



Customer Due Diligence and Record-keeping Requirements

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What are CDD Measures?

Under the AMLO, CDD measures include:

- identifying the customer and verifying the customer's identity
- identifying the beneficial owner and taking reasonable measures to verify the beneficial owner's identity



What are CDD Measures?

- obtaining information on the purpose and intended nature of the business relationship with the financial institution if a business relationship is to be established
- if a person purports to act on behalf of the customer, identifying the person and taking reasonable measures to verify the person's identity and verifying the person's authority to act on behalf of the customer



When CDD Measures Must Be Carried Out?

- before establishing a business relationship with the customer
- before carrying out an occasional transaction involving an amount equal to or above \$120,000
- before carrying out an occasional wire transfer involving an amount equal to or above \$8,000



When CDD Measures Must Be Carried Out?

- suspects the customer or the customer's account is involved in money laundering or terrorist financing
- doubts the veracity or adequacy of any information previously obtained for the purpose of identifying the customer or verifying the customer's identity



Indicators of High Risk Situation

Country Risk

- funds to/from counterparts located in jurisdictions which are known to be exposed to risks of, i.e. drug trafficking, terrorism financing, smuggling
- money transfers to high-risk jurisdictions without reasonable explanation, which are not consistent with the customer's usual foreign business dealings (Guideline 4.15)



Indicators of High Risk Situation

Transaction Risk

- transactions in a series are structured just below the regulatory threshold for due diligence identity checks
- two or more customers appear to be trying to avoid reporting requirements and seem to be working together to break one transaction into two or more transactions
- transactions are carried out by the customer on behalf of third parties without there being an appropriate business relationship with such parties



Indicators of High Risk Situation

Transaction Risk

- sudden increases in the frequency / value of transactions of a customer without reasonable explanation
- size or frequency of the transaction is not consistent with the normal activities of the customer (Guideline 5.3)



Indicators of High Risk Situation

Customer Risk

- non face-to-face customers are not physically present for identification purposes
(Guideline 4.12.2)
- customer reads from a note he apparently did not write himself
- customer receives instructions from others
- customer appears to be in doubt when asked for further details



Indicators of High Risk Situation

Customer Risk

- customer cannot immediately provide additional identification documents
- identification documents are soiled making it difficult to read the necessary information
- customer is unwilling provide details of his/her identity information and references
- use of false identity documents to send money
- customer changes a transaction after learning that he/she must show ID (Guideline 3.5)



Indicators of High Risk Situation

Customer Risk

- customer's address is a post office box or a c/o ("in care of") address
- postal address for correspondence differs from the customer's official address
- stated address does not exist
- customer changes address frequently



Special Requirements in High Risk Situations

- obtain approval from its senior management
- take reasonable measures to establish the customer's or beneficial owner's source of wealth and source of funds
- take additional measures to mitigate the risk of money laundering or terrorist financing involved
- where an occasional transaction is to be carried out, take additional measures to mitigate the risk of money laundering or terrorist financing involved



Record-keeping Requirements

Transaction records

- keep the original or a copy of the documents, and a record of the data and information, obtained in connection with the transaction
- records must be kept for a period of 6 years beginning on the date on which the transaction is completed (Guideline 8.5)



Record-keeping Requirements

Customer records

- 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
- records must be kept for a period of 6 years beginning on the date on which the business relationship ends (Guideline 8.3)



Non-compliance of CDD and Record-keeping Requirements

Criminal Sanction

- knowingly contravening s. 5(5) and 5(7) of AMLO
- maximum fine: \$1M & imprisonment: 2 years
- with intent to defraud the CCE contravening s. 5(6) and 5(8) of AMLO
- maximum fine: \$1M & imprisonment: 7 years



Non-compliance of CDD and Record-keeping Requirements

Supervisory Sanction under s.21 of AMLO

- to publicly reprimand the licensee
- to order the licensee to take remedial action
- to impose a pecuniary penalty up to \$10M, 3 times of the amount of profit gained or costs avoided for such contravention



Reference Materials

- Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, Chapter 615, Laws of Hong Kong
- Guideline on Anti-Money Laundering and Counter-Terrorist Financing for Money Service Operators
- Circulars and Notifications from Customs and Excise Department
- FATF Report on Money Laundering through Money Remittance and Currency Exchange Providers



Thank You