



## Frequently Asked Questions

### Customer Due Diligence

**Q1 I am a TCSP licensee. Does customer due diligence (“CDD”) requirement apply to me when I carry out any types of transaction for my customers?**

Answer: Pursuant to section 5A(5) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615 (“the AMLO”), an AML/CTF requirement (i.e. a requirement set out in Part 2, 3 or 4 of Schedule 2 to the AMLO) that applies to a TCSP licensee only applies, when, by way of business, the TCSP licensee, in Hong Kong, prepares for or carries out for a client a transaction concerning a service specified in the definition of **trust or company service** in section 1 of Part 1 of Schedule 1.

Under section 1 of Part 1 of Schedule 1, trust or company service means the provision, in Hong Kong, by a person, by way of business, of one or more of the following services to other persons—

- (a) forming corporations or other legal persons;
- (b) acting, or arranging for another person to act—
  - (i) as a director or a secretary of a corporation;
  - (ii) as a partner of a partnership; or
  - (iii) in a similar position in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address for a corporation, a partnership or any other legal person or legal arrangement;
- (d) acting, or arranging for another person to act—
  - (i) as a trustee of an express trust or a similar legal arrangement; or
  - (ii) as a nominee shareholder for a person other than a corporation whose securities are listed on a recognized stock market.

**Q2** When carrying out CDD measures, what documents would be regarded as “reliable and independent” for verifying the identity information of a natural person customer who is a Hong Kong resident?

Answer: The following are examples of documents that would be considered to be reliable and independent for verification in respect of Hong Kong residents (both permanent and non-permanent residents):

**Hong Kong residents aged 12 or above:** Hong Kong identity card

**Children under 12 born in Hong Kong:** the child’s Hong Kong identity card, birth certificate or valid travel document. In such circumstance, a TCSP licensee should generally regard the minor’s parent or guardian as a person acting on behalf of the child and conduct the relevant CDD measures.

**Q3** When carrying out CDD measures, what documents would be regarded as “reliable and independent” for verifying the identity information of a natural person customer who is not a Hong Kong resident?

Answer: The following are examples of documents that would be considered to be reliable and independent for verification in respect of non-Hong Kong residents:

- (a) a valid travel document;
- (b) a national (i.e. Government or State-issued) identity card bearing the photograph of the natural person; or
- (c) a valid national (i.e. Government or State-issued) driving licence incorporating photographic evidence of the identity of the natural person.

**Q4** What are acceptable “travel documents” for the purpose of paragraph 4.3.3(b) of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Trust or Company Service Provider Licensees) (“the Guideline”)?

Answer: The following documents are examples of travel documents for the purpose of identity verification:

- (a) Passport
- (b) Mainland Travel Permit for Taiwan Residents
- (c) Seaman’s Identity Document (issued under and in accordance with the International Labour Organisation Convention/Seafarers Identity Document Convention 1958)
- (d) Taiwan Travel Permit for Mainland Residents
- (e) Permit for residents of Macau issued by Director of Immigration
- (f) Exit-entry Permit for Travelling to and from Hong Kong and Macau for Official Purposes
- (g) Exit-entry Permit for Travelling to and from Hong Kong and Macau

**Q5** Which part of the “valid travel documents” under paragraph 4.3.3(b) of the Guideline should be kept on file?

Answer: A TCSP licensee should retain a copy of the “biodata” page of the valid travel documents, containing the bearer’s photograph and biographical details, for the purpose of the record-keeping requirements in the AMLO and the Guideline.

**Q6 What measures should a TCSP licensee take to ensure the reliability of identification documents which are in electronic form?**

Answer: As mentioned in paragraph 4.3.16 of the Guideline, some commonly used original identification documents produced by the customers are in electronic form. The TCSP licensee should take appropriate measures to ensure the reliability of the electronic documents. The appropriateness of the measures to be taken will depend on the type of identification document in question. The following is an example for reference:

<b>Electronic document</b>	<b>Appropriate measure to ensure reliability</b>
Original certificate of incorporation issued by the Companies Registry of Hong Kong in electronic form	When accepting a print copy of an electronic Certificate of Incorporation, a TCSP licensee can corroborate with other identification document or information (e.g. record of company registries) to ensure the reliability of the print copy.

Note: For the avoidance of doubt, corroboration would not be required for instances where the TCSP licensee itself has downloaded a particular document (as opposed to having received a print copy of it) from a reliable source (e.g. the website of the Companies Registry of Hong Kong).

