The Hong Kong Association of Banks

Frequently Asked Questions in relation to Anti-Money Laundering and Counter-Financing of Terrorism

These Frequently Asked Questions (**FAQs**) in relation to Anti-Money Laundering and Counter-Financing of Terrorism (**AML/CFT**) have been developed by the Hong Kong Association of Banks (**HKAB**) with input from the Hong Kong Monetary Authority (**HKMA**). This document does not form part of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Authorized Institutions) (**AML/CFT Guideline**) and it is designed to be read in conjunction with the AML/CFT Guideline. Terms and acronyms used in this document have the same meanings as in the glossary to the AML/CFT Guideline.

These FAQs aim to assist Authorized Institutions (**AIs**) regulated by the HKMA in understanding relevant AML/CFT requirements. AIs are expected to be fully conversant with these FAQs, and to have regard to them in meeting their AML/CFT legal and regulatory obligations. These FAQs are, however, by their nature framed as general statements and do not take into account the particular circumstances of an AI. AIs should therefore consider the money laundering and terrorist financing risks to which they are exposed and their own circumstances (among others) before taking action on matters to which these FAQs may be relevant. These FAQs should not be regarded as a substitute for obtaining legal or other professional advice on AML/CFT requirements.

This document will be kept under review and updated from time to time as necessary.

	Relevant provisions	Question	Answer
AML/CFT Systems			
1.	Paragraph 2.9 of the AML/CFT Guideline	**Trigger events for an updated IRA** What is regarded as a "trigger event" for the purposes of determining when an AI should undertake a review of its institutional ML/TF risk assessment?	An AI should conduct its institutional ML/TF risk assessment every two years and when material trigger events occur. Non-exhaustive examples of such trigger events may include when: (a) there is a significant breach of the AI's AML/CFT Systems detected; or (b) one of the following has occurred and the AI has assessed that it will materially impact upon its assessment of the institutional ML/TF risks to which it is exposed: 1. the AI acquires a new customer segment or delivery channel; 2. the AI launches new products or services; or 3. there is a significant change of operational processes (eg use of new technology).
2.	Paragraph 3.2 and 3.3 the AML/CFT Guideline	**Simplified and enhanced AML/CFT Systems** Paragraphs 3.2 and 3.3 of the AML/CFT Guideline state that AML/CFT Systems can be simplified or enhanced, what does this mean?	These two paragraphs refer to enhancing or simplifying the AML/CFT policies, procedures and controls (ie AML/CFT Systems), as distinct from EDD or SDD measures articulated in Chapter 4. They set out the basis for an AI to adopt a risk-based approach in its overall AML/CFT Systems across the institution. The application of these two paragraphs should be based on the AI's institutional ML/TF risk assessment. Depending on how the AI assesses its ML/TF risks, a risk-based approach can be applied on a specific customer segment, a specific line of business, or a specific product or service offered. For example, subject to other criteria set out in paragraphs 3.2 and 3.3, a line of business assessed to have lower ML/TF risks may be subject to less frequent internal audit reviews, less frequent/onerous reporting requirements to senior management, or have simpler AML/CFT procedures etc.
3.	Paragraph 5.8 of the AML/CFT Guideline	**Independent validation** Who can independently validate an AI's transaction monitoring systems and processes?	Such validation can be performed by an external party or the internal audit function of the AI (see paragraph 3.11 of the AML/CFT Guideline).
Identification and verification of identity – natural persons			
4.	Paragraph 4.3.3 of the AML/CFT	**Hong Kong residents** What documents would be	The following are examples of documents that would be considered to be reliable and independent for Hong Kong residents (both permanent and non-permanent residents).

	Guideline	regarded as "*reliable and independent*" for verifying the identity information of a natural person customer who is a Hong Kong resident?	**Hong Kong residents aged 12 or above:** Hong Kong identity card **Children under 12 born in Hong Kong:** the child's Hong Kong identity card, birth certificate or valid travel document. [Note: in such circumstance and whenever an AI is onboarding a minor (ie a person under the age of 18), an AI should also regard the minor's parent or guardian as a person acting on behalf of the minor customer and conduct the relevant CDD measures.]
5.	Paragraph 4.3.3 of the AML/CFT Guideline	**Non-Hong Kong residents** What documents would be regarded as "*reliable and independent*" for verifying the identity information of a natural person customer who is not a Hong Kong resident?	The following are examples of documents that would be considered to be reliable and independent for non-Hong Kong residents: (a) a valid travel document; (b) a current national (ie Government or State-issued) identity card bearing the photograph of the individual; or (c) a current valid national (ie Government or State-issued) driving licence incorporating photographic evidence of the identity (including all the required identity information) of the applicant issued by a competent national or state authority.
6.	Paragraph 4.3.3 of the AML/CFT Guideline	**Travel documents generally** What are acceptable "*travel documents*" for the purpose of paragraph 4.3.3?	The following documents are examples of travel documents for the purpose of identity verification: (a) Passport (b) Permanent Resident Identity Card of Macau Special Administrative Region (c) Mainland Travel Permit for Taiwan Residents (d) Seaman's Identity Document (issued under and in accordance with the International Labour Organisation Convention/Seafarers Identity Document Convention 1958) (e) Taiwan Travel Permit for Mainland Residents (f) Permit for residents of Macau issued by Director of Immigration (g) Exit-entry Permit for Travelling to and from Hong Kong and Macau for Official Purposes (h) Exit-entry Permit for Travelling to and from Hong Kong and Macau
7.	Paragraph 4.3.3 of the AML/CFT Guideline	**Travel documents generally** What part of the "*travel documents*" should be kept on file?	An AI should retain a copy of the "biodata" page containing the bearer's photograph and biographical details of the travel documents for the purpose of the record-keeping requirements in the AMLO and the AML/CFT Guideline.

8.	Paragraph 4.3.4 of the AML/CFT Guideline	**Documents that do not have photographs** Can an AI verify the identity of a natural person customer on the basis of a document that does not contain a photograph?	This is acceptable only in exceptional circumstances where the customer's associated ML/TF risk has been addressed and mitigated. Exceptional circumstances include where the customer is an asylum seeker who does not have proper identification documents with photographs but has a recognizance form issued by the Hong Kong Immigration Department. If exceptional circumstances apply, an AI may validate a customer's identity with reference to a government-issued document (without a photograph). In such circumstances, additional measures (eg setting appropriate limits to the account; limiting the product and services provided; or conducting enhanced monitoring etc) should be taken to mitigate increased risk.
Identification and verification of identity – legal persons			
9.	Paragraph 4.6.1 of the AML/CFT Guideline	**Overseas customers** Are there additional CDD requirements (eg understanding the rationale to establish a business relationship in Hong Kong) for a company which is incorporated overseas or has foreign directors/beneficial owners?	Obtaining information on the purpose and intended nature of the banking relationship being established, including the reason for establishing the relationship, is a standard CDD measure applicable to all types of customers and cascades from international standards with which Hong Kong is required to apply. In some cases the purpose and intended nature will be obvious or self-evident and therefore may not need to be provided by the customer, having regard to the types of accounts to be established or services/products to be used. Applications for account opening should not be rejected merely because the customer is incorporated or established offshore, or because the beneficial owners or directors of a corporate customer are non-residents. AIs' on-boarding procedures should recognise that offshore establishment and non-resident directors, etc are common profiles for many corporates seeking banking services in an international financial centre, like Hong Kong. Similarly, in addition to collecting the information, AIs should view residence of beneficial owners or directors as only one part of the CDD and risk profiling exercise, and understand the rationale why a particular type of business relationship is sought, taking into account the customer's business model or mode of operation.
10.	Paragraph 4.4.14 of the AML/CFT Guideline	**Ownership charts** Is it mandatory to obtain and verify an ownership chart for a legal entity customer?	An AI is obliged to understand the ownership and control structure of its customers. Although obtaining an ownership chart from the customer is the most convenient way of doing this, there is no strict requirement to do so. In deciding whether an ownership chart should be obtained, an AI should take into account the risk profile of the customer and the complexity of the ownership or control structure. Although an AI needs to identify any intermediate layers, it needs not, as a matter of routine, verify the details of the intermediate companies in the ownership structure. Whether this is necessary will depend upon the AI's overall understanding of the structure, the customer's risk profile and whether the information available is adequate in the circumstances for the AI to consider if it has taken adequate measures to identify the beneficial owners.

11.	Paragraph 4.3.6 of the AML/CFT Guideline	**Principal place of business** What is the "*principal place of business*" of a legal person?	The "principal place of business" means the location where a legal person primarily operates or the place of a corporation's main activities. It can be the same as, or differ from, the registered address. Legal persons, depending on their business nature, may operate in various locations of different natures. If the location or type of premises is not in in line with the AI's understanding of the legal person's business nature or customer profile, an AI should seek to understand the rationale for why that address is being provided.
12.	Paragraph 4.3.6 of the AML/CFT Guideline	**Address of registered office** Are AIs required to ask the customer to provide "*address of registered office*" information?	Paragraph 4.3.6 requires AIs to collect the registered address of a legal person. As the registered address of a legal person is usually included in the document provided by a reliable and independent source (eg certificate of incumbency) being collected for verification of the legal person's identity, the AI may, instead of asking the customer to provide the registered address information, just copy the registered address from the document obtained.
13.	Paragraph 4.3.7 of the AML/CFT Guideline	**Business registration** When should a record of business registration be obtained for the purpose of verifying the identity of a legal person?	A record of business registration, which is a type of "record of registration" as stated in paragraph 4.3.7 of the AML/CFT Guideline, is usually regarded as the primary document to verify the identity of a legal person customer that is not required to register with the Hong Kong Companies Registry or similar authority, such as a sole proprietorship, partnership or a unincorporated body etc. However, a record of business registration may not be applicable to every customer that is a legal person. For instance, for a Hong Kong incorporated company, an AI can generally rely on the company record filed at the Hong Kong Companies Registry to verify the identity of the customer without the need to obtain its record of business registration.
14.	Paragraph 4.3.6 to 4.3.9 of the AML/CFT Guideline	**Start-ups and SMEs** Are there any specific CDD requirements for start-ups and small and medium-sized enterprises?	Similar to AML/CFT requirements in other jurisdictions, the requirements in the AML/CFT Guideline are principle-based in order to provide flexibility to AIs to apply them to different types of customer. There are no specific requirements for, or mention of, start-ups or small and medium-sized enterprises. However, AIs should not adopt a one-size-fit-all approach in the application of CDD requirements. AIs should ensure that design and implementation of their CDD requirements reflect both the operation and profile of these legal persons, the risk level as assessed by the AI concerned and any other relevant considerations.
15.	Paragraph 4.10.4 of AML/CFT Guideline	**Presence of directors or beneficial owners at account opening** Is there a requirement that directors and beneficial owners of a legal person be present at account opening?	The presence of two or more, or all directors or beneficial owners at the time of account opening is not required by the HKMA. Generally, a corporate account is opened in the name of a legal person by a natural person who acts on behalf of that legal person. The basic requirement is for an AI to identify and verify the identity of that natural person as well as obtaining the written authority to verify that the natural person has the authorisation of the legal person to establish a business relationship with the AI concerned. For the avoidance of doubt, if such natural person is not physically present for identification purpose, the AI

			should mitigate any increased risk in accordance with paragraph 4.10.4 of the AML/CFT Guideline.
Identification and verification – legal arrangements			
16.	Paragraph 4.3.10 and 4.4.12 of the AML/CFT Guideline	**Trustees** When identifying and verifying the identity of a trust, is an AI required to complete due diligence on the trustee, as well as the trust?	Yes. In gist: (a) if the trustee is regarded as the AI's customer, an AI should identify and verify the identity of the trustee in line with the requirements for a natural or legal person depending on whether it is an individual, corporation or other legal entity; or (b) if the trustee is not regarded as the AI's customer an AI should identify and take reasonable measures to verify the identity of the trustee in line with the requirements for a beneficial owner of a natural or legal person depending on whether it is an individual, corporation or other legal entity.
Identification and verification of identity – connected parties			
17.	Paragraph 4.3.18 and 4.3.19 of the AML/CFT Guideline	**Connected parties** Why does an AI need to obtain the names of all the connected parties of the customers that are legal persons or legal arrangements?	The purpose of obtaining the names of all the connected parties of a customer is to facilitate the sanction screening requirements set out in paragraph 6.17 of the AML/CFT Guideline.
Reliability of documents data or information			
18.	Paragraph 4.3.16 of the AML/CFT Guideline	**Electronic documents** What measures are AIs expected to take to ensure the reliability of identification documents which are in electronic form?	The AML/CFT Guideline recognises that some commonly used original identification documents can be in electronic form. The AI should take appropriate measures to ensure the reliability of the electronic documents. The appropriateness of the measures to be taken will depend on the type of identification document in question. The following examples may apply: **Electronic document**: Original certificate of incorporation issued by the Hong Kong Companies Registry in electronic form **Appropriate measure to ensure reliability**: When accepting a print copy of an electronic Certificate of Incorporation, an AI can corroborate with other identification document or information (eg record of company registries) to ensure the reliability of the print copy. Note: For the avoidance of doubt, corroboration would not be required for instances where the AI itself has

			downloaded a particular document (as opposed to having received a print copy of it) from a reliable source (eg Hong Kong Company Registry website).
19.	Paragraph 4.3.17 of the AML/CFT Guideline	**Document in foreign language** Does the translation need to be performed by a professional third party (eg solicitor)?	There is no requirement that the translation has to be performed by a professional third party (eg solicitor) or someone who is qualified; AIs may obtain a translation from a reliable source, which may include technology solutions and commonly used translation tools.
20.	Paragraph 4.10.3 of AML/CFT Guideline	**Certification** Who would be regarded as an appropriate certifier for the purpose of paragraph 4.10.3 of the AML/CFT Guideline?	The following is a list of non-exhaustive examples of appropriate persons to certify verification of identification documents: (a) an intermediary specified in section 18(3) of Schedule 2; (b) a member of the judiciary in an equivalent jurisdiction; (c) an officer of an embassy, consulate or high commission of the country of issue of documentary verification of identity; (d) a Justice of the Peace; and (e) other professional person such as certified public accountant, lawyer, notary public or chartered secretary [Note]. Note: a chartered secretary refers to a person who is a current full member of the Institute of Chartered Secretaries and Administrators or its designated divisions.
21.	Paragraph 4.10.3 of AML/CFT Guideline	**Certification** If an AI decides to use certification as the supplementary measures to fulfil the requirement of section 9 of Schedule 2, what types of documents should be certified?	In general, only the identification document used for the purpose of identity verification (eg official document such as an identity card, passport, certificate of incorporation, or certificate of incumbency issued by registered agent etc) will be subject to certification. Certification can be time consuming and costly, so there is no need or expectation to require certification for all other CDD information or documents provided by the customer; or to require certification at all if the AI is able to check the documents against public sources. As a general principle, customers should always be provided with the opportunity, if they wish to do so, to present their original documents to bank staff.
22.	Footnote 41 of the AML/CFT Guideline	**Expired documents** If a previously obtained identity document such as passport of a customer is	AIs do not need to re-verify any aspect of customer identification just because of the expiry of a previously obtained identity document. According to footnote 41 of the AML/CFT Guideline, once the identity of a customer has been satisfactorily verified, there is no obligation to re-verify identity unless in specified circumstances; however, AIs should take steps from time to time (ie during a periodic or trigger event CDD

