



Circular No: IID 01/2013

Our Ref: IID TC 01/2013

27 June 2013

To: Holders of a Trust Business Licence under the Trust Companies Act (Cap. 336)

Dear Sirs

## **FINDINGS FROM THEMATIC INSPECTION OF LICENSED TRUST COMPANIES**

Following the revisions to the Notice to Trust Companies on Prevention of Money Laundering and Countering the Financing of Terrorism ["TCA-N03"], issued on 2 December 2009, MAS conducted a thematic inspection of licensed trust companies ["LTCs"] from March 2011 to May 2013, to assess their compliance with the revised AML/CFT Notice. The inspection focused on reviewing LTCs' systems and controls when they:

- (a) establish business contact with politically exposed persons ["PEPs"] and other high risk persons ["OHRPs"]; and
- (b) rely on intermediaries to perform customer due diligence ["CDD"].

2 Most of the LTCs inspected have instituted changes in their processes and drawn up policies and procedures ["P&Ps"] to comply with the 2009 revisions to TCA-N03 and related guidelines. The more vigilant LTCs have also updated their P&Ps to incorporate the recommendations set out in the MAS circular [Circular No. CMI 04/2008] dated 19 December 2008.

3 Notwithstanding the above, LTCs should take note of the key areas for improvement, set out below, to ensure compliance with TCA-N03. We have also highlighted the good practices by some LTCs, which we observed during the inspection.

## **Policies and Procedures**

4 We would like to remind LTCs to formalise all their AML/CFT practices and apply their P&Ps consistently. P&Ps should be reviewed and updated regularly to ensure that they remain accurate and relevant. Prompt dissemination of updated P&Ps will help standardise practices among employees and reduce instances of practices deviating from what is set out in the P&Ps.

## **Customer Due Diligence**

### Non-Face-to-Face Verification

5 We noted that in some cases where the inspected LTCs had established non-face-to-face business contact, the CDD measures were no less stringent than those undertaken in the case of face-to-face ["F2F"] contact. Several LTCs adopted the practice of conducting F2F communication with the trust relevant parties ["TRPs"] as soon as practicable, after establishing non-F2F business contact.

6 Where there has been no F2F contact, we encourage LTCs to maintain a schedule of regular communications, which can be through modes such as video-conferencing and teleconference calls. Such procedures should be formalised in the LTCs' P&Ps. LTCs' interactions with the TRPs should also be documented in the trust files.

### Enhanced CDD conducted on PEPs and OHRPs

7 In the course of the inspection, we observed that LTCs had conducted enhanced CDD on domestic and foreign PEPs. The inspected LTCs had consistently sought approval from their senior management to establish business contact with PEPs and OHRPs. However, we noted instances where only verbal approval had been obtained from the LTC's senior management prior to establishing or continuing business contact with PEPs and OHRPs, including persons whose status had been reclassified from normal to PEP/OHRP. To facilitate a proper audit trail, LTCs should document the verbal approval in the trust file. Such documentation should then be acknowledged by the relevant senior management whose approval had been obtained, as soon as practicable. This will provide evidence that approval has been obtained from the LTCs' senior management to establish or continue business contact with PEPs or OHRPs, as required by paragraphs 6.2(b) and 6.3 of TCA-N03.

8 LTCs are reminded that the definition of PEP in paragraph 6.1 of TCA-N03 includes immediate family and close associates of the person entrusted with prominent public functions. LTCs' AML/CFT P&Ps should hence clearly set out that

senior management's approval is required for establishing or continuing PEP/OHRP relationships with the immediate family and close associates of any such person.

9 The more vigilant LTCs had conducted independent verification of the source of wealth and funds of PEPs and OHRPs. This included obtaining verification from external auditors or lawyers on the underlying source of funds or performing internet searches to verify representations provided by the intermediary. These LTCs did not rely solely on the representations of the PEPs/OHRPs or the intermediary's reference letter.

10 Some of the inspected LTCs had, as a matter of good practice, undertaken additional CDD measures on the TRPs in respect of whom they had filed suspicious transactions reports ["STRs"]. These LTCs had conducted weekly World-Check screenings to check for new updates on these TRPs and had required joint approval of Compliance and the Trust Relationship Officer before making any distribution to these TRPs.

