



Anti-Money Laundering Seminar for Money Service Operators

Licensing Requirements, Importance of Risk Identification & Ongoing Monitoring

Money Service Supervision Bureau

2 October 2018



Application for Renewal of Licence

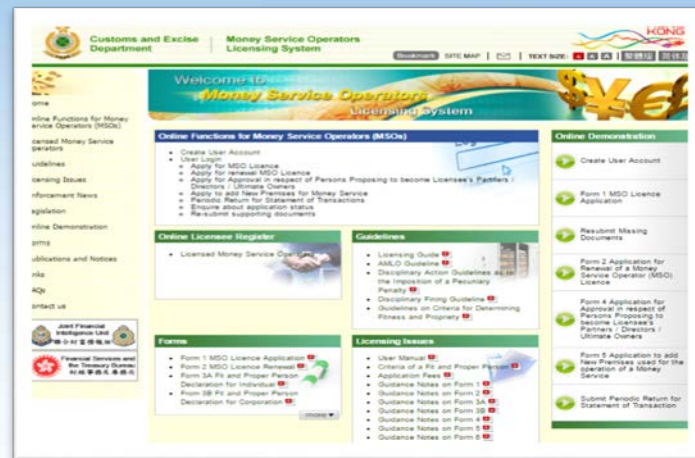
- Not later than **45 days before** the licence is due to expire





Means of submitting application

- Electronic means
 - Money Service Operators Licensing System
- Paper mode



**香港海關
CUSTOMS AND EXCISE DEPARTMENT**
**表格 2
金錢服務經營者牌照續期申請
Form 2
Application for Renewal of a
Money Service Operator (MSO) Licence**

For Official Use Only
Receipt Date: _____
Application No.: _____
Licence No.: _____
Approval Date: _____

香港法例 第 615 章《打擊洗錢及恐怖分子資金籌集條例》
Anti-Money Laundering and Counter-Terrorist Financing Ordinance,
Chapter 615

請用正楷及黑色筆填寫表格，填寫本表格前，請先閱讀填表須知。
Please fill in the form in capital letter and black ink and read the Guidance Notes before completing this form.

第 1 部 - 申請人的業務詳情
Part 1 - Particulars of the Applicant's Business

金錢服務經營者牌照號碼 MSO Licence No.	
屆滿日期 (日/月/年) Date of Expiry (dd/mm/yyyy)	
業務法團名稱 (英文) (商業登記證上所載名稱) Name of Business / Corporation (in English) (as shown in the Business Registration Certificate)	
業務法團名稱 (中文) (商業登記證上所載名稱) Name of Business / Corporation (in Chinese) (as shown in the Business Registration Certificate)	



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

Regulation of Operation of Money Service





Licensing Requirements





Changes that require the
Commissioner of Customs and
Excise's (CCE) **prior approval**

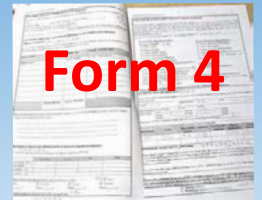




Prior approval

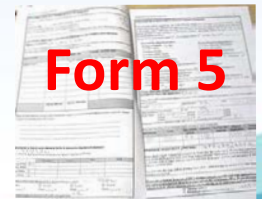
- A person proposing to become licensee's director/ultimate owner/partner

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



- Add premises to operate a money service or operate a money service at any particular premises

(AMLO s38(1) and s39(1))





Display original of the licence

- Under section 39A(1) of the AMLO, a licensee who is licensed to operate a money service at premises specified in the licence must display the **original** of the licence in a conspicuous place at the specified premises.





Change in Particulars

- 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

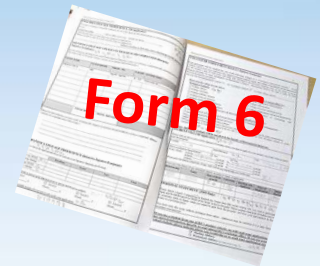




Notify the CCE of the following changes (I)

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



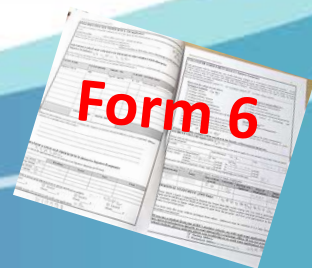


Notify the CCE of the following changes (II)

Change in:

- Bank account used for operating money service business
- 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))



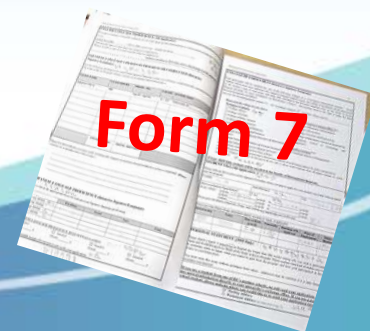


Cessation of Money Service Business

A 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))





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)





Breach of Licensing Requirements

Criminal offences

- Section 35(1), 36(1), 37(1), 38(1) and 39(1)
 - **Fine : HK\$50,000 and**
 - **Imprisonment : 6 months**
- Section 39A(1), 40(1) and 41(1)
 - **Fine : HK\$50,000**

Disciplinary actions

- Section 43
 - **Public reprimand;**
 - **Remedial action; and**
 - **Pecuniary penalty not exceeding HK\$1,000,000**





Anti-Money Laundering/ Counter Financing of Terrorism (AML/CFT) Systems





AML/CFT Policies, Procedures and Controls

- To take all reasonable measures to ensure that proper safeguards exist to mitigate the risks of ML/TF
- To prevent a contravention of any requirement under part 2 or 3 of schedule 2 of AMLO (i.e. customer due diligence and record-keeping requirements)
- To establish and implement adequate and appropriate AML/CFT systems taking into account factors including products and services offered, types of customers, geographical locations involved

(AML Guideline 2.1 - 2.2)





Timing of Identification and Verification of Identity





Timing of Identification and Verification of Identity

- If cannot complete CDD, **must not** establish business relationship or carry out an occasional transaction
- Assess whether this failure provides grounds for knowledge or suspicion of ML/TF and to report to JFIU through immediate completion and submission of STR.

