

MAS Notice TCA-N03

24 April 2015

Last revised on 30 November 2015

(Refer to endnotes for history of amendments)

NOTICE TO TRUST COMPANIES  
MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

**PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF  
TERRORISM – TRUST COMPANIES**

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**1 INTRODUCTION**

- 1.1 This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore Act (Cap.186) (“MAS Act”) and applies to all trust companies licensed under section 5 of the Trust Companies Act (Cap. 336) (“TCA”) and all private trust companies exempted from licensing under section 15 of that Act (hereinafter “trust companies”).
- 1.2 Except for paragraphs 4, 5, 13.6 and 13.7, this Notice shall take effect from 24 May 2015. Paragraphs 4, 5, 13.6 and 13.7 shall take effect from 24 July 2015. MAS Notice TCA-N03 dated 2 July 2007 is cancelled with effect from 24 May 2015.

**2 DEFINITIONS**

- 2.1 For the purposes of this Notice —

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

“Authority” means the Monetary Authority of Singapore;

“business contact” means any contact (including the undertaking of any transactions) between the trust company and the trust relevant party in the course of the provision of trust business services by the trust company;

“CDD measures” or “customer due diligence measures” means the measures required by paragraph 6;

“CDSA” means the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);

“connected party” —

- (a) in relation to a legal person (other than a partnership), means any director or any natural person having executive authority in the legal person;
- (b) in relation to a legal person that is a partnership, means any partner or manager<sup>1</sup>; and
- (c) in relation to a legal arrangement, means any natural person having executive authority in the legal arrangement;

“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 natural person on whose behalf business contact is established or maintained, and includes any person who exercises ultimate effective control over a legal person or legal arrangement;

“FATF” means the Financial Action Task Force;

“financial group”, means a group that consists of a legal person or legal arrangement exercising control and coordinating functions over the rest of the group, and its branches and subsidiaries that are financial institutions as defined in section 27A(6) of the MAS Act or the equivalent financial institutions outside Singapore;

“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;

“legal arrangement” means a trust or other similar arrangement;

“legal person” means an entity other than a natural person that can establish a permanent relationship as a trust relevant party with a financial institution or otherwise own property;

“officer” means any director or any member of the committee of management of the trust company;

“partnership” means a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act 2012 (Act 26 of 2012);

“reasonable measures” means appropriate measures which are commensurate with the money laundering or terrorism financing risks;

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<sup>1</sup> In the case of a limited liability partnership or a limited partnership.

“STR” means suspicious transaction report;

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

“trust business” has the same meaning as defined in section 2 of the TCA;

“trust companies” means trust companies licensed under section 5 of the TCA and private trust companies exempted from licensing under section 15 of that Act;

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

- (a) the settlor;
- (b) the trustee;
- (c) the beneficiaries; or
- (d) any person who has any power over the disposition of any property that is subject to the trust; and

“TSOFA” means the Terrorism (Suppression of Financing) Act (Cap. 325).

2.2 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in the TCA.

### **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 shall exercise due diligence when dealing with trust relevant parties, natural persons appointed to act on the trust relevant party’s behalf, connected parties of the trust relevant party, effective controllers of a settlor and effective controllers of a trustee.
- (b) A trust company shall conduct its business in conformity with high ethical standards, and guard against establishing or maintaining any business contact, that is or may be connected with or may facilitate money laundering or terrorism financing.
- (c) A trust company shall, to the fullest extent possible, assist and cooperate with the relevant law enforcement authorities in Singapore to prevent money laundering and terrorism financing.

- (d) Where a trust company establishes any contact (including the undertaking of any transaction) with another financial institution in Singapore or elsewhere, relating to the provision of any trust business services by the trust company to a trust relevant party, the trust company shall disclose to the financial institution that it is acting as a trustee.

## 4 ASSESSING RISKS AND APPLYING A RISK-BASED APPROACH

### Risk Assessment

- 4.1 A trust company shall take appropriate steps to identify, assess and understand, its money laundering and terrorism financing risks in relation to —
  - (a) its trust relevant parties;
  - (b) the countries or jurisdictions its trust relevant parties are from or in;
  - (c) the countries or jurisdictions the trust company has operations in; and
  - (d) the products, services, transactions and delivery channels of the trust company.
- 4.2 The appropriate steps referred to in paragraph 4.1 shall include —
  - (a) documenting the trust company's risk assessments;
  - (b) considering all the relevant risk factors before determining the level of overall risk and the appropriate type and extent of mitigation to be applied;
  - (c) keeping the trust company's risk assessments up-to-date; and
  - (d) having appropriate mechanisms to provide its risk assessment information to the Authority.

