

GUIDELINES TO MAS NOTICE SFA13-N01 ON PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

Introduction

1. These Guidelines are issued to provide guidance to the trustees for collective investment schemes approved under the Securities and Futures Act (Cap 289) (“approved trustees”) on some of the requirements in SFA13-N01 (“the Notice”) issued on 29 December 2006.
2. Approved trustees are reminded that the ultimate responsibility and accountability for ensuring the approved trustee’s compliance with anti-money laundering and countering the financing of terrorism (“AML/CFT”) laws, regulations and guidelines rests with the approved trustee, its board of directors and senior management.
3. The expressions used in these Guidelines shall, except where expressly defined in these Guidelines or where the context otherwise requires, have the same respective meanings as in the Notice.

The structure of MAS Notice SFA13-N01

4. The Notice sets out the legally binding obligations of an approved trustee to take measures to help mitigate the risk of Singapore’s collective investment scheme regime from being used for money laundering or terrorist financing.
5. Paragraph 4 of the Notice deals with customer due diligence (“CDD”) measures. This paragraph sets out the four principal components of the standard CDD measures to be applied —
 - Identification of the fund manager by obtaining the requisite information pertaining to the fund manager and certain other persons associated with that fund manager;
 - Verifying the identification information obtained;
 - Identification and verification of the identity of natural persons appointed to act on behalf of the fund manager; and
 - Checking transactions conducted by the fund manager that are not generally consistent with the approved trustee’s knowledge of the investment mandate of the CIS, or have no apparent or visible economic purpose.
6. Finally, the Notice contains updated versions of the previous requirements with respect to record keeping (paragraph 5), reporting of suspicious transactions (paragraph 6) and the institution of internal policies, procedures and controls for AML/CFT (paragraph 7).

Key Concepts of the Notice

Money Laundering

7. Money laundering is a process intended to mask the benefits derived from drug trafficking or criminal conduct so that they appear to have originated from a legitimate source.
8. Generally, the process of money laundering comprises three stages, during which there may be numerous transactions that could alert an approved trustee to the money laundering activity:
 - (a) Placement - The physical disposal of the benefits of drug trafficking or criminal conduct;
 - (b) Layering - The separation of the benefits of drug trafficking or criminal conduct from their source by creating layers of financial transactions designed to disguise the audit trail; and
 - (c) Integration - The provision of apparent legitimacy to the benefits of drug trafficking or criminal conduct. If the layering process succeeds, the integration schemes place the laundered funds back into the economy so that they re-enter the financial system appearing to be legitimate business funds.

Terrorist Financing

9. Terrorism seeks to influence or compel governments into a particular course of action or seeks to intimidate the public or a section of the public through the use or threat of violence, damage to property, danger to life, serious risks to health or safety of the population or disruption of key public services or infrastructure. Approved trustees should refer to the legal definitions of terrorism found in the law such as the Terrorism (Suppression of Financing) Act (Cap 325), the United Nations (Anti-terrorism Measures) Regulations (Rg 1) and the Monetary Authority of Singapore (Anti-terrorism Measures) Regulations 2002 (G.N. No.S 515/2002).
10. Terrorists require funds to carry out acts of terrorism and terrorist financing provides the funds needed. Sources of terrorist financing may be legitimate or illegitimate. It may be derived from criminal activities such as kidnapping, extortion, fraud or drug trafficking. It may also be derived from legitimate income such as membership dues, sale of publications, donations from persons or entities sympathetic to their cause and sometimes income from legitimate business operations belonging to terrorist organisations.
11. Terrorist financing involves amounts that are not always large, and the associated transactions may not necessarily be complex given that some sources of terrorist funds may be legitimate.

12. However, the methods used by terrorist organisations to move, collect, hide or make available funds for their activities remain similar to those used by criminal organisations to launder their funds. This is especially so when the funds are derived from illegitimate sources, in which case, the terrorist organisation would have similar concerns to a typical criminal organisation in laundering the funds. Where the funds are derived from legitimate sources, terrorist organisations would usually still need to employ the same laundering techniques to obscure or disguise the links between the organisation and the funds.

Paragraph 4.2 (b) of the Notice – When CDD Measures are to be Performed

13. Where there is a suspicion of money laundering or terrorist financing in relation to subscriptions or redemptions by investors made directly through the fund manager, the approved trustee should pay special attention to such transactions.

Paragraph 4.4 of the Notice– Recording Information Relating to Customers

14. Paragraph 4.4 of the Notice requires the approved trustee to record information relating to the customer's shareholders and directors.
15. The approved trustee should, assess the risk of money laundering or terrorist financing, having regard to the circumstances of each case, in determining whether to establish and verify the identity of the shareholders and directors of the fund manager referred to in paragraph 4.4(f) and (g).
16. For the purposes of para 15 above, the approved trustee should consider whether persons, either singly or jointly with another, are able to give instructions concerning the use or transfer of funds or assets belonging to the customer in question.

Paragraphs 4.5 and 4.6 of the Notice – Verification of Identity

17. The requirements on verification of identity are intended to ensure that the identity information provided by the fund manager is authentic.
18. Where the person whose identity is to be verified is a natural person, approved trustees should, where necessary, ask for some form of identification that contains a recent photograph of that person,
19. The approved trustee should retain copies of all documentation used to verify the identity of the fund manager. Only in exceptional circumstances where the approved trustee is unable to retain a copy of documentation used in verifying the fund manager's identity, the approved trustee should record the following:
 - (a) the information, that the original documentation had served to verify;
 - (b) the title and description of the original documentation produced to the approved trustee's officer for verification, including any particular or

unique features or condition of that documentation (whether it is worn out, or damaged etc);

- (c) the reasons why a copy of that documentation could not be made;
- (d) the name of the approved trustee's officer who carried out the verification, a statement by that officer certifying that he or she has duly verified the information against the documentation, and the date the verification took place.