**Q7 In addition to complying with the CDD and on-going monitoring requirements, are there any additional measures that a TCSP licensee should take if a customer has not been physically present for identification purposes?**

Answer: Yes, a TCSP licensee is required to take additional measures under section 5(3)(a) (which is subject to section 5(4)) and section 9 of Part 2 of Schedule 2 to the AMLO in order to mitigate the risk (e.g. impersonation risk) associated with customers not physically present for identification purposes. Except where the licensee has verified the identity of the customer on the basis of data or information provided by a digital identification system that is a reliable and independent source that is recognized by the Registrar of Companies, if a customer has not been physically present for identification purposes, the licensee is required to take the following additional measures:

- A. Carrying out at least one of the following additional measures to mitigate the risk posed:
  - (a) further verifying the customer's identity on the basis of documents, data or information referred to in section 2(1)(a) of Part 2 of Schedule 2 to the AMLO but not previously used for the purposes of verification of the customer's identity under that section;
  - (b) taking supplementary measures to verify information relating to the customer that the licensee has obtained;
  - (c) ensuring that the payment or, if there is more than one payment, the first payment made in relation to the customer's account is carried out through an account opened in the customer's name with an authorized institution, or an institution that:
    - (i) is incorporated or established in an equivalent jurisdiction;
    - (ii) carries on a business similar to that carried on by an authorized institution;
    - (iii) has measures in place to ensure compliance with requirements similar to those imposed under Schedule 2 to the AMLO; and
    - (iv) is supervised for compliance with those requirements by authorities in that jurisdiction that perform functions similar to those of the Hong Kong Monetary Authority.

Section 9 of Part 2 of Schedule 2 to the AMLO, and paragraphs 4.10.1 to 4.10.5 and the Appendix to the Guideline should be referred to for further guidance.

- B. In monitoring the business relationship with the customer, taking additional measures to compensate for any money laundering or terrorist financing risk that may be caused by the fact that the customer has not been physically present for identification purposes. Please refer to section 5(3)(a) and (4) of Part 2 of Schedule 2 to the AMLO, and paragraph 5.9 of the Guideline for further guidance.

**Q8 I am a TCSP licensee. Can I choose to engage any third party to carry out CDD measures as an intermediary?**

**Answer:** You may rely upon an intermediary specified in section 18(3) of Part 2 of Schedule 2 to the AMLO to perform any part of the CDD measures specified in section 2 of Part 2 of Schedule 2, subject to the criteria set out in section 18 of Part 2 of Schedule 2 to the AMLO. However, the ultimate responsibility for ensuring that CDD requirements are met remains with you.

Specified intermediaries in Hong Kong are listed in section 18(3)(a) and (b) of Part 2 of Schedule 2 to the AMLO as follows:

- (a) a financial institution that is an authorized institution, a licensed corporation, an authorized insurer, a licensed individual insurance agent, a licensed insurance agency and a licensed insurance broker company; and
- (b) an accounting professional, an estate agent, a legal professional and a TCSP licensee, provided that these intermediaries are able to satisfy you that they have adequate procedures in place to prevent money laundering and terrorist financing and are required to comply with the requirements set out in Schedule 2 to the AMLO with respect to customers.

For provisions in relation to specified intermediaries in an equivalent jurisdiction, please refer to section 18(3)(c) of Part 2 of Schedule 2 to the AMLO.

Please also note the following conditions set out in section 18(1) of Part 2 of Schedule 2 to the AMLO for reliance on intermediaries to carry out CDD measures:

- (a) the intermediary consents in writing to be your intermediary; and
- (b) you are satisfied that the intermediary will on request provide a copy of any document, or a record of any data or information, obtained by the intermediary in the course of carrying out the CDD measures without delay.

You shall ensure compliance with the requirements set out in section 18 of Part 2 of Schedule 2 to the AMLO. Please refer to paragraphs 4.11.1 to 4.11.11 of the Guideline for guidance.

**Q9**      **What could constitute a “trigger event” for the purposes of requiring a CDD review as stated in paragraph 5.2 of the Guideline?**

Answer: Trigger events include:

- (a) when a significant transaction is to take place;
- (b) when a material change occurs in the way the customer’s account is operated;
- (c) when the TCSP licensee’s customer documentation standards change substantially;
- (d) when the TCSP licensee is aware that it lacks sufficient information about the customer concerned.

The word “significant” in item (a) is not necessarily linked to monetary value. It may include transactions that are unusual or not in line with the TCSP licensee’s knowledge of the customer.

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