### Risk Mitigation

- 4.3 A trust company shall —
  - (a) develop and implement policies, procedures and controls, which are approved by senior management, to enable the trust company to effectively manage and mitigate the risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore;
  - (b) monitor the implementation of those policies, procedures and controls, and enhance them if necessary;

- (c) perform enhanced measures where higher risks are identified, to effectively manage and mitigate those higher risks; and
- (d) ensure that the performance of measures or enhanced measures to effectively manage and mitigate the identified risks address the risk assessment and guidance from the Authority or other relevant authorities in Singapore.

## **5 NEW PRODUCTS, PRACTICES AND TECHNOLOGIES**

- 5.1 A trust company shall identify and assess the money laundering and terrorism financing risks that may arise in relation to —
- (a) the development of new products and new business practices, including new delivery mechanisms; and
  - (b) the use of new or developing technologies for both new and pre-existing products.
- 5.2 A trust company shall undertake the risk assessments, prior to the launch or use of such products, practices and technologies (to the extent such use is permitted by this Notice), and shall take appropriate measures to manage and mitigate the risks.
- 5.3 A trust company shall, in complying with the requirements of paragraphs 5.1 and 5.2, pay special attention to any —
- (a) new products and new business practices, including new delivery mechanisms; and
  - (b) new or developing technologies,
- that favour anonymity.

## **6 CUSTOMER DUE DILIGENCE (“CDD”)**

### **Anonymous Dealings or Fictitious Names**

- 6.1 No trust company shall establish or maintain business contact with any trust relevant party on an anonymous basis or where the trust relevant party uses a fictitious name.

## Where There Are Reasonable Grounds for Suspicion prior to the Establishment of Business Contact

- 6.2 Prior to a trust company establishing business contact, where the trust company has any reasonable grounds to suspect that the assets or funds of a trust relevant party are proceeds of drug dealing or criminal conduct as defined in the CDSA, or are property related to the facilitation or carrying out of any terrorism financing offence as defined in the TSOFA, the trust company shall —
- (a) not establish business contact with the trust relevant party; and
  - (b) file an STR<sup>2</sup>, and extend a copy to the Authority for information.

## When CDD is to be Performed

- 6.3 A trust company shall perform the measures as required by paragraphs 6, 7 and 8 when —
- (a) the trust company establishes business contact with any trust relevant party;
  - (b) there is a suspicion of money laundering or terrorism financing, notwithstanding that the trust company would not otherwise be required by this Notice to perform the measures as required by paragraphs 6, 7 and 8; or
  - (c) the trust company has doubts about the veracity or adequacy of any information previously obtained.

### (l) Identification of Trust Relevant Party

- 6.4 A trust company shall identify each trust relevant party with whom the trust company establishes business contact as follows:
- (a) in respect of the settlor and trustee of the trust, before the trust is constituted; provided that where the settlor has constituted the trust before establishing business contact with the trust company, the trust company shall identify the settlor and trustee of the trust before the provision of any trust business services;
  - (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary or when that beneficiary intends to exercise vested rights; and

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<sup>2</sup> Please note in particular section 48 of the CDSA on tipping-off.

- (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party.
- 6.5 For the purposes of paragraph 6.4, a trust company shall obtain at least the following information:
- (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) the trust relevant party's —
    - (i) residential address; or
    - (ii) registered or business address, and if different, principal place of business,as may be appropriate;
  - (d) date of birth, constitution, incorporation or registration (as may be appropriate); and
  - (e) nationality, place of incorporation or place of registration (as may be appropriate).
- 6.6 Where the trust relevant party is a legal person or legal arrangement, the trust company shall, apart from identifying the trust relevant party, also identify the legal form, constitution and powers that regulate and bind the legal person or legal arrangement.
- 6.7 Where the trust relevant party is a legal person or legal arrangement, the trust company shall identify the connected parties of the trust relevant party, by obtaining at least the following information of each connected party:
- (a) full name, including any aliases; and
  - (b) unique identification number (such as an identity card number, birth certificate number or passport number of the connected party).
- (II) Verification of Identity of Trust Relevant Party
- 6.8 A trust company shall verify the identity of each trust relevant party with whom the trust company establishes business contact as follows —

- (a) in respect of the settlor and trustee of the trust, before the trust is constituted; provided that where the settlor has constituted the trust before establishing business contact with the trust company, the trust company shall verify the identities of the settlor and trustee of the trust before the provision of any trust business services;
- (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary or when that beneficiary intends to exercise vested rights; and
- (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party.

