

This submission is made on our behalf and does not necessarily represent the views of any one client of our firm.

A detailed guidance relating to the application of the Anti Money Laundering Ordinance is welcome.

The guidance makes little mention or does not take into account the limited nature of the resources of many financial intermediaries in Hong Kong. Conversely the Internal Control Guidelines published by the Commission specifically allow for variation from the guidelines where a firm is small or has limited resources. The AMLO guidance note should likewise state clearly that the Commission will allow firms that are not large or whose business is quite limited to have less controls than are specified in the guidance note. The requirement, for example, to have two persons responsible for AML is unreasonable in small firms.

The Commission has not set out in the guidance note specific procedures whereby a member of a financial intermediary who duly reports a suspicion to their designated AML reporting officer is then absolved of any further need to make a report to the JFIU. We believe that it has been the JFIU's intention to allow such an accommodation and this should be set out in the guidance note.

The Commission should give greater clarity to the provisions that require identification of persons acting on behalf of a client. These provisions could be interpreted very widely and result in considerable documentary burdens for firms that are large and yet already supervised by the Commission or another competent regulatory authority.

We question why 'private banking' has been listed as high risk at para 4.11.1. Surely this is too wide a definition of something that of course can be high or low risk and pretty much everything in between. Such broad definitions of what is high risk are counter productive to the industry and compliance teams that have to monitor adherence to the rules. Rather than the regulator producing examples of high risk at all the regulator may wish to consider publishing AML typologies and proscribing those as high risk.

We recommend that the Commission more thoroughly define EDD to assist financial intermediaries meet obligations in this respect.

The Commission has decided not to consider a proper definition of a PEP leaving the matter open to interpretation. This has always been one of the weakest elements of the PEP AML infrastructure globally and we would recommend that the Commission consider a definition of same. A definition will assist both compliance and front office personnel perform their duties. Not having a definition presents a significant risk of potential clients shopping for the lightest compliance approach to the topic when considering a financial intermediary.

The obligations of financial intermediaries with respect to UNSO would be made much easier if the Commission or FSB in Hong Kong were to republish in common database formats (as is done by the US Treasury) the names that are subject to the UNSO requirements. Private databases of the same data are expensive and a low cost alternative for small firms is recommended and will enhance compliance.

Sincerely

ComplianceAsia Consulting Ltd

Alex Duperouzel

Managing Director