

通知信第 / Letter-Circular Nº 01-A/DSO/IPIM/2018 號

事由： 清洗黑錢及資助恐怖主義犯罪的預防措施
Subject: Preventive Measures on Anti-Money Laundering and Combating the
Financing of Terrorism

1. 指引的依據 / Legal Framework

十月十八日第 58/99/M 號法令第二條 g 項及 h 項、第四條第一款 c 項及 d 項以及第六十二條，以及第 236/GM/99 號批示，行政長官第 205/2005 號及行政長官第 323/2017 號批示的附表，規範了離岸商業及輔助服務機構及相關的業務活動，以及澳門貿易投資促進局批准上述機構之運作的權限。

Pursuant to Article 2(g) and (h), Paragraph 1(c) and (d) of Article 4 and Article 62 of Decree Law No. 58/99/M on 18 October and Dispatch No. 236/GM/99, Dispatch of Chief Executive No. 205/2005 and Dispatch of Chief Executive No. 323/2017, being standardized in relation to all offshore business activities for both commercial offshore services institutions and auxiliary offshore services institutions, Macao Trade and Investment Promotion Institute (IPIM) is authorized to regulate and supervise both of these types of non-financial offshore institutions.

另一方面，根據第 3/2017 號法律修改的第 2/2006 號法律第七條第一款 1) 至 6) 項，以及第 17/2017 號行政法規修改的第 7/2006 號行政法規第二條第一款 6) 項及第二款，規定上述機構需履行經第 17/2017 號行政法規修改的第 7/2006 號行政法規第三條至第八條所定的義務，澳門貿易投資促進局不僅負責監察所定義務的履行情況，還負責透過指引落實經第 17/2017 號行政法規修改的第 7/2006 號行政法規第三條第一款及第七條所指的前提條件，以及訂定履行下列義務時須遵行的程序：(i)對合同訂立人或客戶採取監察措施；(ii)採取適當措施偵測清洗黑錢或資助恐怖主義可疑活動；(iii)拒絕進行有關活動 - 如不獲提供為履行監察措施及偵測清洗黑錢或資助恐怖主義可疑活動的適當措施所定義務屬必需的資料；(iv)在合理期限內保存合同訂立人或客戶的識別資料及清洗黑錢或資助恐怖主義可疑活動的證明文件；(v)舉報有跡象顯示清洗黑錢或資助恐怖主義犯罪活動或實施未遂的有關活動，不論其金額為何；(vi)以及與具預防和遏止清洗黑錢或資助恐怖主義犯罪活動之職權的當局合作。

Moreover, pursuant to Article 7 Paragraph 1 item 1) to item 6) of Law No. 2/2006, amended by Law No. 3/2017, and Article 2 Paragraph 1 item 6) and Paragraph 2 of Administrative Regulation No. 7/2006, amended by the Administrative Regulation No. 17/2017, the above institutions should fulfill all stipulated obligations stated in Article 3 to Article 8 of Administrative Regulation No. 7/2006, amended by Administrative Regulation No. 17/2017. IPIM is not only responsible for monitoring the implementation

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of the above-mentioned obligations, but also responsible for implementing the pre-requisites set out in Paragraph 1 of Article 3 and Article 7 of Administrative Regulation No. 7/2006, amended by Administrative Regulation 17/2017, as well as setting out the procedures to be followed in the implementation of the obligations mentioned below: (i) taking monitoring measures and appropriate measures to identify and verify the identity respecting to contracting parties or clients; (ii) taking adequate measures to detect any suspicious activities of money laundering or financing terrorism; (iii) refusing to carry out operations when the necessary information is not provided for the fulfillment of the duties to carry out monitoring measures or any appropriate measure for the detection of suspected money laundering or terrorist financing operations; (iv) keeping identification respecting to contracting parties or clients and proving documents of any suspicious activities record of money laundering or financing terrorism within a reasonable period of time; (v) reporting operations or attempts to carry out operations that indicate the practice of money laundering or terrorist financing, regardless of the amount of money involved and (vi) co-operating with the competent authorities responsible for the prevention and repression of the crimes related to money laundering or terrorist financing.