6.9 A trust company shall verify the identity of the trust relevant party using reliable, independent source data, documents or information. Where the trust relevant party is a legal person or legal arrangement, a trust company shall verify the legal form, proof of existence, constitution and powers that regulate and bind the trust relevant party, using reliable, independent source data, documents or information.

(III) Identification and Verification of Identity of Natural Person Appointed to Act on a Trust Relevant Party's Behalf

6.10 Where a trust relevant party appoints one or more natural persons to act on his behalf in establishing business contact with a trust company or the trust relevant party is not a natural person, the trust company shall —

- (a) identify each natural person who acts or is appointed to act on behalf of the trust relevant party by obtaining at least the following information of such natural person:
  - (i) full name, including any aliases;
  - (ii) unique identification number (such as an identity card number, birth certificate number or passport number);
  - (iii) residential address;
  - (iv) date of birth;
  - (v) nationality; and



- (b) verify the identity of each natural person<sup>3</sup> using reliable, independent source data, documents or information.
- 6.11 A trust company shall verify the due authority of each natural person appointed to act on behalf of the trust relevant party by obtaining at least the following:
- (a) the appropriate documentary evidence authorising the appointment of such natural person by the trust relevant party to act on his or its behalf; and
  - (b) the specimen signature of such natural person appointed.
- 6.12 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 Controller
- 6.13 Subject to paragraph 6.16, a trust company shall inquire if there exists any effective controller in relation to a settlor or a trustee.
- 6.14 Where there is one or more effective controller in relation to a settlor or a trustee, the trust company shall identify the effective controllers and take reasonable measures to verify the identities of the effective controllers, before the trust is constituted (provided that where the settlor has constituted the trust before establishing business contact with the trust company, the trust company shall verify the identities of the effective controllers before the provision of any trust business services), using the relevant information or data obtained from reliable, independent sources. The trust company shall —
- (a) for settlors or trustees that are legal persons —
    - (i) identify the natural persons (whether acting alone or together) who ultimately own the settlor or trustee;
    - (ii) to the extent that there is doubt under subparagraph (i) as to whether the natural persons who ultimately own the settlor or trustee are the effective controllers or where no natural persons ultimately own the settlor or trustee, identify the natural persons (if any) who ultimately control the settlor or trustee or have ultimate effective control of the settlor or trustee; and

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<sup>3</sup> For the avoidance of doubt, the identity of a natural person appointed by a trust relevant party to act on the latter's behalf shall be verified at such time that the identity of the trust relevant party is required to be verified under paragraph 6.8.

- (iii) where no natural persons are identified under subparagraph (i) or (ii), identify the natural persons having executive authority in the settlor or trustee, or in equivalent or similar positions;
  - (b) for settlors or trustees that are legal arrangements —
    - (i) for trusts, identify the settlors, the trustees, the protector (if any), the beneficiaries (including every beneficiary that falls within a designated characteristic or class), and any natural person exercising ultimate ownership, ultimate control or ultimate effective control over the trust (including through a chain of control or ownership); and
    - (ii) for other types of legal arrangements, identify persons in equivalent or similar positions, as those described under subparagraph (i).
- 6.15 Where the settlor or trustee is not a natural person, the trust company shall understand the nature of the settlor's or trustee's business and its ownership and control structure.
- 6.16 A trust company shall not be required to inquire if there exists any effective controller in relation to a settlor or a trustee that is —
- (a) *Deleted with effect from 30 November 2015;*
  - (b) *Deleted with effect from 30 November 2015;*
  - (c) an entity listed on the Singapore Exchange;
  - (d) an entity listed on a stock exchange outside of Singapore that is subject to —
    - (i) regulatory disclosure requirements; and
    - (ii) requirements relating to adequate transparency in respect of its effective controllers (imposed through stock exchange rules, law or other enforceable means);
  - (e) a financial institution set out in Appendix 1;
  - (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) set out in Appendix 1; 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 has doubts about the veracity of the CDD information, or suspects that the trust relevant party or business contact with the trust relevant party, may be connected with money laundering or terrorism financing.

[MAS Notice TCA-N03 (Amendment) 2015]

6.17 For the purposes of paragraph 6.16(f) and 6.16(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 Contact

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

(VI) Ongoing Monitoring

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

6.20 A trust company shall, within the scope of establishing or maintaining business contact with a trust relevant party, 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.

6.21 A trust company shall pay special attention to all complex, unusually large or unusual patterns of transactions, undertaken in the course of business contact, that have no apparent or visible economic or lawful purpose.

