

16 December 2022

Circular to Licensed Corporations and Associated Entities

Anti-Money Laundering / Counter-Financing of Terrorism

Anti-Money Laundering and Counter-Terrorist Financing (Amendment)

Ordinance 2022

The Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 (the Amendment Ordinance) was published in the Gazette (Ord. No. 15 of 2022) today.

The Amendment Ordinance can be found on the Government's website (<https://www.gld.gov.hk/egazette/pdf/20222650/es12022265015.pdf>).

The Amendment Ordinance introduces a licensing regime for virtual asset service providers ^{Note 1}; and a two-tier registration regime for dealers in precious metals and stones.

A few miscellaneous amendments have also been made in the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (AMLO) to ensure alignment with the latest Financial Action Task Force (FATF) standards. The amendments, which are more relevant to the securities sector, include:

- (a) amending the definition of “politically exposed person” (PEP) in accordance with the FATF standards ^{Note 2}, and allowing financial institutions to take a risk-sensitive approach in determining the degree of customer due diligence measures on former PEPs who are no longer entrusted with a prominent public function;
- (b) better aligning the definition of “beneficial owner” in relation to a trust under the AMLO with that of “controlling person” under the Inland Revenue Ordinance (Cap. 112), by clarifying that, where a trust is concerned, it includes trustees, beneficiaries and class(es) of beneficiaries of the trust entitled to a vested interest in; and
- (c) allowing the use of a recognized digital identification system for the purposes of customer due diligence which also satisfies the special requirements in situations where a customer is not physically present for identification purposes (ie, non-face-to-face situations).

^{Note 1} Under the licensing regime for virtual asset service providers, any person who seeks to carry on a business of operating a virtual asset exchange is required to be licensed with the Securities and Futures Commission. The person must satisfy the “fit-and-proper” test and comply with anti-money laundering and counter-financing of terrorism requirements as well as other regulatory requirements.

^{Note 2} The definition of PEP is amended to an individual who is or has been entrusted with a prominent public function in a place outside Hong Kong. This means that the special requirements under section 10 of Schedule 2 to the AMLO applies not only to a PEP from a place outside the People's Republic of China but also a PEP from a place outside Hong Kong.



The above amendments will come into operation on 1 June 2023. Licensed corporations and associated entities are reminded to review the Amendment Ordinance and ensure compliance with the requirements.

Should you have any queries regarding the contents of this circular, please contact Ms Kiki Wong at 2231 1569 who will assist to refer your queries to the relevant officer.

Intermediaries Supervision Department
Intermediaries Division
Securities and Futures Commission

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