

MAS SFA 04-N02

29 December 2006

(Last revised on 28 February 2007*)

NOTICE TO CAPITAL MARKETS SERVICES LICENSEES AND PERSONS EXEMPTED UNDER PARAGRAPH 4(1)(C), 5(1)(D) OR 7(1)(B) OF THE SECOND SCHEDULE TO THE SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS FROM HAVING TO HOLD A CAPITAL MARKETS SERVICES LICENCE

SECURITIES AND FUTURES ACT (CAP. 289)

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

1 INTRODUCTION

- 1.1 This Notice is issued pursuant to section 101 of the Securities and Futures Act (Cap. 289) and applies to all holders of a capital markets services licence, and all persons exempted under paragraph 4(1)(c), 5(1)(d) or 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg.10, 2004 Ed.) from having to hold a capital markets services licence.
- 1.2 This Notice shall take effect on 1 March 2007. The earlier notice dated 11 November 2002 on the same subject is cancelled with effect from 1 March 2007.

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 CMI, 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 CMI in the name of a person and the undertaking of transactions by the CMI 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;

"CMI" or "capital markets intermediary" means a person holding a capital markets services licence or a person exempted from having to hold such a licence under paragraph 4(1)(c), 5(1)(d) or 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

"customer", in relation to a CMI, means a person in whose name an account is opened or intended to be opened, or for whom a CMI undertakes or intends to undertake any transaction without an account being opened;

"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; 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 CMI 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 CMIs in the conduct of their operations and business activities:
 - (a) A CMI must exercise due diligence when dealing with customers, persons appointed to act on the customer's behalf and beneficial owners.

- (b) A CMI 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 CMI 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 CMI shall open or maintain anonymous accounts or accounts in fictitious names.

When CDD measures are to be Performed

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

4.4 For the purpose of paragraph 4.3, a CMI 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 CMI 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 CMI shall, apart from identifying the customer, also identify the partners.
- 4.7 Where the customer is any other body corporate or unincorporate, the CMI 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 CMI shall verify the identity of the customer using reliable, independent sources.
- 4.9 A CMI 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 CMI or the customer is not a natural person, a CMI 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 CMI shall verify the due authority of such persons to act on behalf of the customer.
- 4.12 A CMI 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 CMI 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 CMI 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 CMI shall take reasonable measures to obtain information sufficient to identify and verify the identities of the beneficial owner.
- 4.16 Where the customer is not a natural person, the CMI shall take reasonable measures to understand the ownership and control structure of the customer.
- 4.17 A CMI 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 CMI 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 CMI 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 CMI 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 CMI shall monitor on an ongoing basis, its business relations with customers.
- 4.21 A CMI 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 CMI's knowledge of the customer, its business and risk profile and where appropriate, the source of funds.
- 4.22 A CMI 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 CMI 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 CMI 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 CMI 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 CMI 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 CMI 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 CMI (“acquiring CMI”) acquires, either in whole or in part, the business of another financial institution (whether in Singapore or elsewhere), the acquiring CMI shall perform CDD measures on customers acquired with the business at the time of acquisition except where the acquiring CMI 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 CMI as to the adequacy of AML/CFT measures previously adopted in relation to the business or part thereof now acquired by the acquiring CMI.

CDD Measures for Non-Account Holders

- 4.29 A CMI that undertakes any transaction of a value exceeding S\$20,000 for any customer who does not otherwise have business relations with the CMI shall —
- (a) establish and verify the identity of the customer as if the customer had applied to the CMI 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 CMI 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 CMI 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 CMI shall complete verification of the identity of the customer and beneficial owner —

- (a) before the CMI establishes business relations; or
- (b) before the CMI undertakes any transaction for a customer, where the customer does not have business relations with the CMI.

- 4.32 A CMI 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 CMI.

- 4.33 Where the CMI establishes business relations before verification of the identity of the customer or beneficial owner, the CMI shall complete such verification as soon as is reasonably practicable.

Where CDD Measures are Not Completed

- 4.34 Where the CMI 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 CMI shall perform CDD measures on all of the joint account holders as if each of them were individually customers of the CMI.

Existing Customers

- 4.36 A CMI 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 CMI 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 CMI shall perform simplified CDD measures in relation to customers that are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the CMI for itself or notified to CMIs generally by the Authority or by other foreign regulatory authorities.
- 5.3 A CMI 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 CMI 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 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 CMI 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 CMI’s senior management to establish or continue business relations, where the customer or 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 any 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 CMI shall perform enhanced CDD measures in paragraph 6.2 for such other categories of customers, business relations or transactions as the CMI may assess to present a higher risk for money laundering and terrorist financing.
- 6.4 A CMI 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 CMI for itself or notified to CMIs generally by the Authority or other foreign regulatory authorities.

7 PERFORMANCE OF CDD MEASURES BY INTERMEDIARIES

- 7.1 Subject to paragraph 7.2, a CMI may rely on an intermediary to perform the CDD measures in paragraph 4 of this Notice if the following requirements are met:
- (a) the CMI 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 CMIs have been specifically precluded by the Authority from relying;
 - (c) the information that the CMI would be required or would want to obtain which is being obtained by the intermediary, may be relayed to the CMI by the intermediary without any delay; and
 - (d) the intermediary is able and willing to provide, without delay, upon the CMI's request, any document obtained by the intermediary, which the CMI would be required or would want to obtain.
- 7.2 No CMI shall rely on an intermediary to conduct ongoing monitoring of customers.
- 7.3 Where a CMI relies on an intermediary to perform the CDD measures, it shall 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).
- 7.4 For the avoidance of doubt, notwithstanding the reliance upon an intermediary, the CMI shall remain responsible for its AML/CFT obligations in this Notice.

8 RECORD KEEPING

- 8.1 A CMI 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 CMI 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 CMI are able to review the CMI's transactions and assess the level of compliance with this Notice; and
 - (d) the CMI 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 CMI 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 business relation for customer identification information, and other documents relating to the establishment of business relations, as well as account files and business correspondence; and

[SFA 04-N02 (Amendment) 2007]

- (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.

[SFA 04-N02 (Amendment) 2007]

8.3 A CMI 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 CMI 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 CMI 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 CMI 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 CMI 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 CMI 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 CMI, decides to withdraw a pending application to establish business relations or a pending transaction, or to terminate existing business relations.

10 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 10.1 A CMI 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 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.
- 10.3 A CMI 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 CMI 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 CMI has a branch or subsidiary in a host country or jurisdiction known to have inadequate AML/CFT measures (as determined by the CMI for itself or notified to CMIs generally by the Authority or by other foreign regulatory authorities), the CMI 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 those in Singapore, the CMI 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 CMI'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 CMI 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 CMI 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

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

Employee Hiring

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

Training

- 10.12 A CMI 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 CMI's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of staff in combating money laundering and terrorist financing.

*Note on History of Amendment

1. SFA 04-N02 (Amendment) 2007 with effect from 1 March 2007.