基於此，澳門貿易投資促進局發出下列指引：

Therefore, Macao Trade and Investment Promotion Institute has established the following guidelines:

2. 適用範圍 / Scope of Application

離岸商業及輔助服務機構，根據第 17/2017 號行政法規修改的第 7/2006 號行政法規第二條第 1 款 6) 項規定經營第 236/GM/99 號批示，行政長官第 205/2005 號及行政長官第 323/2017 號批示之附表所指之業務活動者；第 2/2006 號法律第六條第六項 3、4、6 分項之規定亦涵蓋此類活動。

Commercial and auxiliary offshore services institutions which, pursuant to Article 2 Paragraph 1 subparagraph 6) of Administrative Regulation No. 7/2006, amended by Administrative Regulation No. 17/2017, conduct business activities as defined in the table attached to Dispatch No. 236/GM/99, Dispatch of the Chief Executive No. 205/2005 and Dispatch of the Chief Executive No 323/2017, such activities are also covered under Paragraph 6(3), (4) and (6) of Article 6 of Law No. 2/2006.

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3. 履行下列義務的程序規定 / Procedures to Ensure the Fulfillment of the Following Duties:

3.1	採取審查措施包括識別及核實身份的義務 / Taking measures to identify and verify the identity
3.1.1	<p>在所進行的活動（所提供之服務）出現下列任一情況時，有關機構應識別及核對客戶或受益所有人的身份證明文件：</p> <p>While conducting any business activity (rendering of service), must be required the identification and proceeded the verification of client's or beneficial owner's document of identification should be applied whenever any of the following situations occur:</p>
	<p>a) 有跡象顯示有人實施清洗黑錢或資助恐怖主義犯罪，尤其是考慮到該等活動的性質、複雜性、所涉金額、次數或當中所出現的不尋常情況；</p> <p>When the operations might indicate the commission of the crimes of money laundering or financing of terrorism, due to, inter alia, their nature, complexity, the amounts involved, volume or non-habitual occurrence;</p> <p>或者 / or</p>
	<p>b) 從事任何適用範圍所涵蓋之活動，不論屬偶發性質、一次或多次</p> <p>When exercising any operation which falls within the scope, regardless of being occasional, individual or joint.</p>
	<p>c) 對原先獲得之客戶或受益所有人身份資料的真實性或適用性有疑問。</p> <p>Where there are doubts regarding the authenticity or adequacy of the previously obtained data in the identification of the clients or beneficial owners.</p>
3.1.2	<p>亦需核實下列人士的身份證明文件：</p> <p>The verification of the identification document should also be made:</p>

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	<p>a) 客戶代表或受託人；</p> <p>To the corresponding agent or representative;</p>
	<p>b) 屬法人或者無法律人格之實體的受益所有人 – 應採取適當的措施瞭解資產結構及客戶的控股狀況，核實資產及控股權的真正持有人、股東及行政管理機關成員。</p> <p>To the beneficial owners of corporations or entities without legal personality, through adequate measures destined to understand the structure of the operation and control of the client and to determine which individuals effectively have ownership and control, their shareholders and directors.</p>
3.1.3	<p>為執行本指引之規定，茲定義如下：</p> <p>To exercise these guidelines, it is understood that:</p>
	<p>a) 客戶 – 以任何形式與離岸商業及輔助服務機構訂立提供服務之合同的人（自然人或法人）；</p> <p>Client means the person (natural or corporation) who, independent of the form of contract, enters into a contract of provision of services with the commercial and auxiliary offshore services institutions;</p>
	<p>b) 受益所有人（自然人）：</p> <p>Beneficial owner means the natural person who:</p> <p>(i) 對以自身名義從事有關業務活動的客戶方及/或法人擁有最終所有權或控制權。</p> <p>Who ultimately own or controls a client and/or the corporation under whose name the operation is being conducted.</p> <p>「擁有最終所有權或控制權」的表述係指所有權或控制權透過產業鏈或其他間接控制方式行使之狀況。</p> <p>Reference to “ultimately owns or controls” and “ultimate</p>

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		<p>effective control” refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control.</p> <p>(ii) 對法人或者無法律人格的實體行使最終的有效控制權。</p> <p>Exercises final control over the corporation or entity without legal personality.</p>
	<p>c)</p>	<p>現金 / Numerário / Cash:</p> <p>(i) 任何面值紙幣及硬幣；</p> <p>Any denomination of bank-notes and coins;</p> <p>(ii) 銀行匯票或本票；</p> <p>Bank drafts or cashier’s orders;</p> <p>(iii) 不記名支票；</p> <p>Bearer cheques;</p>
	<p>d)</p>	<p>識別及核實身份的義務亦包括：如果知悉或有理由懷疑客戶並非為其本人行事，則須從客戶處取得可瞭解受益所有人或委託人身份的資料。</p> <p>The obligation to identify and verify the identity of clients also includes: if it is known or with reasonable doubt that the client is not acting on behalf of whom he claims to be, it is necessary to obtain from the client any information which may help to with the identification of the beneficial owner or the agent.</p>