#### Reliance on Intermediaries to perform CDD measures

11 Paragraph 7 of TCA-N03 allows LTCs to rely on intermediaries to perform CDD in permitted circumstances. Nevertheless, we would like to remind all LTCs that they are ultimately responsible for the AML/CFT requirements set out in TCA-N03 and must immediately obtain CDD information from the intermediaries in accordance with paragraph 7.3(b) of TCA-N03.

#### Ongoing Monitoring

12 The inspected LTCs had conducted periodic reviews of trust accounts based on their respective risk assessment frameworks and documented the reviews in formalised periodic review checklists. However, we noted delays in the review of some trust accounts and lapses in documenting the reasons for these delays. We encourage LTCs to institute a review cycle for each trust account. In the event of an unforeseen delay, LTCs should document the reasons for the delay and seek senior management's approval for an extension to conduct the reviews. Such procedures will instil discipline in the conduct of the reviews, as well as ensure that they are conducted promptly and with proper documentation. Where the periodic reviews reveal outstanding matters that require follow-up action, LTCs should put in place measures to ensure timely resolution, such as specifying a time-frame for completing the follow-up. Such measures ensure that information on the trust account remains up-to-date.

13 Paragraph 53 of the Guidelines to TCA-N03 requires LTCs to keep watch for suspicious transactions, in the course of conducting screening against lists of terrorist suspects as may be required by law or circulated by any relevant authority. LTCs are reminded to conduct screenings against such lists during their periodic

reviews of trusts, in addition to the screening conducted when business contacts are established. All screenings against any official lists of terrorist suspects and any other databases should be documented in the trust file. LTCs should also consider filing an STR even though there is no positive match against any name if the surrounding circumstances raise sufficient suspicions.

## **Audit Trail**

14 Another area where significant improvement is needed relates to the maintenance of a complete audit trail. LTCs should pay heed to the following recommended practices:

- (a) Where the TRP of one trust is also a TRP of another trust, the CDD documentation of the TRP should be cross-referenced or filed in every connected trust file.
- (b) LTCs should ensure that there are records of:
  - (i) when CDD on TRPs was conducted and
  - (ii) when supporting documents were received.

This will provide evidence that CDD measures were conducted in accordance with the requirements prescribed by paragraph 4 of TCA-N03. For instance, CDD checklists which have been completed upon establishment of business contact and updated thereafter during periodic reviews, as well as all verification and identification documents (including certified true copies of passports), should be signed and dated by the trust administrator and/or relevant review officer designated by the LTC.

- (c) Information relating to:
  - (i) the status of trusts (i.e. active, vesting, closed or re-activated) and any changes thereto;
  - (ii) any requests to terminate or reactivate trusts; and
  - (iii) the appointment of third party service providers for trust administration arrangements,

should be properly documented in the trust files.

15 In addition, LTCs should provide a narrative of their assessments as to:

- (a) whether the source of wealth is consistent with the LTC's knowledge of the TRP, its business and risk profile; and
- (b) whether to proceed with a TRP's request for asset infusion or distribution,

notwithstanding that the individual CDD documents may be filed in the trust files. The narratives provide institutional memory and facilitate review of whether the assessments were reasonable.

### **Next Steps**

16 MAS expects the board and senior management of LTCs, including resident managers, to maintain adequate oversight of their trust business and ensure compliance with the relevant rules and regulations. All LTCs are encouraged to take into account the above findings in their ongoing review of P&Ps and controls and to adopt the above-mentioned industry best practices, in a manner commensurate with the size and scale of their operations. These measures will assist to strengthen LTCs' oversight of their business relationships.

17 With effect from 1 July 2013, Singapore will designate specific tax crimes as money laundering predicate offences. Financial institutions have been alerted to this through MAS' consultation paper issued in October 2012, as well as MAS' response to the industry's feedback to the consultation, issued in March 2013. Financial institutions have been directed by MAS to undertake a critical review of their existing TRPs and asset pools to ensure that they are compliant with the new rules. We expect all LTCs to have undertaken the above-mentioned review concerning high tax-risk trust accounts and implemented P&Ps to assess the susceptibility of trust accounts being used to harbour proceeds of serious tax crimes or as a conduit to disguise the flow of such funds.

18 Please acknowledge receipt of this letter.

Yours faithfully

(sent via MASNET)

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