



香港海關  
Customs and Excise Department

# 金錢服務經營者的 合規職能及法定責任

**7.7.2021**

貿易管制處

金錢服務監理科

# 打擊洗錢及恐怖分子資金籌集指引 (打擊洗錢指引)



## Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Money Service Operators)

November 2018

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<i>Tipping off</i> s.15A(5), DTROP & OSCO, s.12(5), UNATMO	7.6	It is an offence ("tipping off") to reveal to any person any information which might prejudice an investigation; if a customer is told that a report has been made, this would prejudice the investigation and an offence would be committed. The tipping-off provision includes circumstances where a suspicion has been raised internally within an MSO, but has not yet been reported to the JFIU.
<b>AML/CFT Systems in relation to suspicious transaction reporting</b>		
	7.7	An MSO should implement appropriate AML/CFT Systems in order to fulfil its statutory reporting obligations, and properly manage and mitigate the risks associated with any customer or transaction involved in an STR. The AML/CFT Systems should include:  (a) appointment of an MLRO (see Chapter 3); (b) implementing clear policies and procedures over internal reporting, reporting to the JFIU, post-reporting risk mitigation and prevention of tipping off; and (c) keeping proper records of internal reports and STRs.
	7.8	An MSO should have measures in place to check, on an ongoing basis, that its AML/CFT Systems in relation to suspicious transaction reporting comply with relevant legal and regulatory requirements and operate effectively. The type and extent of the measures to be taken should be appropriate having regard to the risk of ML/TF as well as the nature and size of its business.
<b>Money laundering reporting officer</b>		
	7.9	An MSO should appoint an MLRO as a central reference point for reporting suspicious transactions and also as the main point of contact with the JFIU and law enforcement agencies. The MLRO should play an active role in the identification and reporting of suspicious transactions. Principal functions of the MLRO should include having oversight of:  (a) review of internal disclosures and exception reports and, in light of all available relevant information, determination of whether or not it is necessary to make a report to the JFIU; (b) maintenance of all records related to such internal reviews; and (c) provision of guidance on how to avoid tipping off.
<b>Identifying suspicious transactions and internal reporting</b>		
	7.10	An MSO should provide sufficient guidance to its staff to enable them to form suspicion or to recognise the signs when ML/TF is taking place. The guidance should take into account the nature of the transactions and customer instructions that staff is likely to encounter, the type of product or service and the means of delivery.
	7.11	An MSO may adopt, where applicable, the "SAFE" approach promoted by the JFIU, which includes: (a) screening the account for suspicious indicators; (b) asking the customers appropriate questions; (c) finding out the customer's records; and (d) evaluating all the above information. Details of the "SAFE" approach are available at JFIU's website ( <a href="http://www.jfiu.gov.hk">www.jfiu.gov.hk</a> ).
	7.12	An MSO should establish and maintain clear policies and procedures to ensure that:

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# 打擊洗錢／恐怖分子資金籌集制度

- 主要思維模式：風險為本
- 採用風險為本的方法，設立及執行妥善而適當的打擊洗錢／恐怖分子資金籌集制度
  - 確保設有合適的保障措施，以減低洗錢／恐怖分子資金籌集的風險
  - 防止違反《打擊洗錢及恐怖分子資金籌集條例》附表2第2或3部的任何規定（即就客戶作盡職審查及備存紀錄的規定）



# 風險為本的方法

- 機構層面的風險評估
  - 識別、評估和了解金錢服務經營者本身的洗錢／恐怖分子資金籌集風險  
(打擊洗錢指引第2.2 - 2.9段)
- 客戶風險評估
  - 評估與業務關係有關的洗錢／恐怖分子資金籌集風險，例如金錢服務經營者的客戶  
(打擊洗錢指引第2.12 - 2.15段)



# 客戶盡職審查措施

- 金錢服務經營者在開始建立業務關係之時；執行任何指明的非經常交易之前或金錢服務經營者在識別／核實客戶身分時有懷疑之時，須就客戶執行盡職審查措施

（打擊洗錢指引第4.2段）

- 如洗錢／恐怖分子資金籌集風險屬於高，金錢服務經營者應採取額外措施／更嚴格的盡職審查措施，例如政治人物

（打擊洗錢指引第4.9段）



## 更嚴格的盡職審查措施／額外措施

- 就以下方面索取額外資料，例如：
  - 客戶資料，例如職業、資產量
  - 財富來源及資金來源
  - 進行交易的理由
- 更頻密地定期更新客戶／實益擁有人的身分證明數據
- 規定第一次作出的付款是經由該客戶的戶口進行



## 更嚴格的盡職審查措施

- 取得管理層批准，以開展／繼續關係
- 對業務關係執行更嚴格的持續監察：增加執行管控措施的次數及時間，以及篩選需要進一步查驗的交易模式。



香港海關  
Customs and Excise Department

# 持續監察

- 金錢服務經營者必須從兩個方面持續監察與客戶的業務關係：
  - 持續的客戶盡職審查
  - 監察交易





# 持續監察

- 持續的客戶盡職審查
  - 不時覆核關於客戶的文件、數據及資料
  - 確保取得的客戶盡職審查資料反映現況及仍屬相關的
  - 制訂有關定期覆核的頻密程度的政策和程序



# 持續監察

- 監察交易

- 對交易執行審查，以確保交易符合對客戶的風險狀況的認知
- 識別複雜、款額大得異乎尋常或進行模式異乎尋常的交易及沒有明顯經濟或合法目的之交易
- 維持適當及有效的交易監察系統及程序



