

TCA-N03

29 December 2006

NOTICE TO TRUST COMPANIES
TRUST COMPANIES ACT (Cap. 336)

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

1 INTRODUCTION

1.1 This Notice is issued pursuant to section 76 of the Trust Companies Act (Cap. 336) and applies to all trust companies licensed under the Trust Companies Act and also to all private trust companies exempted from licensing under the Trust Companies Act (hereinafter "trust companies").

1.2 This Notice shall take effect on 1 April 2007.

2 DEFINITIONS

2.1 For the purposes of this Notice—

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

"business contact", in relation to a trust company and a trust relevant party, means any contact between the trust company and the trust relevant party in the course of the provision of trust business services by the trust company;

"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 trust relevant parties and obtaining information required by paragraph 4;

"effective controller", in relation to a settlor or a trustee, means the natural person who ultimately owns or controls the settlor or trustee, 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;

"FATF" means the Financial Action Task Force;

“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;

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

“trust relevant party”, in relation to a trust, means any of the following —

- (i) the settlor of the trust;
- (ii) the trustee;
- (iii) the beneficiaries; or
- (iv) any person who has any power over the disposition of any property that is subject to the trust.

2.2 A reference to the completion of CDD measures is a reference to the situation when the trust company has received satisfactory responses to all inquiries.

2.3 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 trust companies in the conduct of their operations and business activities:

- (a) A trust company must exercise due diligence when dealing with trust relevant parties, persons appointed to act on the trust relevant party’s behalf and effective controllers.
- (b) A trust 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 trust 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 Dealings or Fictitious Names

4.1 No trust company 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 A trust company shall perform CDD measures in accordance with this Notice when —

- (a) the trust company comes into business contact with a trust relevant party;
- (b) there is a suspicion of money laundering or terrorist financing, notwithstanding that the trust company would otherwise not be required by this Notice to perform CDD measures; or
- (c) the trust company has doubts about the veracity or adequacy of any information previously obtained.

CDD Measures where Business Contacts are Established

(l) Identification of Trust Relevant Parties

4.3 A trust company shall identify each trust relevant party with whom the trust company comes into business contact as follows —

- (a) in respect of the settlor of the trust, before the trust is constituted;
- (b) in respect of each beneficiary of the trust, as soon as practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary; and
- (c) in respect of any other trust relevant party, as soon as practicable after the trust company first comes into business contact with that trust relevant party.

4.4 For the purpose of paragraph 4.3, a trust company shall obtain and record information of the trust relevant party, 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 trust relevant party 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 trust relevant party is a company, the trust company shall, apart from identifying the trust relevant party, also identify the directors of the company.
- 4.6 Where the trust relevant party is a partnership or a limited liability partnership, the trust company shall, apart from identifying the trust relevant party, also identify the partners.
- 4.7 Where the trust relevant party is any other body corporate or unincorporate, the trust company shall, apart from identifying the trust relevant party, also identify the persons having executive authority in that body corporate or unincorporate.
- (II) Verification of Identity
- 4.8 A trust company shall verify the identity of the trust relevant party using reliable, independent sources.
- 4.9 A trust company shall retain copies of all reference documents used to verify the identity of the trust relevant party.
- (III) Identification and Verification of Identity of Natural Persons Appointed to Act on the Trust Relevant Party's Behalf
- 4.10 Where the trust relevant party appoints one or more natural persons to act on his behalf in establishing business contacts with the trust company or a trust relevant party is not a natural person, a trust company shall —
- (a) identify the natural persons that act or are appointed to act on behalf of the trust relevant party;
 - (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 trust company shall verify the due authority of such persons to act on behalf of the trust relevant party.
- 4.12 A trust 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 trust relevant party has appointed the persons to act on its behalf; and
 - (b) the specimen signatures of the persons appointed.
- 4.13 Where the trust relevant party is a Singapore government entity, the trust company shall only be required to obtain such information as may be required to confirm that the trust relevant party is a Singapore government entity as asserted.
- (IV) Identification and Verification of Identity of Effective Controllers
- 4.14 Subject to paragraph 4.17, a trust company shall inquire if there exists any effective controller in relation to a settlor or a trustee.
- 4.15 Where there is one or more effective controllers in relation to a settlor or a trustee, the trust company shall take reasonable measures to obtain information sufficient to identify and verify the identity of the effective controllers.
- 4.16 Where the settlor or trustee is not a natural person, the trust company shall take reasonable measures to understand the ownership and control structure of the settlor or trustee.
- 4.17 A trust company shall not be required to inquire if there exists any effective controller in relation to a settlor or trustee 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 trust 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 trust 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 Contacts