Reliability of Information and Documentation

- 20. Where the approved trustee obtains information or documents from the fund manager or a third party, the approved trustee should take reasonable steps to assure itself that such information or documents are reliable, and where appropriate, reasonably up to date at the time they are provided to the approved trustee.
- 21. Where the fund manager is unable to produce original documents, the approved trustee may consider accepting documents that are certified to be true copies by qualified persons, such as lawyers and accountant.

Paragraph 6 of the Notice – Suspicious Transaction Reporting

- 22. Paragraph 6 of the Notice provide for the establishment of internal procedures for reporting suspicious transactions.
- 23. Approved trustees are required to have adequate processes and systems for identifying and detecting suspicious transactions. The Authority also expects the approved trustee to put in place effective and efficient procedures for reporting suspicious transactions.
- 24. The approved trustee should ensure that the internal process for evaluating whether a matter should be referred to the Suspicious Transactions Reporting Office ("STRO") via a suspicious transaction report ("STR") should be completed without delay and not exceeding 15 working days of the case being referred by the relevant approved trustee's officer, unless the circumstances are exceptional or extraordinary.
- 25. Examples of suspicious transactions are as set out in Appendix I to these Guidelines. These examples are not intended to be exhaustive and are only examples of the most basic ways in which money may be laundered. If any transactions similar to those in Appendix I are identified, this should prompt further enquiries and, where necessary, investigations into the source of funds.
- 26. Approved trustees are required to keep watch for suspicious transactions in the course of conducting screening against such lists of terrorist suspects as may be required by law or circulated by any relevant authority. The approved

trustee should consider filing an STR even though there is no positive match against any name if the surrounding circumstances raise sufficient suspicions.

27. Subject to any written law or any directions given by STRO, approved trustees should as far as possible follow the reporting formats specified in Appendix II to these Guidelines. In the event that urgent disclosure is required, particularly where a transaction is known to be part of an ongoing investigation by the relevant authorities, approved trustees should give initial notification to STRO by telephone or email and follow up with such other means of reporting as STRO may direct.
28. Every approved trustee should maintain a complete file of all transactions that have been brought to the attention of its AML/CFT compliance officer or unit, including transactions that are not reported to STRO.

Paragraph 7.4 and 7.5 of the Notice – Compliance

29. The responsibilities of the AML/CFT compliance officer should include the following:
 - (a) ensuring a speedy and appropriate reaction to any matter in which money laundering or terrorist financing is suspected;
 - (b) advising and training senior management and staff on development and implementing internal policies, procedures and controls on AML/CFT as well as training;
 - (c) carrying out or overseeing the carrying out of ongoing monitoring of the fund manager's transactions and sample reviewing of accounts for compliance with the Notice and these Guidelines; and
 - (d) promoting compliance with the Notice and these Guidelines, including in particular observance of the underlying principles on AML/CFT in the Notice and taking overall charge of all AML/CFT matters within the organisation.

Paragraph 7.8 of the Notice – Training

30. As stated in paragraph 7.8 of the Notice, it is the responsibility of approved trustees to provide appropriate training on AML/CFT measures for its staff. To help ensure the effectiveness of training, approved trustees should monitor attendance at such training and take the appropriate follow-up action in relation to staff who absent themselves without reasonable cause.
31. Apart from the initial training, approved trustees should also provide refresher training at regular intervals to ensure that staff are reminded of their responsibilities and are kept informed of developments. Refresher training should be held at least once every two years

EXAMPLES OF SUSPICIOUS TRANSACTIONS

1 General Comments

The situations given below are intended mainly as a means of highlighting some basic ways in which money may be laundered. They are by no means definitive, and require constant updating and adaptation to changing circumstances and new methods of laundering money. They are intended solely as an aid, and must not be applied as a routine instrument in place of common sense.

- i) Transactions undertaken by fund manager which do not make economic sense, for example, buying and selling of a security with no discernible purpose or in circumstances which appear unusual.
- ii) Subscriptions and/or redemptions by fund managers for a large amount of units in collective investment schemes.
- iii) Subscriptions and/or redemptions of an unusually large volume by an end investor.

A fund manager's declarations regarding the background of such transactions should be checked for plausibility. Not every explanation offered by the fund manager can be accepted without scrutiny.

APPENDIX II

Reporting Format

- (1) Reporting of Suspicious Money Laundering Transactions pursuant to Section 39, Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act
- (2) Reporting of Suspicious Terrorist Financing Activities pursuant to Section 8, Terrorism (Suppression of Financing) Act

Reporting Approved Trustee	
Name:	
Branch:	
Address:	
Telephone:	
Fax:	
E-mail:	
Approved Trustee Reporting Officer	
Name:	
Designation:	
Report Reference:	
Contact Officer (if different from Reporting Officer):	
Designation:	
Fund Manager's Particulars	
Name:	
Country of Registration:	
Registration Date:	
Registration No.:	
Address:	
Telephone:	
Name of CEO:	

Date when particulars were last updated (where available):	
Collective Investment Schemes Affected	

Suspicious Transaction(s)		
Amount (Dr/Cr*)	Date	Description of Transaction

Reason(s) for Suspicion:

Other Relevant Information (including information on other accounts that may be linked to the transaction(s) and any actions taken by the reporting entity in response to the transaction):

(Signature of Reporting Officer)

Date: