

MAS 824

2 July 2007

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(Refer to endnotes for history of amendments)

NOTICE TO FINANCE COMPANIES

MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – FINANCE COMPANIES

1 INTRODUCTION

1.1 This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore (Cap. 186) and applies to all finance companies in Singapore licensed under section 6(1) of the Finance Companies Act (Cap. 108).

1.2 This Notice shall take immediate effect.

2 DEFINITIONS

2.1 For the purposes of this Notice —

“AML/CFT” means anti-money laundering and countering the financing of terrorism;

“beneficial owner”, in relation to a customer of a finance company, means the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted and includes the person who exercises ultimate effective control over a body corporate or unincorporate;

“business relations” means the opening or maintenance of an account by the finance company in the name of a person and the undertaking of transactions by the finance company for that person on that account;

“company” includes a body corporate formed or established outside Singapore under the law of the country or jurisdiction;

“CDD measures” or “customer due diligence measures” means the process of identifying the customer and obtaining information required by paragraph 4;

“customer”, in relation to a finance company, means a person in whose name an account is opened or intended to be opened, or for whom the finance company

undertakes or intends to undertake any transaction without an account being opened;

“FATF” means the Financial Action Task Force;

“finance company” means a finance company licensed under section 6(1) of the Finance Companies Act (Cap. 108);

“government entity” means a government of a country or jurisdiction, a ministry within such a government, or an agency specially established by such a government through written law;

“STR” means suspicious transaction report; and

“STRO” means the Suspicious Transactions Reporting Office, Commercial Affairs Department of the Singapore Police Force.

- 2.2 A reference to any threshold or value limit expressed in S\$ shall include a reference to the equivalent amount expressed in any other currency.
- 2.3 A reference to the completion of CDD measures is a reference to the situation when the finance company has received satisfactory responses to all inquiries.
- 2.4 Unless the context otherwise requires, a reference to a financial institution supervised by the Authority does not include a person who is exempted from licensing, approval or regulation by the Authority.

3 UNDERLYING PRINCIPLES

- 3.1 This Notice is based on the following principles, which shall serve as a guide for all finance companies in the conduct of their operations and business activities:
 - (a) A finance company must exercise due diligence when dealing with customers, persons appointed to act on the customer's behalf and beneficial owners.
 - (b) A finance company must conduct its business in conformity with high ethical standards, and guard against undertaking any transaction that is or may be connected with or may facilitate money laundering or terrorist financing.
 - (c) A finance company should, whenever possible and to the fullest extent possible, assist and cooperate with the relevant law enforcement authorities in Singapore in preventing money laundering and terrorist financing.

4 CUSTOMER DUE DILIGENCE

Anonymous or Fictitious Account

- 4.1 No finance company shall open or maintain anonymous accounts or accounts in fictitious names.

When CDD Measures are to be Performed

- 4.2 A finance company shall perform CDD measures in accordance with this Notice when —
- (a) the finance company establishes business relations with any customer;
 - (b) the finance company undertakes any transaction of a value exceeding S\$20,000 for any customer who has not otherwise established business relations with the finance company;
 - (c) there is a suspicion of money laundering or terrorist financing, notwithstanding that the finance company would otherwise not be required by this Notice to perform CDD measures; or
 - (d) the finance company has doubts about the veracity or adequacy of any information previously obtained.

CDD Measures where Business Relations are Established

(l) Identification of Customers

- 4.3 A finance company shall identify each customer who applies to the finance company to establish business relations.
- 4.4 For the purpose of paragraph 4.3, a finance company shall obtain and record information of the customer, including but not limited to the following:
- (a) Full name, including any aliases;
 - (b) Unique identification number (such as an identity card number, birth certificate number or passport number, or where the customer is not a natural person, the incorporation number or business registration number);
 - (c) Existing residential address, registered or business address (as may be appropriate) and contact telephone number(s);

