changes take place



Needs to notify the CCE 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
- bank account used for operating money service business

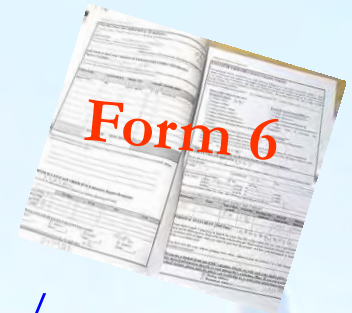




Needs to notify the CCE the following changes (II)

- 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)]



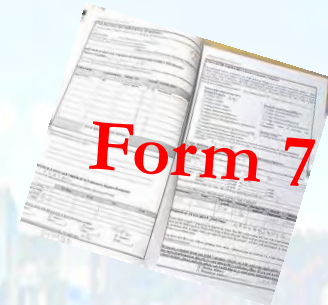


Cessation of Money Service Business

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)]





Breach of Licensing Requirements

Criminal offences

- section 40(1) and 41(1) of the AMLO
- fine : HK\$50,000

Disciplinary actions

- Section 43
 - ◆ public reprimand;
 - ◆ remediate action; and
 - ◆ pecuniary penalty not exceeding HK\$1,000,000



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]



An application for the Renewal of a Licence

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



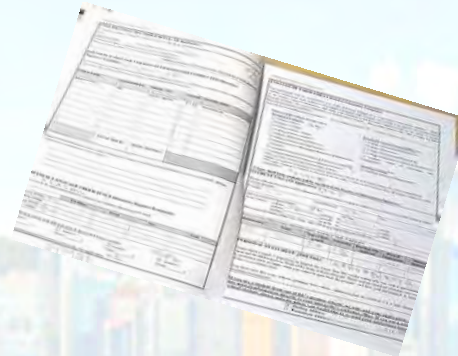
Means of submitting application

➤ Electronic means



(Money Service Operators Licensing System)

➤ Paper mode





Allocation of Responsibilities



Allocation of Responsibilities

- Senior Management
 - ◆ assess the risks the firm faces
- Compliance Officer
 - ◆ prevention and detection of ML/TF
- Money Laundering Reporting Officer
 - ◆ report suspicious transactions to the JFIU
- Frontline Staff
 - ◆ judge whether a transaction is suspicious



Customer Due Diligence (CDD)



Application of CDD Measures

- adopt different CDD measures applicable to respective customers or transactions of different risk profiles
- Level of CDD measures
 - ◆ Simplified
 - ◆ Regular
 - ◆ Enhanced





Carrying out CDD (I)

Circumstances require carrying out CDD measures

- at the outset of a business relationship
- before performing
 - ◆ any occasional transaction \geq HK\$120,000 or
 - ◆ wire transfer \geq HK\$8,000
- suspicion of ML/TF
- doubt on the veracity and adequacy of the information previously obtained

[AML Guideline Chapter 4.1.9]

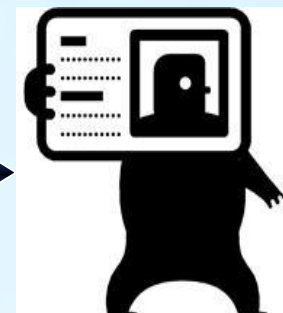


Carrying out CDD (II)

Measures of CDD

- identify & verify identity
 - ◆ customer & beneficial owner
- identify & verify identity and authority
 - ◆ a person purporting to act on behalf of the customer
- obtaining information on the purpose & nature of the business relationship

Verify the identity



[AML Guideline Chapter 4.1.3]



Carrying out CDD (III)

Identify & Verify Identity of Natural Persons (I)

- collecting the identification information
 - ◆ full name
 - ◆ date of birth
 - ◆ nationality
 - ◆ identity document type and number





Carrying out CDD (IV)

Identify & Verify Identity of Natural Persons (II)

- documents required for verification
 - ◆ for HK residents: a copy of ID card
 - ◆ for non-HK residents: a copy of valid travel document such as the “biodata” page of passport
 - ◆ residential address proof from a reliable source issued within the last 3 months (e.g. utility bill, bank statement)
- [AML Guideline Chapter 4.8]



Carrying out CDD (V)

Identify & Verify Identity of Corporations (I)

- obtaining the information below
 - ◆ full name
 - ◆ date and place of incorporation
 - ◆ registration / incorporation number
 - ◆ registered office address
 - ◆ name of all directors



Carrying out CDD (VI)

Identify & Verify Identity of Corporations (II)

- documents required for verification
 - ◆ copy of CI & BR certificate
 - ◆ copy of M&A
 - ◆ ownership chart
 - ◆ verify the identity of directors on a risk-based approach