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3.1.4	<p>識別客戶的程序在合同關係的存續期均須以書面形式進行，無論在訂立合同的初期以及合同執行期間都是如此，離岸商業及輔助服務機構應及時更新其客戶紀錄，並根據需要作定期覆核。</p> <p>應根據需要採取持續識別客戶的措施，包括調查客戶在業務關係存續期間所進行的活動，以確定有關活動與離岸商業及輔助服務機構所瞭解之客戶業務、風險狀況以致資金來源相符。</p> <p>The procedure of identification of the client must be done, not only in the preliminary phase of the contract but also up to and including its completion, commercial offshore services and auxiliary offshore services institutions must keep up-to-date registers of all clients and review the registers regularly.</p> <p>Client identification measures should be carried out as necessary, including investigation of the client's activities during the existence of the business relationship, to confirm that the related activities correspond with the client's business, conditions of risk as well as the source of fund as understood by the commercial offshore services and auxiliary offshore services institutions.</p>
3.1.5	<p>倘若客戶是法人或者無法律人格的實體，應採取適當的措施瞭解如下情況：</p> <p>If the client is a corporation or an entity without legal personality, appropriate measures should be taken to enquire about the following situations:</p>
	<p>a) 核查希望代表客戶行事的人士是否符合資格，並識別其身份；</p> <p>To verify the identity and qualifications of the person intending to represent the client;</p>
	<p>b) 核查客戶的法律狀況，譬如獲取其機構成立之證明文件；</p> <p>Verify the legal status of the client, such as obtaining the documentary proof for the establishment of the company;</p>

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	<p>c) 取得有關客戶名稱、董事（適用於法人客戶）、行使法人或無法律人格之實體職權的方式等資料；</p> <p>Obtain information such as the client's name, members of the Board of Directors (applicable to corporation), the execution of the authority of the corporation or entity without legal personality;</p>
	<p>d) 瞭解業務結構以及對客戶行使控制權的方式；</p> <p>Understand the structure of the operation and in which manner the control is exercised over the client;</p>
	<p>e) 核查最終把持或控制客戶方的自然人（譬如透過對有意控制客戶方之自然人的識別）。</p> <p>Verify the identity of the natural person with ultimate control of the client (such as the identification of the natural person intended to exercise control on the client).</p>
	<p>f) 倘若對最終把持或控制客戶方的自然人有疑問，則透過其他證明核查對法人或者無法律人格的實體行使控制權之自然人的身份（如適用）；</p> <p>In case there is query about the natural person with ultimate control of the client, other evidence may be taken to verify the identity of the natural person to exercise control on the corporation or entity without legal personality (if applicable);</p>

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	g)	<p>核查控制業務活動收益的人士是否受益所有人、抑或再無任何人士可對此等收益作出控制。</p> <p>Confirm whether the people who control the interests of the operation are not the beneficial owners or whether there is no additional person to control those interests.</p> <p>倘若未能識別行使控制權之自然人，應採取適當措施核查擔任董事、行政委員或同等職位之自然人的身份。</p> <p>In case no natural person is identified, other supplementary measures should be applied to verify the identity of the natural persons who hold the position of director, administrator or equivalent position.</p>
3.1.6		<p>識別應依據可信的有關部門文件、資料或資訊進行。</p> <p>Identification is made through sources of independent documents, data, or credible information.</p> <p>自然人的識別透過核對身份證或同等身份證明文件進行，重要的個人資料包括姓名、國籍、出生日期及地點、身份證明文件的編號、簽發地點和日期，以及住址。</p> <p>The identification of natural person is made through the verification of the Identity Card or any equivalent identification document, essential personal particulars including full name, nationality, date and place of the birth, details of identification documents such as identification number, date and place of issue, and complete residential address.</p>
3.1.7		<p>如屬法人，識別的程序是核對有關的證明文件，其中應包括企業名稱、經營範圍、企業類型（如股份有限公司等）、註冊資本以及股東和管理人的姓名。</p> <p>Regarding corporations, identification is made through the verification of documental evidence, which has, preferably, been issued by a public registration office, in which the name of the company, nature of business, type of company (Limited Company, etc.), share capital and names of the shareholders and directors.</p>

