

Our Ref. AC/SW/CRF

17 November 2011

**By Post and Email at**  
**aml\_guideline@sfc.hk**

Intermediaries Supervision Department  
Securities and Futures Commission  
8th Floor, Chater House  
8 Connaught Road Central  
Hong Kong

Dear Sirs

**Consultation on (1) the Proposed Guideline on Anti-Money Laundering and Counter-Terrorist Financing and (2) the Proposed Prevention of Money Laundering and Terrorist Financing Guideline Issued by the Securities and Futures Commission for Associated Entities (the “Proposed Guideline”)**

We are writing in response to your invitation to comment on the above consultation paper. We set out our comments as follows:-

**PERSONS PURPORTING TO ACT ON BEHALF OF CUSTOMERS**

**Question 1**

We believe paragraphs 4.4.1, 4.4.3 and 4.9.19 together do provide a sufficiently detailed guidance to assist financial institutions (“FIs”) in complying with the requirement to take reasonable measures in verifying the identity of persons purporting to act on behalf of the customers.

Clarification is sought on whether address verification should be added as an additional Customer Due Diligence (“CDD”) measure to verify the identity of persons and those authorized to give instructions for the movement of funds or assets (“the Beneficial Owner”) as a general rule.

In this respect, we are of the view that address verification is also useful for verifying an individual’s identity and background (as stated in paragraph 4.8.8 of the Proposed Guideline) and should not be missed out in the CCD process. However, the proposed requirement might increase the workload of FIs to a certain extent. We would suggest that the risk-based approach be adopted to determine the need to verify the address of the Beneficial Owner as set out in paragraph 4.8.9 of the Proposed Guideline.

## WIRE TRANSFERS

### Question 2

We are of the view that Chapter 10, particularly paragraph 10.1 together with the exemptions given in paragraph 10.3 of the Proposed Guideline, has implied that the wire transfer provisions do not apply to the licensed corporations (“LCs”).

In order to make it crystal clear to the public that these provisions do not apply to LCs, we are of the view that paragraph 10.1 may adopt the same wordings used in paragraph 10(b) of the Revised Interpretative Note to Special Recommendation VII: Wire Transfers” in the FATF IX Special Recommendations<sup>1</sup>.

## PERFORMANCE OF A COMPANY REGISTRY SEARCH

### Question 3

We are supportive of the benefits in performing company registry searches as an independent, effective means of confirming a corporate customer’s current status and verifying the names of its directors and shareholders. We believe that it is a practical and logical approach to obtain corporate customers’ background information in the CDD process. However, the complexity and costs involved in obtaining company registry searches vary depending on the jurisdiction.

Performing a company registry search for corporation incorporated in Hong Kong is simple, inexpensive and can be conducted via the internet. However, performing a company registry search or obtaining a Certificate of Incumbency for overseas corporate customers (“OCC”) such as those in the BVI is relatively expensive and time consuming.

In line with the requirements set out in the Interpretative Notes of the FATF 40 Recommendations and taking into consideration of cost and effectiveness, we believe that certified true copy of relevant documents obtained from customers or documents from other reliable sources can be considered as an alternative for OCC. Such documents and/or information, however, shall be certified by an independent suitable certifier as defined in paragraphs 4.12.3 to 4.12.6 of the Proposed Guideline.

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<sup>1</sup> Paragraph 10(b) states that “SRVII is not intended to cover the following types of payments: Financial institution-to-financial institution transfers and settlements where both the originator person and the beneficiary person are financial institutions acting on their own behalf”.

For the occurrence of trigger events as set out in paragraph 4.7.12 of the Proposed Guideline, we consider that verification of identity of OCC should be performed by conducting a company registry search (if available) or obtaining a Certificate of Incumbency instead.

We believe that the alternative measures as suggested above can allow the CDD process to be performed in a more efficient, cost effective and practicable manner.

## NOMINEE COMPANIES

### Question 4

We have no further comments on this.

## STAFF TRAINING

### Question 5

We agree that FIs should implement clear and well articulated policies to ensure that relevant staff members receive adequate anti-money laundering and counter financing of terrorism (“AML/CFT”) training and that the FIs should monitor the effectiveness of such AML/CFT staff training policy.

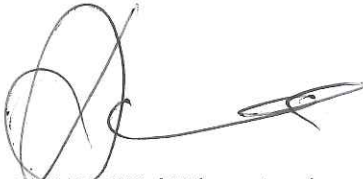
However, FIs may encounter difficulties when designing and implementing the AML/CFT training policy as the Proposed Guideline does not provide detailed and practical guidance on how to measure the adequacy of AML/CFT training to comply with Chapter 9 of the Proposed Guideline.

We understand that the SFC aims at providing flexibility for FIs to design their own AML/CFT training according to the size and complexity of their business, and the type and level of money laundering and/or terrorist financing risks. However, we believe that it will be very helpful to provide a guidance on the minimum requirement (such as number of training hours and time-frame) each level of staff members has to achieve in order to maintain their AML/CFT knowledge and competence under this provision. For example, the Association of Certified Fraud Examiners in the USA requires all its certified members to obtain a minimum of 20 hours of continuing professional education every 12-month to stay current in the profession. A clear guideline for the acceptable fields of study is also provided to its member for easy reference.

In complying with paragraph 9.9 of the Proposed Guideline, we suggest that FIs should also keep a copy of the training material or course details for all AML/CFT training sessions attended by their staff members.

For paragraph 9.10 of the Proposed Guideline, we are of the view that FIs should ensure that all training providers possess sufficient industry knowledge, qualifications and practical experience in AML/CFT legislation and regulatory requirements.

Yours faithfully



CHAN Wai Hing, Annie  
Managing Director