

Module	Anti-Money Laundering and Counter Financing of Terrorism
Jurisdictions	Hong Kong
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Module Application

Does your organisation conduct business transactions or activities where interactions may create a risk of, or appear to involve, money laundering and terrorist financing (for example, the risks involved in a proposed business relationship and whether to enter, continue or terminate the business relationship)?

Is the organisation in an industry that is particularly susceptible to money laundering and terrorist financing, such as involving in a banking relationship and falling in the requirement of enhanced Customer Due Diligence?

Module Scope

The *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module informs the Hong Kong organisation of their legislated legal anti-money laundering and counter financing of terrorism obligations. The module also demonstrates effective practical advice and assistance to the organisation to implement procedures and processes that will ensure compliance and regulatory accountability throughout all levels of the Hong Kong entity.

The *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module advises the Hong Kong organisation of the processes and procedures they need to implement to ensure compliance with all legal and regulatory obligations. Core legal and regulatory obligations are based on considerations of the broad questions determining;

- › Decision making;
- › Accountability;
- › Stewardship;
- › Direction; and
- › Control

To fulfil its purpose the module focuses on providing practical assistance to the Hong Kong organisation establishing and maintaining a robust foundational framework that determines;

- › How the organisation will function;
- › Who is the responsible decision maker;
- › What matters are relevant to the decision-making process; and
- › Whether the desired outcome has been achieved.

As entities, their employees and authorised individuals are all expected to be familiar with the broad landscape of legal obligations to which they are subject as well as more specific obligations relevant to the particular sector they are operating in, the *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module should be subscribed by all Hong Kong organisations, their employees and authorised individuals. The aim of the module is to equip the subscriber with knowledge of their obligations when operating within Hong Kong and the circumstances in which these obligations are relevant to the Hong Kong organisation. The module also provides the subscriber with the skills they require to establish relevant systems and processes to ensure compliance throughout their organisation.

The broad scope of the *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module is to provide answers to these questions;

- › What are our legal obligations?
- › From where are our legal obligations derived?
- › How can we ensure that we are complying with our legal obligations?
- › What are the consequences if we are not complying with our legal obligations?

The *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module covers all legislated legal obligations of Hong Kong organisations and demonstrates practical assistance and guidance to ensure that these obligations are complied with through the prevention and maintenance of anti-money laundering and counter financing of terrorism practices throughout the organisation.

The module fulfils this objective by comprehensively covering three areas;

- › Legislation and guidelines;
 - › Obligations; and
 - › Consequences
1. The legislative and regulatory landscape from which the primary legal obligations are derived;
 - › Anti-Money Laundering and Counter-Terrorism Financing Ordinance (Cap. 615) (HK);
 - › Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) (HK);
 - › Organized and Serious Crimes Ordinance (Cap. 455) (HK);
 - › United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (HK);
 - › Payment Systems and Stored Value Facilities Ordinance (Cap. 584) (HK);

- Securities and Futures Ordinance (Cap. 571) (HK);
 - United Nations Sanctions Ordinance (Cap. 537) (HK);
 - Weapons of Mass Destruction (Control of Provision of Services) Ordinance (Cap. 526) (HK).
2. The specific areas where legal and regulatory obligations apply to the Hong Kong organisation;
- AML/CFT risk-based assessment;
 - Institutional risk assessment; and
 - Customer and product risk assessment.
 - AML/CFT Systems for financial institutions;
 - Implement group-wide AML/CFT systems;
 - Compliance management arrangements, approvals, oversight and monitoring;
 - Appointment of AML/CFT compliance officer;
 - Appointment of AML/CFT money laundering reporting officer;
 - Establish independent audit function;
 - Employee screening - Hong Kong Monetary Authority regulations;
 - Employee screening - Securities and Futures Commission regulations;
 - Employee screening - Insurance Authority regulations; and
 - Employee screening - Commissioner for Customs and Excise regulations.
 - AML/CFT Systems for Designated non-financial businesses and professions; and
 - Compliance management arrangements, approval, oversight and monitoring.
 - Customer Due Diligence (CDD) requirements;
 - Customer identification procedures for a natural person;
 - Customer identification procedures for a legal person;
 - Customer identification procedures for a trust or similar legal arrangement;
 - Customer identification procedures where customer is a beneficial owner in relation to a legal person;
 - Customer identification procedures where a customer is a beneficial owner in relation to a trust;
 - Customer identification procedures when customer is not physically present;
 - Due diligence for pre-existing customers; and
 - Customer identification performed by intermediaries.

- Simplified Customer Due Diligence in low-risk cases;
- Simplified customer due diligence in relation to specified customers; and
- Simplified customer due diligence in relation to specified products.
- Enhanced Due Diligence Measures in high-risk cases;
- Enhanced Due Diligence relating to a customer that is not physically present; and
- Enhanced Due Diligence relating to politically exposed persons.
- Ongoing Monitoring of Customer Due Diligence;
- Ongoing review of customer data and documentation; and
- Establish and maintain adequate systems and processes to monitor transactions.
- Prohibition on terrorist financing and proliferation financing; and
- Database maintenance, screening an enhanced checking.
- Reporting suspicious transactions and responding to law enforcement requests;
- Identification of suspicious transactions and internal reporting; and
- Obligation to submit suspicious transaction report and maintain records of reports.
- Record keeping; and
- Retention of records pertaining to customer identification documents and transactions.
- Implement procedures for, and monitor effectiveness of, staff training.
- Wire transfers;
- Ordering institution to pass on required transfer information and obtain complete originator information;
- Intermediary institution to obtain required transfer information and tracing information; and
- Beneficiary institution to establish and maintain procedures for handling non-compliant wire transfers.
- Correspondent banking relationships;
- Establish due diligence procedures;
- Prohibit banking relationship with shell banks; and
- Ongoing monitoring and group-wide compliance.
- Establish private banking Customer Due Diligence; and
- Ongoing monitoring and dedicated relationship management.

3. Anti-Money Laundering and Counter-Terrorism Financing legislations in Hong Kong impose a fine and imprisonment upon conviction of a money laundering offence. Significant consequences can apply to organisations, their employees and authorised individuals found to have breached or not complied with anti-money laundering and counter financing of terrorism legal obligations. The *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module covers specific consequences in detail. They can include monetary penalties, disciplinary measures and even terms of imprisonment for individuals found to have committed serious criminal offences.

The *ANTI-MONEY LAUNDERING AND COUNTER FINANCING OF TERRORISM* module does not cover a particular individual or entity and case laws for those who were found guilty of a money laundering offence.

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