(AML Guideline 4.7)





Risk Identification & Assessment





Risk Identification & Assessment (I)

- Identify the risks inherent in the industry and faced by this particular business
- Establish and implement adequate & appropriate AML/CFT systems taking into account the following risk factors:
 - ✓ Customer
 - ✓ Product/service
 - ✓ Delivery/distribution channel
 - ✓ Country/geographical location





Risk Identification & Assessment (II)

- Customer Risk

- ✓ Customers with businesses that handle large amounts of cash
- ✓ Customers with complex business ownership structures with the potential to conceal underlying beneficiaries
- ✓ Customers who are potential Politically Exposed Persons (PEPs)
- ✓ Customers who are 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 (III)

- Product/service risk
 - ✓ Product/service that inherently have provided more anonymity
 - ✓ Ability to pool underlying customers/funds





Risk Identification & Assessment (IV)

- Delivery/distribution channel risk
 - ✓ Non face-to-face account opening approach – sales through online, postal or telephone channels
 - ✓ Business relationship is indirect – business sold through intermediaries





Risk Identification & Assessment (V)

- Country/geographical location risk
 - ✓ Having strong links to terrorist activities
 - ✓ Increased vulnerabilities to corruption
 - ✓ Inadequate systems to prevent and detect ML/TF

(AML Guideline 2.3 - 2.8 & 3.4 - 3.5)





High-risk Situations





High-risk Situations

- Obtaining additional information on the customer and updating more regularly the customer profile including the identification data
- Obtaining additional information on the intended nature of the business relationship, the source of wealth and source of funds
- Obtaining the approval of senior management to commence or continue the relationship
- Conducting enhanced monitoring of the business relationship, by increasing the number and timing of the controls applied and selecting patterns of transactions that need further examination

(AML Guideline 4.11)





Ongoing Monitoring





Continuous CDD Obligations

The CDD obligations to be imposed on MSOs are **on-going**. MSOs should continuously ensure that CDD measures are taken appropriately and customer information is **up-to-date**. MSOs should conduct CDD measures when it

- Finds any suspicious or unusual transaction by the customer
- Finds any material change in the operation of the customer's account
- Becomes aware that it lacks sufficient information about the customer





Ongoing Monitoring (I)

- Continuously monitor business relationship with a customer by :
 - ✓ Reviewing from time to time CDD documents, data and information
 - ✓ Scrutinizing transactions with customers to ensure they are consistent with the customer's risk profile
 - ✓ Identifying transactions that are complex, large or unusual or patterns of transactions with no apparent economic or lawful purpose

(AML Guideline 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 the risk assessment
- ✓ Must take additional measures when monitoring business relationships that pose a higher risk

(AML Guideline 5.7 - 5.8)





Ongoing Monitoring (III)

- Methods and procedures
 - ✓ Should take into account the following factors
 - ▣ The size and complexity of its business;
 - ▣ Its assessment of the ML/TF risks arising from its business
 - ▣ The nature of its systems and controls
 - ▣ The monitoring procedures that already exist to satisfy other business needs
 - ▣ The nature of the products and services
 - ▣ Exception reports (e.g. Large transactions report) will help stay apprised of operational activities of the customer

(AML Guideline 5.9)





Ongoing Monitoring (IV)

- Examination of transactions that are complex, large or unusual, or patterns of transactions which have no apparent economic or lawful purpose
- Findings/outcomes properly documented in writing
- Proper records of decision made, by whom, and rationale

(AML Guideline 5.10)





Ongoing Review





Ongoing Review

- Adjust risk assessment of a particular customer from time to time or based upon information received from a competent authority
- Review the extent of the CDD and ongoing monitoring to be applied to the customer
- Keep policies and procedures under regular review and assess risk mitigation procedures and controls are working effectively





Internal Monitoring System





Internal Monitoring System

- Conduct regular audits to test the procedures are adhered to throughout the business
- Review and update of risk controls
- Provision of regular and timely information to senior management
- Training of employees on legal responsibilities and risk alert





Points to note





Record-keeping Requirements (I)

Transaction Record

- Keep the original or a copy of the documents
- For a period of at least five years after the completion of a transaction, regardless of whether the business relationship ends during the period





Record-keeping Requirements (II)

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
- For a period of at least five years throughout the business relationship with the customer and after the end of the business





Schedule 2, Section 21 **Record-keeping Manner**

- If the record consists of a document, either :
 - (i) the original of the document; or
 - (ii) a copy of the document kept on microfilm or in the database of a computer.
- If the record consists of data or information:
 - such record should be kept either on microfilm or in the database of a computer.





Thank You