6.22 For the purposes of ongoing monitoring, a trust company shall put in place and implement adequate systems and processes, commensurate with the size and complexity of the trust company, to —

- (a) monitor its business contact with trust relevant parties; and
- (b) detect and report suspicious, complex, unusually large or unusual patterns of transactions.

6.23 A trust company shall, to the extent possible, inquire into the background and purpose of the transactions in paragraph 6.21 and document its findings with a view to making this information available to the relevant authorities should the need arise.

- 6.24 A trust company shall ensure that the CDD data, documents and information obtained in respect of trust relevant parties, natural persons appointed to act on behalf of the trust relevant parties, connected parties of the trust relevant parties, effective controllers of a settlor and effective controllers of a trustee, are relevant and kept up-to-date by undertaking reviews of existing CDD data, documents and information, particularly for higher risk categories of trust relevant parties.
- 6.25 Where there are any reasonable grounds for suspicion that existing business contact with a trust relevant party are connected with money laundering or terrorism financing, and where the trust company considers it appropriate to continue business contact with the trust relevant party —
- (a) the trust company shall substantiate and document the reasons for continuing business contact with the trust relevant party; and
  - (b) the trust relevant party's business contact with the trust company shall be subject to commensurate risk mitigation measures, including enhanced ongoing monitoring.
- 6.26 Where the trust company assesses the trust relevant party or the business contact with the trust relevant party referred to in paragraph 6.25 to be of higher risk, the trust company shall perform enhanced CDD measures, which shall include obtaining the approval of the trust company's senior management to continue business contact with the trust relevant party.

#### **CDD Measures for Non-Face-to-Face Business Contact**

- 6.27 A trust company shall develop policies and procedures to address any specific risks associated with non-face-to-face business contact with a trust relevant party.
- 6.28 A trust company shall implement the policies and procedures referred to in paragraph 6.27 when establishing business contact with a trust relevant party and when conducting ongoing due diligence.
- 6.29 Where there is no face-to-face contact, the trust company shall perform CDD measures that are at least as stringent as those that would be required to be performed if there was face-to-face contact.

#### **Reliance by Acquiring Trust Company on Measures Already Performed**

- 6.30 When a trust company ("acquiring trust company") acquires, either in whole or in part, the business of another financial institution (whether in Singapore or elsewhere), the acquiring trust company shall perform the measures as required by paragraphs 6, 7 and 8, on the 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 parties (including CDD 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, and document such enquiries.

### **Where Measures are Not Completed**

- 6.31 Where the trust company is unable to complete the measures as required by paragraphs 6, 7 and 8, it shall not commence or continue business contact with any trust relevant party. The trust company shall consider if the circumstances are suspicious so as to warrant the filing of an STR.
- 6.32 For the purposes of paragraph 6.31, completion of the measures means the situation where the trust company has obtained, screened and verified all necessary CDD information under paragraphs 6, 7 and 8, and where the trust company has received satisfactory responses to all inquiries in relation to such necessary CDD information.

### **Existing Trust Relevant Parties**

- 6.33 A trust company shall perform the measures as required by paragraphs 6, 7 and 8 in relation to its existing trust relevant parties, based on its own assessment of materiality and risk, taking into account any previous measures applied, the time when the measures were last applied to such existing trust relevant parties and the adequacy of data, documents or information obtained.

### **Screening**

- 6.34 A trust company shall screen a trust relevant party, natural persons appointed to act on behalf of the trust relevant party, connected parties of the trust relevant party, effective controllers of a settlor and effective controllers of a trustee against relevant money laundering and terrorism financing information sources, as well as lists and information provided by the Authority or other relevant authorities in Singapore for the purposes of determining if there are any money laundering or terrorism financing risks in relation to the trust relevant party.
- 6.35 A trust company shall screen the persons referred to in paragraph 6.34 —
- (a) in respect of the settlor and trustee of the trust, before the trust is constituted; provided that where the settlor has constituted the trust before establishing business contact with the trust company, the trust company shall screen the

settlor and trustee of the trust before the provision of any trust business services;

- (b) in respect of each beneficiary of the trust, as soon as reasonably practicable after the beneficiary becomes identifiable, and in any case before making a distribution to that beneficiary or when that beneficiary intends to exercise vested rights;
- (c) in respect of any other trust relevant party, as soon as reasonably practicable after the trust company first comes into business contact with that trust relevant party;
- (d) on a periodic basis after the trust company establishes business contact with the trust relevant party; and
- (e) when there are any changes or updates to —
  - (i) the lists and information provided by the Authority or other relevant authorities in Singapore to the trust company; or
  - (ii) the natural persons appointed to act on behalf of a trust relevant party, connected parties of a trust relevant party, effective controllers of a settlor or effective controllers of a trustee.