- (d) Date of birth, incorporation or registration (as may be appropriate); and
 - (e) Nationality or place of incorporation or registration (as may be appropriate).
- 4.5 Where the customer is a company, the finance company shall, apart from identifying the customer, also identify the directors of the company.
- 4.6 Where the customer is a partnership or a limited liability partnership, the finance company shall, apart from identifying the customer, also identify the partners.
- 4.7 Where the customer is any other body corporate or unincorporate, the finance company shall, apart from identifying the customer, also identify the persons having executive authority in that body corporate or unincorporate.
- (II) Verification of Identity
- 4.8 A finance company shall verify the identity of the customer using reliable, independent sources.
- 4.9 A finance company shall retain copies of all reference documents used to verify the identity of the customer.
- (III) Identification and Verification of Identity of Natural Persons Appointed to Act on the Customer's Behalf
- 4.10 Where the customer appoints one or more natural persons to act on his behalf in establishing business relations with the finance company or the customer is not a natural person, a finance company shall —
- (a) identify the natural persons that act or are appointed to act on behalf of the customer;
 - (b) verify the identity of these persons using reliable, independent sources; and
 - (c) retain copies of all reference documents used to verify the identity of these persons.
- 4.11 A finance company shall verify the due authority of such persons to act on behalf of the customer.
- 4.12 A finance company shall verify the due authority of such persons to act by obtaining, including but not limited to the following:

- (a) the appropriate documentary evidence that the customer has appointed the persons to act on its behalf, and
 - (b) the specimen signatures of the persons appointed.
- 4.13 Where the customer is a Singapore government entity, the finance company shall only be required to obtain such information as may be required to confirm that the customer is a Singapore government entity as asserted.
- (IV) Identification and Verification of Identity of Beneficial Owners
- 4.14 Subject to paragraph 4.17, a finance company shall inquire if there exists any beneficial owner in relation to a customer.
- 4.15 Where there is one or more beneficial owner in relation to a customer, the finance company shall take reasonable measures to obtain information sufficient to identify and verify the identity of the beneficial owner.
- 4.16 Where the customer is not a natural person, the finance company shall take reasonable measures to understand the ownership and control structure of the customer.
- 4.17 A finance company shall not be required to inquire if there exists any beneficial owner in relation to a customer that is —
- (a) a Singapore government entity;
 - (b) a foreign government entity;
 - (c) an entity listed on the Singapore Exchange;
 - (d) an entity listed on a stock exchange outside of Singapore that is subject to regulatory disclosure requirements;
 - (e) a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence), unless specifically notified by the Authority);
 - (f) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF; or
 - (g) an investment vehicle where the managers are financial institutions —
 - (i) supervised by the Authority; or

- (ii) incorporated or established outside Singapore, but are subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF,

unless the finance company suspects that the transaction is connected with money laundering or terrorist financing.

- 4.18 For the purposes of paragraphs 4.17(f) and 4.17(g)(ii), a finance company shall document the basis for its determination that the requirements in those paragraphs have been duly met.

(V) Information on the Purpose and Intended Nature of Business Relations

- 4.19 A finance company shall obtain from the customer, when processing the application to establish business relations, information as to the purpose and intended nature of business relations.

(VI) Ongoing Monitoring

- 4.20 A finance company shall monitor on an ongoing basis, its business relations with customers.

- 4.21 A finance company shall, during the course of business relations, observe the conduct of the customer's account and scrutinise transactions undertaken to ensure that the transactions are consistent with the finance company's knowledge of the customer, its business and risk profile and where appropriate, the source of funds.

- 4.22 A finance company shall pay special attention to all complex or unusually large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose.

- 4.23 A finance company shall, to the extent possible, inquire into the background and purpose of the transactions in paragraph 4.22 and document its findings with a view to making this information available to the relevant competent authorities should the need arise.

- 4.24 A finance company shall periodically review the adequacy of customer identification information obtained in respect of customers and beneficial owners and ensure that the information is kept up-to-date, particularly for higher risk categories of customers.

Non-Face-to-Face Verification

- 4.25 A finance company shall put in place policies and procedures to address any specific risks associated with non-face-to-face business relationships or transactions.
- 4.26 A finance company shall implement the policies and procedures referred to in paragraph 4.25 when establishing customer relationships and when conducting ongoing due diligence
- 4.27 Where there is no face-to-face contact, the finance company shall carry out CDD measures that are as stringent as those that would be required to be performed if there were face-to-face contact.

Reliance on Identification and Verification Already Performed

- 4.28 When a finance company (“acquiring finance company”) acquires, either in whole or in part, the business of another financial institution (whether in Singapore or elsewhere), the acquiring finance company shall perform CDD measures on the customers acquired with the business at the time of acquisition, except where the acquiring finance company has —
- (a) acquired at the same time all corresponding customer records (including customer identification information) and has no doubt or concerns about the veracity or adequacy of the information so acquired; and
 - (b) conducted due diligence enquiries that have not raised any doubt on the part of the acquiring finance company as to the adequacy of AML/CFT measures previously adopted in relation to the business or part thereof now acquired by the acquiring finance company.