# 持續監察

- 採用風險為本的方法進行交易監察：
  - 監察程度應與客戶的洗錢／恐怖分子資金籌集風險狀況相稱。
  - 監察的業務關係如屬高風險，應採取額外措施



# 持續監察

- 應因應下列因素開發系統及程序：
  - 業務的規模及複雜程度
  - 業務所產生的洗錢／恐怖分子資金籌集風險
  - 系統及管控措施的性質
  - 滿足其他業務需要的現存監察程序
  - 提供的產品及服務的性質



# 持續監察

- 如有任何懷疑的理由，金錢服務經營者應：
  - 就交易／活動取得解釋
  - 將採取步驟後的發現／結果記錄在案
  - 記錄任何決定的理由
  - 向財富情報組提交可疑交易報告



## 持續覆核

- 不時或在主管當局提供資料後，調整特定客戶的風險評估
- 覆核適用於客戶盡職審查的範圍及持續監察
- 定期覆核政策及程序，並確保減低風險程序及管控措施行之有效



# 內部監察系統

- 定期進行審計
- 覆核及更新風險管控措施
- 定期並及時向高級管理層提供資料
- 在法律責任及留意風險方面為員工提供培訓



# 合規視察

- 《打擊洗錢及恐怖分子資金籌集條例》第9條
- 確定遵從《打擊洗錢及恐怖分子資金籌集條例》的條文／任何給予的通知或施加的規定／任何施加的條件





# 合規視察

獲授權人可

- 進入業務處所
- 查閱、複製或複印任何所經營的業務或所進行的任何交易的紀錄／文件
- 向金錢服務經營者或可能管有／掌握任何紀錄或文件的資料的其他人作出查訊



# 在指明時間及地點的指定紀錄／文件

- 書面通知
- 交易期
- 交易撮要（例如發出人、收款人、金額、參考編號等資料，以試算表格式列出）

香港海關  
金錢服務監理科  
九龍九龍灣臨樂街19號  
南豐商業中心12樓1218-22室

CUSTOMS AND EXCISE DEPARTMENT  
HONG KONG  
Money Service Supervision Bureau  
Units 1218-22, 12/F, Nan Fung Commercial Centre,  
19 Lam Lok Street, Kowloon Bay, Kowloon.

Our Ref: [REDACTED]

To: [REDACTED]

Date: [REDACTED]

Dear Sir/Madam,

**Routine Inspection pursuant to section 9 of the  
Anti-Money Laundering & Counter-Terrorist Financing Ordinance ("AMLO")  
Chapter 615, Laws of Hong Kong**

Pursuant to section 9 of the AMLO, I am writing to inform you that the following authorized person will conduct a routine inspection in relation to the compliance requirements of a licensed Money Service Operator namely [REDACTED] with details as follows:

Date: [REDACTED]  
Time: [REDACTED]  
Address: Units 1218-22, 12/F, Nan Fung Commercial Centre,  
19 Lam Lok Street, Kowloon Bay, Kowloon.

Authorized Person: [REDACTED]

For the purpose of the inspection, you are required to bring the following documents and records relating to the money service business carried on, or any transaction carried out, by [REDACTED] to the above address as scheduled.

Documents/Records	Transaction Period
(1) Business Plan	[REDACTED]
(2) AML Policy Statement	[REDACTED]
(3) Customer Records (Full Set)	[REDACTED]
(4) Transaction Summary (Full Set)	[REDACTED]
(5) Transaction Records (Full Set)	[REDACTED]
(6) Bank Statements (Full Set)	[REDACTED]

For the customer and transaction records, please refer to Chapter 8 of the Guideline on Anti-Money Laundering & Counter-Terrorist Financing.

Please note that late provision of the required documents is considered as failure to comply with section 9(3) and 9(5) of the AMLO, i.e., to produce the documents or records within the specified time and place as well as to answer questions as raised by the authorized persons, you are liable to be prosecuted under section 10 of the AMLO and shall be liable on summary conviction to a fine of \$50,000 and to imprisonment for 6 months.

Should you have any question, please contact [REDACTED] at 2707 7 [REDACTED] during office hours.

Yours sincerely,  
( [REDACTED] )  
for Commissioner of Customs and Excise

Acknowledge receipt by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature and Business Chop)

CUSTOMS AND EXCISE DEPARTMENT  
HONG KONG  
Money Service Supervision Bureau  
Units 1218-22, 12/F, Nan Fung Commercial Centre,  
19 Lam Lok Street, Kowloon Bay, Kowloon.

【表格例】  
就名稱為 [REDACTED]  
如下：  
1218-22 室  
[REDACTED] 經營金錢服務或通  
子資金籌集指引) 第 8 章。  
第 9(3) 及 9(5) 條，即須在  
月題。如你未能遵從要求，概  
款 50,000 元及入獄 6 個月。  
關長  
代 行 )

確認收妥： \_\_\_\_\_ 日期： \_\_\_\_\_  
(簽名及公司蓋印)



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Customs and Excise Department

# 海關人員會怎樣做？

- 檢視文件
- 觀察運作流程
- 與各級職員會談及查訊
- 對關聯公司/人士作出查訊
- 抽樣查閱相關資料及記錄



# 法定責任

- 在指明的時間及地點，讓獲授權人有權取覽／向獲授權人出示紀錄或文件
- 回答任何有關紀錄或文件的問題（如不知悉有關資料，藉法定聲明陳述該事情及原因）



# 法定責任

違反規定：

- 一經循公訴程序定罪，可處罰款\$200,000及監禁1年；或
- 一經循簡易程序定罪，可處第5級罰款(\$50,000)及監禁6個月。



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- 完 -

謝謝！

聯絡資料

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電郵地址 : [msoenquiry@customs.gov.hk](mailto:msoenquiry@customs.gov.hk)