4.19 A trust company shall obtain from the trust relevant party, when processing the application to establish business contacts, information as to the purpose and intended nature of business contacts.

(VI) Ongoing Monitoring

4.20 A trust company shall monitor on an ongoing basis, its business contacts with trust relevant parties.

4.21 A trust company shall, to the fullest extent practicable and within the scope of the trust business services being provided to the trust relevant party and the obligations being assumed by the trust company, scrutinise transactions undertaken to ensure that the transactions are consistent with the trust company's knowledge of the trust relevant party, its business and risk profile and where appropriate, the source of funds.

4.22 A trust 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 trust 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 trust company shall periodically review the adequacy of identification information obtained in respect of trust relevant parties and effective controllers of the settlor or trustee and ensure that the information is kept up to date, particularly for higher risk categories of trust relevant parties.

Non-Face-to-Face Verification

- 4.25 A trust company shall put in place policies and procedures to address any specific risks associated with non-face-to-face business contacts or transactions.
- 4.26 A trust company shall implement the policies and procedures referred to in paragraph 4.25 when establishing business contacts and when conducting ongoing due diligence.
- 4.27 Where there is no face-to-face contact, the trust 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 trust company ("acquiring trust company") acquires, either in whole or in part, the business of another trust company or financial institution (whether in Singapore or elsewhere), the acquiring trust company shall perform CDD measures on trust relevant parties acquired with the business at the time of acquisition except where the acquiring trust company has —
- (a) acquired at the same time all corresponding records of the trust relevant party (including 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 trust company as to the adequacy of AML/CFT measures previously adopted in relation to the business or part thereof now acquired by the acquiring trust company.

Existing Trust Relevant Parties

- 4.29 A trust company shall perform such CDD measures as may be appropriate to its existing trust relevant parties having regard to its own assessment of materiality and risk.

5 SIMPLIFIED CUSTOMER DUE DILIGENCE

- 5.1 Subject to paragraph 5.2, a trust company may perform such simplified CDD measures as it considers adequate to effectively identify and verify the identity of a trust relevant party, a natural person appointed to act on the trust relevant party's behalf and any effective controller of the settlor or trustee if it is satisfied that the risks of money laundering or terrorist financing are low.
- 5.2 No trust company shall perform simplified CDD measures in relation to trust relevant parties that are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust companies generally by the Authority or by other foreign regulatory authorities.
- 5.3 A trust company may perform simplified CDD measures in relation to a trust relevant party that is a financial institution supervised by the Authority (other than a holder of a money changers licence or a holder of a remittance licence, unless specifically notified by the Authority).
- 5.4 Where the trust company performs simplified CDD measures in relation to a trust relevant party, 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 in a foreign country;
 - (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 trust company shall, in addition to performing the 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 trust relevant party or an effective controller of a settlor or trustee is a politically exposed person;
 - (b) obtain approval from the trust company's senior management to establish or continue business contacts where a trust relevant party or effective controller of a settlor or trustee 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 trust relevant party or effective controller of the settlor or trustee; and
 - (d) conduct, during the course of business contacts, enhanced monitoring of business contacts with the trust relevant party.