CDD Measures for Non-Account Holders

- 4.29 A finance company that undertakes any transaction of a value exceeding S\$20,000 for any customer who does not otherwise have business relations with the finance company shall —
- (a) establish and verify the identity of the customer as if the customer had applied to the finance company to establish business relations; and
 - (b) record adequate details of the transaction so as to permit the reconstruction of the transaction, including the nature and date of the transaction, the type and amount of currency involved, the value date, and the details of the payee or beneficiary.

- 4.30 Where a finance company suspects that two or more transactions are or may be related, linked or the result of a deliberate restructuring of an otherwise single transaction into smaller transactions in order to evade the measures provided for in this Notice, the finance company shall treat the transactions as a single transaction and aggregate their values for the purpose of this Notice.

Timing for Verification

- 4.31 Subject to paragraph 4.32 of this Notice, a finance company shall complete verification of the identity of the customer and beneficial owner —
- (a) before the finance company establishes business relations; or
 - (b) before the finance company undertakes any transaction for a customer, where the customer does not have business relations with the finance company.
- 4.32 A finance company may establish business relations with a customer before completing the verification of the identity of the customer and beneficial owner if —
- (a) the deferral of completion of the verification of the identity of the customer and beneficial owner is essential in order not to interrupt the normal conduct of business operations; and
 - (b) the risks of money laundering and terrorist financing can be effectively managed by the finance company.
- 4.33 Where the finance company establishes business relations before verification of the identity of the customer or beneficial owner, the finance company shall complete such verification as soon as is reasonably practicable.

Where CDD Measures are Not Completed

- 4.34 Where the finance company is unable to complete CDD measures, it shall terminate the business relationship and consider if the circumstances are suspicious so as to warrant the filing of an STR.

Joint Account

- 4.35 In the case of a joint account, a finance company shall perform CDD measures on all of the joint account holders as if each of them were individually customers of the finance company.

Existing Customers

- 4.36 A finance company shall perform such CDD measures as may be appropriate to its existing customers having regard to its own assessment of materiality and risk.

5 SIMPLIFIED CUSTOMER DUE DILIGENCE

- 5.1 Subject to paragraph 5.2, a finance company may perform such simplified CDD measures as it considers adequate to effectively identify and verify the identity of the customer, a natural person appointed to act on the customer's behalf and any beneficial owner if it is satisfied that the risks of money laundering and terrorist financing are low.

- 5.2 No finance company shall perform simplified CDD measures in the following circumstances:

(a) where the customers are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the finance company for itself or notified to finance companies generally by the Authority or by other foreign regulatory authorities; or

[MAS Notice 824 (Amendment) 2009]

(b) where the finance company suspects that money laundering or terrorist financing is involved.

[MAS Notice 824 (Amendment) 2009]

- 5.3 A finance company may perform simplified CDD measures in relation to a customer that is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence, unless specifically notified by the Authority).

- 5.4 Where the finance company performs simplified CDD measures in relation to a customer, it shall document —

(a) the details of its risk assessment; and

(b) the nature of the simplified CDD measures.

6 ENHANCED CUSTOMER DUE DILIGENCE

Politically Exposed Persons

- 6.1 For the purposes of paragraph 6 —

“politically exposed person” means —

- (a) a natural person who is or has been entrusted with prominent public functions whether in Singapore or a foreign country;
[MAS Notice 824 (Amendment) 2009]
- (b) immediate family members of such a person; or
- (c) close associates of such a person.

“prominent public functions” includes the roles held by a head of state, a head of government, government ministers, senior civil servants, senior judicial or military officials, senior executives of state owned corporations, and senior political party officials.

6.2 A finance company shall, in addition to performing CDD measures specified in paragraph 4, perform enhanced CDD measures in relation to politically exposed persons, including but not limited to the following:

- (a) implement appropriate internal policies, procedures and controls to determine if a customer or beneficial owner is a politically exposed person;
- (b) obtain approval from the finance company's senior management to establish or continue business relations, where the customer or a beneficial owner is a politically exposed person or subsequently becomes a politically exposed person;
- (c) establish, by appropriate and reasonable means, the source of wealth and source of funds of the customer or beneficial owner; and
- (d) conduct during the course of business relations, enhanced monitoring of business relations with the customer.