6.36 The results of screening and assessment by the trust company shall be documented.

## **7 SIMPLIFIED CUSTOMER DUE DILIGENCE**

7.1 Subject to paragraph 7.4, a trust company may perform simplified CDD measures in relation to a trust relevant party, any natural person appointed to act on behalf of the trust relevant party, any effective controller of a settlor and any effective controller of a trustee (other than any effective controller that the trust company is exempted from making inquiries about under paragraph 6.16) if it is satisfied that the risks of money laundering and terrorism financing are low.

[MAS Notice TCA-N03 (Amendment) 2015]

7.2 The assessment of low risks shall be supported by an adequate analysis of risks by the trust company.

7.3 The simplified CDD measures shall be commensurate with the level of risk, based on the risk factors identified by the trust company.

7.4 A trust company shall not perform simplified CDD measures —

- (a) where a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is from or in a country or jurisdiction in relation to which the FATF has called for countermeasures;
- (b) where a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is from or in a 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 other foreign regulatory authorities; or
- (c) where the trust company suspects that money laundering or terrorism financing is involved.

7.5 Subject to paragraphs 7.2, 7.3 and 7.4, a trust company may perform simplified CDD measures in relation to a trust relevant party that is a financial institution set out in Appendix 2.

7.6 Where the trust company performs simplified CDD measures in relation to a trust relevant party, any natural person appointed to act on behalf of the trust relevant party, any effective controller of a settlor and any effective controller of a trustee, it shall document —

- (a) the details of its risk assessment; and
- (b) the nature of the simplified CDD measures.

7.7 For avoidance of doubt, the term “CDD measures” in paragraph 7 means the measures required by paragraph 6.

[MAS Notice TCA-N03 (Amendment) 2015]

## **8 ENHANCED CUSTOMER DUE DILIGENCE**

### **Politically Exposed Persons**

8.1 For the purposes of paragraph 8 —

“close associate” means a natural person who is closely connected to a politically exposed person, either socially or professionally;

“domestic politically exposed person” means a natural person who is or has been entrusted domestically with prominent public functions;

“family member” means a parent, step-parent, child, step-child, adopted child, spouse, sibling, step-sibling and adopted sibling of the politically exposed person;

“foreign politically exposed person” means a natural person who is or has been entrusted with prominent public functions in a foreign country;

“international organisation” means an entity established by formal political agreements between member countries that have the status of international treaties, whose existence is recognised by law in member countries and which is not treated as a resident institutional unit of the country in which it is located;

“international organisation politically exposed person” means a natural person who is or has been entrusted with prominent public functions in an international organisation;

“politically exposed person” means a domestic politically exposed person, foreign politically exposed person or international organisation politically exposed person; and

“prominent public functions” includes the roles held by a head of state, a head of government, government ministers, senior civil or public servants, senior judicial or military officials, senior executives of state owned corporations, senior political party officials, members of the legislature and senior management of international organisations.

- 8.2 A trust company shall implement appropriate internal risk management systems, policies, procedures and controls to determine if a trust relevant party, any natural person appointed to act on behalf of the trust relevant party, any connected party of the trust relevant party, any effective controller of a settlor or any effective controller of a trustee is a politically exposed person, or a family member or close associate of a politically exposed person.
- 8.3 A trust company shall, in addition to performing CDD measures (specified in paragraph 6), perform at least the following enhanced CDD measures where a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is determined by the trust company to be a politically exposed person, or a family member or close associate of a politically exposed person under paragraph 8.2:
- (a) obtain approval from the trust company's senior management to establish or continue business contact with the trust relevant party;
  - (b) establish, by appropriate and reasonable means, the source of wealth and source of funds of the trust relevant party, any effective controller of a settlor and any effective controller of a trustee; and
  - (c) conduct, during the course of business contact with the trust relevant party, enhanced monitoring of business contact with the trust relevant party. In particular, the trust company shall increase the degree and nature of monitoring of the business contact with, and transactions undertaken in the course of business contact with, the trust relevant party, in order to determine whether they appear unusual or suspicious.



8.4 A trust company may adopt a risk-based approach in determining whether to perform enhanced CDD measures or the extent of enhanced CDD measures to be performed for —

- (a) domestic politically exposed persons, their family members and close associates;
- (b) international organisation politically exposed persons, their family members and close associates; or
- (c) politically exposed persons who have stepped down from their prominent public functions, taking into consideration the level of influence such persons may continue to exercise after stepping down from their prominent public functions, their family members and close associates,

except in cases where their business contact with the trust company present a higher risk for money laundering or terrorism financing.