[AML Guideline Chapter 4.9]



Carrying out CDD (VII)

For a locally incorporated company

- a search of file at the Hong Kong Companies Registry and obtain a company report

For a company incorporated overseas

- a similar company search enquiry of the registry in the place of incorporation and obtain a company report;
- a certificate of incumbency or equivalent issued by the company's registered agent in the place of incorporation; or
- a similar or comparable document to a company search report or a certificate of incumbency certified by a professional third party in the relevant jurisdiction verifying that the information is correct and accurate

[AML Guideline Chapter 4.9.10 and 4.9.11]



Carrying out CDD (VIII)

Identify & Verify Identity of Beneficial Owners

- major shareholders
 - ◆ for **Normal risk** circumstances, all shareholders holding $\geq 25\%$ of share capital / voting rights
 - ◆ for **High risk** circumstances, all shareholders holding $\geq 10\%$ of share capital / voting rights
- any individuals exercising ultimate control
- any person on whose behalf the customer is acting

[AML Guideline Chapter 4.9.14]



Carrying out CDD (IX)

Special Requirements for High Risk Circumstances

- obtaining information on the source of wealth and funds
- approval of senior management
- obtaining additional information with enhanced monitoring
- all high-risk customers should be subject to a minimum annual review (up-to-date information)

[AML Guideline Chapter 4.11]



Remittance Transactions



Remittance Transactions

- ≥ HK\$8,000 remittance transaction
- Identify the originator
- Verify the identity of the originator by reference to the originator's identification document
- Record
 - ◆ originator's name
 - ◆ originator's identification document number
 - ◆ if the originator's identification document is a travel document, the place of issue of the travel document
 - ◆ originator's address
 - ◆ currency and amount involved
 - ◆ date and time of receipt of the instructions, the recipient's name and address and the method of delivery

[AML Guideline Chapter 11]



Risk Identification & Assessment



Risk Identification & Assessment

➤ Customer Risk

- ◆ handle large amounts of cash
- ◆ complex business ownership structures with the potential to conceal underlying beneficiaries
- ◆ potential Politically Exposed Persons (PEPs)
- ◆ 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

- Product/Service Risk
 - ◆ service that inherently have provided more anonymity
 - ◆ ability to pool underlying customers/funds



Risk Identification & Assessment

- Delivery/Distribution Channel Risk
 - ◆ non face-to-face account opening – sales through online, postal or telephone channels
 - ◆ indirect business relationship – business sold through intermediates



Risk Identification & Assessment

- Country/Geographical Location Risk
 - ◆ high levels of organized crime
 - ◆ increased vulnerabilities to corruption
 - ◆ inadequate systems to prevent and detect ML/TF

[AML Guideline 2.3 - 2.8 & 3.4 - 3.5]



Ongoing Monitoring



Ongoing Monitoring (I)

- Continuously monitor business relationship with a customer by
 - ◆ review from time to time CDD documents, data and information
 - ◆ scrutinize transactions with customers to ensure they are consistent with the nature of business, the risk profile and source of funds
 - ◆ identify transactions that are complex, large or unusual or patterns of transactions with no apparent economic or lawful purpose

[AML Guideline Chapter 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 risk assessment
- must take additional measures when monitoring business relationships that pose a higher risk
- exception reports will help FI's stay apprised of operational activities
[AML Guideline Chapter 5.7 - 5.9]



Record-keeping requirement



Duty to keep records

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
- all documents and records should be kept throughout the business relationship with the customer and for a period of six years after the end of the business relationship

[AMLO Guideline 8.3 – 8.4]



Duty to keep records

Transaction Record

- the original or a copy of the documents, and a record of the data and information, obtained in connection with the transaction
- all documents and records should be kept for a period of six years after the completion of a transaction, regardless of whether the business relationship ends during the period

[AMLO Guideline 8.3 – 8.4]



Manner in which records are to be kept

s 21 of Schedule 2 :

- (a) if the record consists of a document, either—
 - ◆ (i) the original of the document must be kept; or
 - ◆ (ii) a copy of the document must be kept either on microfilm or in the database of a computer; or
- (b) if the record consists of data or information, a record of the data or information must be kept either on microfilm or in the database of a computer



Continuous Professional Training



Continuous Professional Training

- important element of an effective system to prevent and detect money laundering and terrorist financing activities
- enhance staff's understanding and compliance with their statutory and regulatory obligations
- to maintain technical knowledge and professional skills to perform their licensed functions
- enhance MSOs' ability to recognize suspicious transactions



Thank you