Other High Risk Categories

6.3 A finance company shall perform enhanced CDD measures in paragraph 6.2 for such other categories of customers, business relations or transactions as the finance company may assess to present a higher risk for money laundering and terrorist financing.

6.4 A finance company shall give particular attention to business relations and transactions with any person from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the finance company for itself or notified to finance companies generally by the Authority or other foreign regulatory authorities.

7 PERFORMANCE OF CDD MEASURES BY INTERMEDIARIES

7.1 Subject to paragraph 7.2, a finance company may rely on an intermediary to perform the CDD measures in paragraph 4 of this Notice if the following requirements are met:

- (a) the finance company is satisfied that the intermediary it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;
- (b) the intermediary is not one on which finance companies have been specifically precluded by the Authority from relying;
- (c) the intermediary is able and willing to provide, without delay, upon the finance company's request, any document obtained by the intermediary which the finance company would be required or would want to obtain.

[MAS Notice 824 (Amendment) 2009]

7.2 No finance company shall rely on an intermediary to conduct ongoing monitoring of customers.

7.3 Where a finance company relies on an intermediary to perform the CDD measures, it shall:

- (a) document the basis for its satisfaction that the requirements in paragraph 7.1(a) have been met except where the intermediary is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence); and

[MAS Notice 824 (Amendment) 2009]

- (b) immediately obtain from the intermediary the CDD information which the intermediary had obtained.

[MAS Notice 824 (Amendment) 2009]

7.4 For the avoidance of doubt, notwithstanding the reliance upon an intermediary, the finance company shall remain responsible for its AML/CFT obligations in this Notice.

8 WIRE TRANSFERS

8.1 Paragraph 8 shall apply to a finance company in Singapore when it effects the sending of funds by wire transfer or when it receives funds by wire transfer on the account of a person but shall not apply to a transfer and settlement between the finance company and another financial institution where the finance company and the other financial institution are acting on their own behalf as the wire transfer originator and the beneficiary institution.

8.2 For the purposes of paragraph 8 —

“beneficiary institution” means the financial institution that receives the funds on the account of the wire transfer beneficiary;

“cross-border wire transfer” means a wire transfer where the ordering institution and the beneficiary institution are in different countries or jurisdictions;

“intermediary institution” means the financial institution that is an intermediary in the wire transfer payment chain;

“ordering institution” means the financial institution that acts on the instructions of the wire transfer originator in sending the funds;

“wire transfer beneficiary” means the person to whom or for whose benefit the funds are sent; and

“wire transfer originator” means the person who initiates the sending of funds.

Responsibility of the Ordering Institution

(I) Identification and Recording of Information

8.3 Before effecting a wire transfer, every finance company that is an ordering institution shall —

- (a) identify the wire transfer originator and verify his identity (if the finance company has not already done so by virtue of paragraph 4); and
- (b) record adequate details of the wire transfer so as to permit its reconstruction, including at least the date of the wire transfer, the type and amount of currency involved, the value date and the details of the wire transfer beneficiary and the beneficiary institution.

(II) Cross-border Wire Transfers Exceeding S\$2,000

8.4 In a cross-border wire transfer where the amount to be transferred exceeds S\$2,000, every finance company which is an ordering institution shall include in the message or payment instruction that accompanies or relates to the wire transfer the following:

- (a) the name of the wire transfer originator;
- (b) the wire transfer originator’s account number (or unique reference number assigned by the ordering institution where no account number exists); and

- (c) the wire transfer originator's address, unique identification number, or date and place of birth.

(III) Domestic Wire Transfers

8.5 In a domestic wire transfer, every finance company that is an ordering institution shall either —

- (a) include in the message or payment instruction that accompanies or relates to the wire transfer all of the originator information required to be included as if the transaction had been a cross-border wire transfer exceeding S\$2,000; or
- (b) include only the originator's account number (or unique reference number where no account number exists) but be in a position to make the remaining originator information available within 3 working days of a request being made by the beneficiary institution.

Responsibility of the Beneficiary Institution

8.6 A finance company that is a beneficiary institution shall implement appropriate internal risk-based policies, procedures and controls for identifying and handling in-coming wire transfers that are not accompanied by complete originator information.

Responsibility of Intermediary Institution

8.7 A finance company that is an intermediary institution shall, in passing onward the message or payment instruction, maintain all the required originator information with the wire transfer.

9 RECORD KEEPING

9.1 A finance company shall prepare, maintain and retain documentation on all its business relations and transactions with its customers such that —

- (a) all requirements imposed by law (including this Notice) are met;
- (b) any transaction undertaken by the finance company can be reconstructed so as to provide, if necessary, evidence for prosecution of criminal activity;
- (c) the relevant competent authorities in Singapore and the internal and external auditors of the finance company are able to review the finance

- (d) the finance company can satisfy, within a reasonable time or any more specific time period imposed by law, any enquiry or order from the relevant competent authorities in Singapore for information.
- 9.2 Subject to paragraph 9.4 and any other requirements imposed by law, a finance company shall, when setting its record retention policies, comply with the following document retention periods:
- (a) a period of at least 5 years following the termination of business relations for customer identification information, and other documents relating to the establishment of business relations, as well as account files and business correspondence; and
 - (b) a period of at least 5 years following the completion of the transaction for records relating to a transaction, including any information needed to explain and reconstruct the transaction.
- 9.3 A finance company may retain documents as originals or copies, in paper or electronic form or on microfilm, provided that they are admissible as evidence in a Singapore court of law.
- 9.4 A finance company shall retain records pertaining to a matter which is under investigation or which has been the subject of an STR for such longer period as may be necessary in accordance with any request or order from STRO or from other relevant competent authorities.

10 SUSPICIOUS TRANSACTIONS REPORTING

- 10.1 A finance company shall keep in mind the provisions in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act¹ and in the Terrorism (Suppression of Financing) Act (Cap 325) that provide for the reporting to the competent authorities of transactions suspected of being connected with money laundering or terrorist financing, and implement appropriate internal policies, procedures and controls for meeting its obligations under the law, including the following:
- (a) establish a single reference point within the organisation to whom all staff are instructed to promptly refer all transactions suspected of being connected with money-laundering or terrorist financing, for possible referral to STRO via STRs; and

¹ Please note in particular section 48 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act on tipping-off.

- (b) keep records of all transactions referred to STRO, together with all internal findings and analysis done in relation to them.
- 10.2 A finance company shall submit reports on suspicious transactions (including attempted transactions) to STRO, and extend a copy to the Authority for information.
- 10.3 A finance company shall consider if the circumstances are suspicious so as to warrant the filing of an STR and document the basis for its determination where —
 - (a) the finance company is for any reason unable to complete CDD measures; or
 - (b) the customer is reluctant, unable or unwilling to provide any information requested by the finance company, decides to withdraw a pending application to establish business relations or a pending transaction, or to terminate existing business relations.

11 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 11.1 A finance company shall develop and implement internal policies, procedures and controls to help prevent money laundering and terrorist financing and communicate these to its employees.
- 11.2 The policies, procedures and controls shall include, amongst other things, CDD measures, record retention, the detection of unusual and/or suspicious transactions and the obligation to make suspicious transaction reports.
- 11.3 A finance company shall take into consideration money laundering and terrorist financing threats that may arise from the use of new or developing technologies, especially those that favour anonymity, in formulating its policies, procedures and controls.

Compliance

- 11.4 A finance company shall develop appropriate compliance management arrangements, including at least, the appointment of a management level officer as the AML/CFT compliance officer.
- 11.5 A finance company shall ensure that the AML/CFT compliance officer, as well as any other persons appointed to assist him, has timely access to all customer records and other relevant information which they require to discharge their functions.

Audit

- 11.6 A finance company shall maintain an audit function that is adequately resourced and independent, and which will be able to regularly assess the effectiveness of the finance company's internal policies, procedures and controls, and its compliance with regulatory requirements.

Employee Hiring

- 11.7 A finance company shall have in place screening procedures, to ensure high standards when hiring employees.

Training

- 11.8 A finance company shall take all appropriate steps to ensure that its staff are regularly trained on —
- (a) AML/CFT laws and regulations, and in particular, CDD measures, detecting and reporting of suspicious transactions;
 - (b) prevailing techniques, methods and trends in money laundering and terrorist financing; and
 - (c) the finance company's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of staff in combating money laundering and terrorist financing.

Endnotes on History of Amendments

1. MAS Notice 824(Amendment) 2009 dated 3 July 2009.