		expired, does the AI need to re-verify any aspect of customer identification by obtaining a current identity document?	review) to ensure that the customer information that has been obtained is up-to-date and relevant.
Enhanced Due Diligence			
23.	Paragraph 4.6.1, 4.9.6, 4.9.10 and 12.3 of the AML/CFT Guideline	**Source of wealth** Do AIs need to establish source of wealth for every customer?	No. The requirement to collect source of wealth information ordinarily applies to higher risk situations and therefore AIs are not expected to establish source of wealth for each and every customer. For most customers (ie non-high risk customers), certain information obtained to enable the AI to understand the purpose and intended nature of the business relationship (required unless it is obvious), such as occupation of individual customers, or business nature of corporate customers should be sufficient for AIs to have a basic understanding of the customer's profile and accordingly be able to monitor that the account balance, and value and volume of transactions, is in line with their expected wealth and customer profile. For high risk customers, there is no expectation to apply the same source of wealth procedures to all customers in the same manner, or collect evidence dating back decades when the risk does not justify doing so, as it is often impractical.
24.	Paragraph 4.15 of the AML/CFT Guideline	**Jurisdictions subject to a call by the FATF** Which jurisdictions are subject to a call by the FATF?	Only jurisdictions listed in the FATF statement: "*The FATF Public Statement*" should be regarded as "called for by the FATF" under paragraph 4.15.1 of AML/CFT Guideline. EDD measures that are proportionate to the risks should be conducted on business relationships and transactions with customers from these jurisdictions. For the avoidance of doubt, conducting EDD measure is not mandatory for customers connected to countries listed in the FATF statement: "*Improving Global AML/CFT Compliance: On-going Process*". However, the fact that a customer is connected to such a jurisdiction should be taken into account in determining the overall risk profile of the customer.
Intermediaries			
25.	Footnote 35 of the AML/CFT Guideline	**Using intermediaries for ongoing monitoring** Can an intermediary be relied upon to conduct ongoing monitoring as per section 5 of Schedule 2 to the AMLO?	No. Section 18 of Schedule 2 allows an AI to carry out any CDD measures set out in section 2 of Schedule 2 by means of an intermediary but does not allow an AI to continuously monitor relevant business relationships under section 5 of Schedule 2. Therefore, an AI cannot rely on an intermediary to continuously monitor its business relationships with a customer (ie ongoing CDD and transaction monitoring). However, the AI may use the intermediary to collect further documents, data and information, and provide or coordinate relevant updates, to assist the AI in ensuring that the CDD records maintained by the AI remain up-to-date and relevant.

Correspondent banking			
26.	Paragraph 11.1 of the AML/CFT Guideline	**"Another institution"** In the definition of correspondent banking, what is meant by the term "*another institution*"?	While the AMLO does not define what "*another institution*" means in the definition of correspondent banking, section 7 and section 14 of Schedule 2 only apply to correspondent banking relationship with an institution located outside of Hong Kong that carries on a similar business to that carried on by an AI.
Private banking			
27.	Paragraph 12.10 of the AML/CFT Guideline	**Meetings generally** How often is an AI required to meet their private banking customers?	An AI is required to meet their private banking customers on a regular basis as far as possible. The frequency of meetings should be commensurate with the customer's assessed ML/TF risk profile.
Customer due diligence reviews			
28.	Paragraph 5.2 of the AML/CFT Guideline	**Trigger events** What could constitute a "*trigger event*" for the purposes of requiring a CDD review?	Trigger events include: (a) when a significant[1] transaction is to take place; (b) when a material change occurs on the way the customer's account is operated; (c) when the AI's customer documentation standards change substantially; or (d) when the AI is aware that it lacks sufficient information about the customer concerned.
Wire transfers			
29.	Paragraph 6.16(c) of the AML/CFT Guideline	**"Relevant party"** In a cross-border wire transfer, who must be screened as a "*relevant party*"?	An AI should, at a minimum, screen the following parties in a cross-border wire transfer: (a) originator; (b) recipient; (c) ordering institution; (d) intermediary institution;

[1] The word "significant" is not necessarily linked to monetary value. It may include transactions that are unusual or not in line with the AI's knowledge of the customer.

			(e) beneficiary institution; and (f) named parties (eg individuals, companies, banks etc) in the payment message.
Record-keeping			
30.	Chapter 8 of the AML/CFT Guideline	**Record-keeping of unsuccessful applicants** For cases of unsuccessful application for business, is the AI concerned required to retain the identification records and documents in relation to the unsuccessful applicants?	Under the AMLO, there is no requirement for an AI to maintain records and documents involving unsuccessful applicants. This, however, does not preclude the AI from retaining the relevant records and documents in order to meet its other statutory obligations.
Overseas subsidiaries			
31.	Paragraph 3.15 of the AML/CFT Guideline	**Overseas subsidiaries** With reference to section 22(1)(b) of Schedule 2, where a bank incorporated in Hong Kong has a subsidiary that carries on a securities or insurance business outside Hong Kong, will section 22 apply to such a subsidiary ie is the subsidiary regarded as "carrying on the same business as a financial institution in a place outside Hong Kong"?	It should be noted that section 22(1)(b) of Schedule 2 states "the same business as an FI" and not "the same business as the FI". Therefore, so long as the overseas subsidiary carries out the business as any type of FI (not necessarily as the same type of the business of the parent company), then this provision will apply.