

SFA13-N01

2 July 2007

NOTICE TO APPROVED TRUSTEES
MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – APPROVED TRUSTEES

1 INTRODUCTION

- 1.1 This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore Act (Cap. 186) and applies to an approved trustee.
- 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;

“approved trustee” means a person who is approved under section 289 of the Securities and Futures Act (Cap. 289) to act as a trustee of a collective investment scheme which is authorised under section 286 of the Securities and Futures Act and constituted as a unit trust

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

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

“CIS trustee activity” means entering into a trust deed with the customer and monitoring of the customer’s transactions;

“customer”, in relation to an approved trustee, means the fund manager;

“FATF” means the Financial Action Task Force;

“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 the completion of CDD measures is a reference to the situation when the approved trustee has received satisfactory responses to all inquiries.
- 2.3 A reference to a transaction includes a reference to a customer’s management of a CIS.

3 UNDERLYING PRINCIPLES

- 3.1 This Notice is based on the following principles, which shall serve as a guide for all approved trustees in the conduct of their operations and business activities:
- (a) an approved trustee must exercise due diligence when dealing with customers and persons appointed to act on the customer’s behalf in the course of business.
 - (b) an approved trustee 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) an approved trustee 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

General

- 4.1 No approved trustee shall deal with any person on an anonymous basis or any person using a fictitious name.

When CDD Measures are to be Performed

- 4.2 Every approved trustee shall perform CDD measures in accordance with this Notice when —
- (a) the approved trustee enters into negotiations with a customer with a view to signing a trust deed to act as trustee for a CIS;

- (b) there is a suspicion of money laundering or terrorist financing, notwithstanding that the approved trustee would otherwise not be required by this Notice to perform CDD measures; or
- (c) the approved trustee has any doubt about the veracity or adequacy of information being provided.

CDD Measures where Negotiations have Commenced

(I) Identification of Customers

4.3 Every approved trustee shall establish the identity of each customer who enters into negotiations or signs a trust deed with the approved trustee to act as trustee for a CIS.

4.4 For the purpose of the preceding paragraph, an approved trustee shall obtain and record information of the customer, including but not limited to the following:

- (a) Full name;
- (b) Whether customer is a Singapore-incorporated company or a foreign branch and place of incorporation or registration (as may be appropriate);
- (c) The incorporation number or business registration number;
- (d) Capital markets services licence number;
- (e) Registered and business address and contact telephone number(s);
- (f) Names and particulars of shareholders; if immediate shareholder is a holding company to determine the ultimate shareholders; and
- (g) Names, addresses and nationalities of directors.

(II) Verification of Identity

4.5 The approved trustee shall verify the identity of the customer using reliable, independent sources.

4.6 The approved trustee shall retain copies of all reference documents used in identity verification and the identification information.

(III) Identification and Verification of Identity of Natural Persons appointed on the Customer's Behalf

- 4.7 An approved trustee shall —
- (a) establish the identity of 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.
- 4.8 The approved trustee shall also verify the due authority of such persons to act on behalf of the customer. This shall include (but is not limited to) obtaining the appropriate documentary evidence that the customer has appointed the persons to act on its behalf.

(IV) Ongoing monitoring

- 4.9 An approved trustee shall observe the conduct of the customer's transactions to ensure that such transactions are generally consistent with the approved trustee's knowledge of the investment mandate of the CIS.
- 4.10 Every approved trustee shall pay special attention to the transactions conducted by its customer that have no apparent or visible economic purpose.
- 4.11 An approved trustee shall, to the extent possible, inquire into the background and purpose of the transactions in paragraph 4.10 and document their findings with a view to making this information available to the relevant competent authorities should the need arise.
- 4.12 Every approved trustee shall periodically review the adequacy of customer identification information obtained in respect of customers, in particular, that of the natural persons appointed to act for the customer and ensure that the information is kept up to date.

Face-to-Face Verification

- 4.13 An approved trustee shall have at least one face-to-face contact with its customer before signing the trust deed to act as trustee for a CIS.

Reliance on Identification and Verification Already Performed

- 4.14 When an approved trustee (“acquiring approved trustee”) acquires, either in whole or in part, the business of another approved trustee, the acquiring approved trustee shall perform CDD measures on customers acquired with the business at the time of acquisition except where the acquiring approved trustee has —
- (a) acquired at the same time all corresponding customer records (including information on natural persons appointed to act or are acting on behalf of the customer) 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 approved trustee as to the adequacy of AML/CFT measures previously adopted in relation to the business or part thereof now acquired by the acquiring approved trustee.

Time for Completion of CDD Measures

- 4.15 No approved trustee shall undertake to act as trustee for the CIS being offered by a customer unless the approved trustee has completed CDD measures in relation to that customer.
- 4.16 If the approved trustee is, for any reason, unable to complete CDD measures, it shall not act as trustee for the CIS and consider if the circumstances are suspicious so as to warrant the filing of an STR.

5 RECORD KEEPING

- 5.1 Every approved trustee shall prepare, maintain and retain documentation on all their CIS trustee activities such that —
- (a) all requirements imposed by law (including this Notice) are met;
 - (b) any CIS trustee activity undertaken by the approved trustee 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 approved trustee are able to assess the approved trustee's CIS trustee activities and level of compliance with this Notice; and

- (d) the approved trustee 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.
- 5.2 Subject to paragraph 5.4 and any other requirements imposed by law, every approved trustee shall, when setting its record retention policies, comply with the following document retention periods:
- (a) a period of at least 5 years following termination of the trust deed with the fund manager for customer identification information, and other documents relating to the establishment of the trust deed, as well as account files and business correspondence; and
 - (b) a period of at least 5 years following the completion of each of the customer's transaction which is monitored by the approved trustee for records relating to such monitoring.
- 5.3 Every approved trustee 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.
- 5.4 The approved trustee 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 direction from STRO or from other relevant competent authorities.

6 SUSPICIOUS TRANSACTIONS REPORTING

- 6.1 Every approved trustee 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 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 so referred to STRO, together with all internal findings and analysis done in relation to them.
- 6.2 The approved trustee shall submit reports on suspicious transactions (including attempted transactions) to STRO, and extend a copy to the Authority for information.
- 6.3 The approved trustee 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) an approved trustee 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 approved trustee, decides to terminate with no apparent good reason, negotiations to enter into a trust deed.

7 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 7.1 Every approved trustee shall develop and implement internal policies, procedures and controls to help prevent money laundering and terrorist financing and communicate these to its employees.
- 7.2 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.
- 7.3 The approved trustee 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 such policies, procedures and controls.

Compliance

- 7.4 Every approved trustee shall develop appropriate compliance management arrangements, including at least, the appointment of a management level officer as the AML/CFT compliance officer.
- 7.5 Every approved trustee 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

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

Employee Hiring

- 7.7 Every approved trustee shall have in place screening procedures, to ensure high standards when hiring employees.

Training

- 7.8 Every approved trustee 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 approved trustee's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of staff in combating money laundering and terrorist financing.