#### **Other Higher Risk Categories**

8.5 A trust company shall implement appropriate internal risk management systems, policies, procedures and controls to determine if business contact with any trust relevant party presents a higher risk for money laundering or terrorism financing.

8.6 For the purposes of paragraph 8.5, circumstances where a trust relevant party presents or may present a higher risk for money laundering or terrorism financing include but are not limited to the following:

- (a) where a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is from or in a country or jurisdiction in relation to which the FATF has called for countermeasures, the trust company shall treat any business contact with such trust relevant party as presenting a higher risk for money laundering or terrorism financing; and
- (b) where a trust relevant party, any effective controller of a settlor or any effective controller of a trustee is from or in a 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 other foreign regulatory authorities, the trust company shall assess whether any such trust relevant party presents a higher risk for money laundering or terrorism financing.

[MAS Notice TCA-N03 (Amendment) 2015]

8.7 A trust company shall perform the appropriate enhanced CDD measures in paragraph 8.3 for business contact with any trust relevant party —

- (a) who the trust company determines under paragraph 8.5; or
- (b) the Authority or other relevant authorities in Singapore notify to the trust company,

as presenting a higher risk for money laundering or terrorism financing.

8.8 A trust company shall, in taking enhanced CDD measures to manage and mitigate any higher risks that have been identified by the trust company or notified to it by the Authority or other relevant authorities in Singapore, ensure that the enhanced CDD measures take into account the requirements of any laws, regulations or directions administered by the Authority, including but not limited to the regulations or directions issued by the Authority under section 27A of the MAS Act.

## 9 RELIANCE ON THIRD PARTIES

9.1 For the purposes of paragraph 9, "third party" means —

- (a) a financial institution set out in Appendix 2;
- (b) a financial institution which is subject to and supervised by a foreign authority for compliance with AML/CFT requirements consistent with standards set by the FATF (other than a holder of a money-changer's licence or a holder of a remittance licence, or equivalent licences);
- (c) in relation to a trust company incorporated in Singapore, its branches, subsidiaries, parent entity, the branches and subsidiaries of the parent entity, and other related corporations; or
- (d) in relation to a trust company incorporated outside Singapore, its head office, its parent entity, the branches and subsidiaries of the head office, the branches and subsidiaries of the parent entity, and other related corporations.

9.2 Subject to paragraph 9.3, a trust company may rely on a third party to perform the measures as required by paragraphs 6, 7 and 8 if the following requirements are met:

- (a) the trust company is satisfied that the third party 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 AML/CFT measures in place to comply with those requirements;

- (b) the trust company takes appropriate steps to identify, assess and understand the money laundering and terrorism financing risks particular to the countries or jurisdictions that the third party operates in;
- (c) the third party is not one which trust companies have been specifically precluded by the Authority from relying upon; and
- (d) the third party is able and willing to provide, without delay, upon the trust company's request, any data, documents or information obtained by the third party with respect to the measures applied on the trust relevant party, which the trust company would be required or would want to obtain.

9.3 No trust company shall rely on a third party to conduct ongoing monitoring of business contact with trust relevant parties.

9.4 Where a trust company relies on a third party to perform the measures as required by paragraphs 6, 7 and 8, it shall —

- (a) document the basis for its satisfaction that the requirements in paragraph 9.2(a) and (b) have been met, except where the third party is a financial institution set out in Appendix 2; and
- (b) immediately obtain from the third party the CDD information which the third party had obtained.

9.5 For the avoidance of doubt, notwithstanding the reliance upon a third party, the trust company shall remain responsible for its AML/CFT obligations in this Notice.

## 10 RECORD KEEPING

10.1 A trust company shall, in relation to all data, documents and information that the trust company is required to obtain or produce to meet the requirements under this Notice, prepare, maintain and retain records of such data, documents and information.

10.2 A trust company shall perform the measures as required by paragraph 10.1 such that —

- (a) all requirements imposed by law (including this Notice) are met;
- (b) any individual transaction undertaken by the trust company in the course of business contact can be reconstructed (including the amount and type of currency involved) so as to provide, if necessary, evidence for prosecution of criminal activity;

- (c) the Authority or other relevant authorities in Singapore and the internal and external auditors of the trust company are able to review the trust company's business contact, records and CDD information and assess the 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 or by the requesting authority, any enquiry or order from the relevant authorities in Singapore for information.
- 10.3 Subject to paragraph 10.5 and any other requirements imposed by law, a trust company shall, for the purposes of record retention under paragraphs 10.1 and 10.2, and when setting its record retention policies, comply with the following record retention periods:
- (a) for CDD information relating to the business contact and transactions undertaken in the course of business contact, as well as account files, business correspondence and results of any analysis undertaken, a period of at least 5 years following the termination of such business contact or completion of such transactions; and
  - (b) for data, documents and information relating to a transaction undertaken in the course of business contact, including any information needed to explain and reconstruct the transaction, a period of at least 5 years following the completion of the transaction.
- 10.4 A trust company may retain data, documents and information 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.
- 10.5 A trust company shall retain records of data, documents and information on all its business contact with a trust relevant party pertaining to a matter which is under investigation or which has been the subject of an STR, in accordance with any request or order from STRO or other relevant authorities in Singapore.