Other High Risk Categories

- 6.3 A trust company shall perform the enhanced CDD measures specified in the preceding paragraphs for such other categories of trust relevant parties or transactions as the trust company may assess to present a higher risk for money laundering and terrorist financing.
- 6.4 A trust company shall give particular attention to business contacts and transactions with any person from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the trust company for itself or notified to trust 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 trust company may rely on an intermediary to perform elements of the CDD process set out in paragraph 4 of this Notice if the following requirements are met —
- (a) the trust company is satisfied that each 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 trust companies have been specifically precluded by the Authority from relying;
 - (c) the information that the trust company would be required or would want to obtain which is being obtained by the intermediary may be relayed to the trust company by the intermediary without any delay; and
 - (d) the intermediary is able and willing to provide, without delay, upon the trust company's request, any document obtained by the intermediary which the trust company would be required or would want to obtain.
- 7.2 No trust company shall rely on an intermediary to conduct ongoing monitoring of trust relevant parties.
- 7.3 Where a trust company relies on an intermediary to perform the CDD measures, it shall document the basis for its determination 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).
- 7.4 For the avoidance of doubt, notwithstanding the reliance upon an intermediary, the trust company shall remain responsible and accountable to the Authority for its AML/CFT obligations in this Notice.

8 RECORD KEEPING

- 8.1 A trust company shall prepare, maintain and retain documentation on all their business contacts with its trust relevant parties such that —
- (a) all requirements imposed by law (including this Notice) are met;
 - (b) any transaction undertaken by the trust 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 trust company are able to assess the trust company's transactions and level of compliance with this Notice; and
 - (d) the trust 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.

- 8.2 Subject to paragraph 8.4 and any other requirements imposed by law, a trust company shall, when setting its record retention policies, comply with the following document retention periods —
- (a) a period of at least 6 years following the completion or termination of the entire trust business service for which the trust company was engaged, in relation to identification information, and other documents relating to the provision of trust business services, as well as account files and business correspondence; and
 - (b) a period of at least 6 years following the completion of the transaction for records relating to a transaction, including any information needed to explain and reconstruct the transaction.
- 8.3 A trust 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.
- 8.4 A trust 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.

9 SUSPICIOUS TRANSACTIONS REPORTING

- 9.1 A trust 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
 - (b) keep records of all transactions referred to STRO, together with all internal findings and analysis done in relation to them.
- 9.2 A trust company shall submit reports on suspicious transactions (including attempted transactions) to STRO, and extend a copy to the Authority for information.

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

- 9.3 A trust 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 trust company is for any reason unable to complete CDD measures; or
 - (b) the trust relevant party is reluctant, unable or unwilling to provide any information requested by the trust company or decides to terminate with no apparent good reason business contact with the trust company.

10 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 10.1 A trust company shall develop and implement internal policies, procedures and controls to help prevent money laundering and terrorist financing and communicate these to its employees.
- 10.2 These procedures, policies and controls shall include, amongst other things, CDD measures, record retention, the detection of unusual and suspicious transactions and the obligation to make suspicious transaction reports.
- 10.3 A trust 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.

Group Policy

- 10.4 A trust company that is incorporated in Singapore shall develop a group policy on AML/CFT and extend this to all of its branches and subsidiaries outside Singapore.
- 10.5 Where a trust company has a branch or subsidiary in a host country or jurisdiction known to have inadequate AML/CFT measures (as determined by the trust company for itself or notified to trust companies generally by the Authority or by other foreign regulatory authorities), the trust company shall ensure that its group policy on AML/CFT is strictly observed by the management of that branch or subsidiary.
- 10.6 Where the AML/CFT requirements in the host country or jurisdiction differ from that in Singapore, the trust company shall require that the overseas branch or subsidiary apply the higher of the two standards, to the extent that the law of the host country or jurisdiction so permits.

- 10.7 Where the law of the host country or jurisdiction conflicts with Singapore law such that the overseas branch or subsidiary is unable to fully observe the higher standard, the trust company's head office shall report this to the Authority and comply with such further directions as may be given by the Authority.

Compliance

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

Audit

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

Employee Hiring

- 10.11 A trust company shall have in place screening procedures to ensure high standards when hiring employees.

Training

- 10.12 A trust company shall take all appropriate steps to ensure that its staff (whether in Singapore or overseas) 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 trust company's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of staff in combating money laundering and terrorist financing.