## **11 PERSONAL DATA**

- 11.1 For the purposes of paragraph 11, "individual" means a natural person, whether living or deceased.
- 11.2 Subject to paragraph 11.3 and for the purposes of complying with this Notice, a trust company shall not be required to provide an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, with —
- (a) any access to personal data about the individual that is in the possession or

under the control of the trust company;

- (b) any information about the ways in which the personal data of the individual under subparagraph (a) has been or may have been used or disclosed by the trust company; and
- (c) any right to correct an error or omission of the personal data about the individual that is in the possession or under the control of the trust company.

11.3 A trust company shall, as soon as reasonably practicable, upon the request of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, provide the requesting individual with the right to —

- (a) access the following types of personal data of that individual, that is in the possession or under the control of the trust company:
  - (i) his full name, including any alias;
  - (ii) his unique identification number (such as an identity card number, birth certificate number or passport number);
  - (iii) his residential address;
  - (iv) his date of birth;
  - (v) his nationality;
  - (vi) subject to section 21(2) and (3) read with the Fifth Schedule to the Personal Data Protection Act 2012 (Act 26 of 2012), any other personal data of the respective individual provided by that individual to the trust company; and
- (b) subject to section 22(7) read with the Sixth Schedule to the Personal Data Protection Act, correct an error or omission in relation to the types of personal data set out in subparagraphs (a)(i) to (vi), provided the trust company is satisfied that there are reasonable grounds for such request.

11.4 For the purposes of complying with this Notice, a trust company may, whether directly or through a third party, collect, use and disclose personal data of an individual trust relevant party, an individual appointed to act on behalf of a trust relevant party, an individual connected party of a trust relevant party, an individual effective controller of a settlor or an individual effective controller of a trustee, without the respective individual's consent.

## 12 SUSPICIOUS TRANSACTIONS REPORTING

- 12.1 A trust company shall keep in mind the provisions in the CDSA<sup>4</sup> and in the TSOFA that provide for the reporting to the authorities of transactions suspected of being connected with money laundering or terrorism 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 employees and officers are instructed to promptly refer all transactions suspected of being connected with money laundering or terrorism 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.
- 12.2 A trust company shall promptly submit reports on suspicious transactions (including attempted transactions), regardless of the amount of the transaction, to STRO, and extend a copy to the Authority for information.
- 12.3 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, including where —
- (a) the trust company is for any reason unable to complete the measures as required by paragraphs 6, 7 and 8; or
  - (b) the trust relevant party is reluctant, unable or unwilling to provide any information requested by the trust company, decides to withdraw a pending application to establish business contact or to terminate existing business contact.
- 12.4 Where a trust company forms a suspicion of money laundering or terrorism financing, and reasonably believes that performing any of the measures as required by paragraphs 6, 7 or 8 will tip-off a trust relevant party, a natural person appointed to act on behalf of the trust relevant party, a connected party of the trust relevant party, an effective controller of a settlor or an effective controller of a trustee, the trust company may stop performing those measures. The trust company shall document the basis for its assessment and file an STR.

## 13 INTERNAL POLICIES, COMPLIANCE, AUDIT AND TRAINING

- 13.1 A trust company shall develop and implement adequate internal policies, procedures and controls, taking into consideration its money laundering and terrorism financing

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<sup>4</sup> Please note in particular section 48 of the CDSA on tipping-off.

risks and the size of its business, to help prevent money laundering and terrorism financing and communicate these to its employees.

13.2 The policies, procedures and controls shall meet all requirements of this Notice.

### **Group Policy**

13.3 For the purposes of paragraphs 13.4 to 13.9, a reference to a trust company means a trust company incorporated in Singapore.

13.4 A trust company shall develop a group policy on AML/CFT to meet all requirements of this Notice and extend this to all of its branches and subsidiaries in its financial group.

13.5 Where a trust company has a branch or subsidiary in a host country or jurisdiction —

- (a) in relation to which the FATF has called for countermeasures; or
- (b) known to have inadequate AML/CFT measures, as determined by the trust company for itself, notified to trust companies generally by the Authority or 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.

13.6 Subject to the trust company putting in place adequate safeguards to protect the confidentiality and use of any information that is shared, the trust company shall develop and implement group policies and procedures for its branches and subsidiaries within the financial group, to share information required for the purposes of CDD, and for money laundering and terrorism financing risk management, to the extent permitted by the law of the countries or jurisdictions that its branches and subsidiaries are in.

13.7 Such policies and procedures shall include the provision, to the trust company's group-level compliance, audit, and AML/CFT functions, of trust relevant party and business contact information from its branches and subsidiaries within the financial group, when necessary for money laundering and terrorism financing risk management purposes.

13.8 Where the AML/CFT requirements in the host country or jurisdiction differ from those 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.

13.9 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 shall apply additional appropriate measures to manage the money laundering and terrorism financing risks, report this to the Authority and comply with such further directions as may be given by the Authority.

## Compliance

- 13.10 A trust company shall develop appropriate compliance management arrangements, including at least, the appointment of an AML/CFT compliance officer at the management level.
- 13.11 A trust company shall ensure that the AML/CFT compliance officer, as well as any other persons appointed to assist him, is suitably qualified and, has adequate resources and timely access to all records of trust relevant parties and other relevant information which he requires to discharge his functions.

## Audit

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

## Employee Hiring

- 13.13 A trust company shall have in place screening procedures to ensure high standards when hiring employees and appointing officers.

## Training

- 13.14 A trust company shall take all appropriate steps to ensure that its employees and officers (whether in Singapore or elsewhere) are regularly and appropriately 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 terrorism financing; and
  - (c) the trust company's internal policies, procedures and controls on AML/CFT and the roles and responsibilities of employees and officers in combating money laundering and terrorism financing.

## Endnotes on History of Amendments

1. MAS Notice TCA-N03 dated 2 July 2007.
  - (a) MAS Notice TCA-N03 (Amendment) 2009 dated 3 July 2009 with effect from 2 December 2009.



- (b) MAS Notice TCA-N03 (Amendment) 2013 with effect from 23 January 2013.
- (c) MAS Notice TCA-N03 (Amendment) 2014 with effect from 1 July 2014.
- 2. MAS Notice TCA-N03 dated 2 July 2007 cancelled with effect from 24 May 2015.
- 3. MAS Notice TCA-N03 dated 24 April 2015 with effect from 24 May 2015.
  - (a) MAS Notice TCA-N03 (Amendment) 2015 with effect from 30 November 2015.

## Appendix 1

1. Financial institutions that are licensed, approved, registered (including a fund management company registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10)) or regulated by the Authority but do not include 
  - (a) holders of stored value facilities, as defined in section 2(1) of the Payment Systems (Oversight) Act (Cap. 222A); and
  - (b) a person (other than a person referred to in paragraphs 2 and 3) who is exempted from licensing, approval or regulation by the Authority under any Act administered by the Authority, including a private trust company exempted from licensing under section 15 of the Trust Companies Act (Cap. 336) read with regulation 4 of the Trust Companies (Exemption) Regulations (Rg. 1).
2. Persons exempted under section 23(1)(f) of the Financial Advisers Act (Cap. 110) read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2).
3. Persons exempted under section 99(1)(h) of the Securities and Futures Act (Cap. 289) read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

Note: For the avoidance of doubt, the financial institutions set out in Appendix 2 fall within Appendix 1.

## Appendix 2

1. Banks in Singapore licensed under section 7 of the Banking Act (Cap.19).
2. Merchant banks approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186).
3. Finance companies licensed under section 6 of the Finance Companies Act (Cap. 108).
4. Financial advisers licensed under section 6 of the Financial Advisers Act (Cap. 110) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product.
5. Holders of a capital markets services licence under section 82 of the Securities and Futures Act (Cap. 289).
6. Fund management companies registered under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10).
7. Persons exempted under section 23(1)(f) of the Financial Advisers Act read with regulation 27(1)(d) of the Financial Advisers Regulations (Rg. 2) except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product.
8. Persons exempted under section 99(1)(h) of the Securities and Futures Act read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.
9. Approved trustees approved under section 289 of the Securities and Futures Act.
10. Trust companies licensed under section 5 of the Trust Companies Act (Cap. 336).
11. Direct life insurers licensed under section 8 of the Insurance Act (Cap. 142).
12. Insurance brokers registered under the Insurance Act which, by virtue of such registration, are exempted under section 23(1)(c) of the Financial Advisers Act except those which only provide advice by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product.