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	<p>3.1.8 上述識別方式並不排除在有疑問時採用補充性方法，尤其是要求鑑證有關文件或出示其他文件（例如近期的電費單，以核實地址）。</p> <p>In addition to the above identification requirements, other supplementary measures should be applied in case of doubt. In particular, certification of related documents or presentation of additional documents should be requested (i.e. latest electric bill to verify the address).</p>
	<p>3.1.9 在接收易於偽造、有疑問或易於獲取之文件時 — 尤其是虛假身份的文件 —，須特別留意。</p> <p>Special attention should be given to ensure that forgeries, doubtful and easily accessible documents – especially false identity documents are not accepted.</p>
3.2	採取偵測可疑活動的適當措施 / Taking appropriate measures to detect suspicious transactions
	<p>3.2.1 應根據本指引採取偵測涉及清洗黑錢或資助恐怖主義之可疑活動的適當措施，例如：</p> <p>Appropriate measures shall be taken to detect suspicious transactions involving the practice of money laundering or terrorist financing in accordance with the present guideline, such as:</p> <p>有關機構應紀錄 3.1.1 款所指之活動的資料，尤其是關於該活動的性質、標的、金額及所使用的支付方法的資料。</p> <p>In the cases established in the Article 3.1.1, written information concerning the operation, regarding inter alia its nature, object, amount and the methods of payment employed, must be recorded.</p>
	<p>3.2.2 離岸商業及輔助服務機構可：</p> <p>Commercial offshore services and auxiliary offshore services institutions can:</p>
	<p>a) 採用相關標準評估客戶或受益所有人的風險，尤其是考慮其背景、居住地、交易、提供服務的性質及職業。</p> <p>Use related criteria for evaluation of risk of the clients or beneficial owners, by considering their backgrounds, place of residence,</p>

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		transactions, the nature of services rendered and profession.
	b)	<p>在識別客戶之前，就其從事業務活動之條件建立風險管理程序 – 尤其是對業務活動之數量、性質或金額的限制。</p> <p>Adopt procedures for risk management – namely regarding operations, limitation of number, nature or amount – relating to the conditions under which the client can use the operation before the identification process is completed.</p>
3.2.3		<p>運用風險管理標準 – 離岸商業及輔助服務機構應識別，評估並採取有效措施（譬如透過調撥資源以增加措施的效用），以降低與客戶、受益所有人、業務、國家及地區相關的清洗黑錢及資助恐怖主義犯罪的風險。</p> <p>Risk-Based Approach - Commercial and auxiliary offshore services institutions should identify, assess and take effective measures (<i>namely through the allocation of resources to enhance the effectiveness</i>) to mitigate the risks of money laundering and financing of terrorism associated with clients, beneficial owners, operations, countries and geographical areas.</p> <p>評估上述風險的性質及範圍需因應業務活動之性質、規模。</p> <p>The nature and extension of the evaluation of those risks should be proportional to the nature and size of the operation.</p> <p>風險的分類（高、中、低）應基於對威脅、薄弱環節及影響的評估。</p> <p>The categories of risk (high, medium and low) should be based on an evaluation of threat, vulnerabilities and impact.</p> <p>對於高風險個案，離岸商業及輔助服務機構應採取更嚴格的監察措施，以管理及降低風險。</p> <p>In case of high risk, the commercial and auxiliary offshore services institutions should take enhanced due diligence measures to manage and mitigate those risks.</p>

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儘管未有適用於運用風險管理標準的單一方法，但最普通的評估標準之一是與業務經營或發源的國家或司法管轄區相關聯的風險，此外還有非本地客戶、允許股東代表或不記名股份之企業、匿名及/或客戶不在場的業務活動以及陌生人或與第三方無關人士之付款。

Although there is no single methodology to apply to the categories of risk-based approach, one of the most common evaluation criteria is risk countries. There are also non-resident clients, companies with appointed shareholders or bearer shares, anonymous operations and/or without physical presence, received payment from unknown people or not associated with a third party.

評估某一國家/司法管轄區的風險為最高，是考慮到有關國家或司法管轄區受到聯合國等機構的制裁、禁運或類似處罰，在某些情況下，儘管對有關國家/司法管轄區採取制裁或類似措施的機構並非舉世公認，仍需引起離岸商業及輔助服務機構的重視，此乃基於制裁機構的聲望以及對國際金融反洗錢特別工作小組 (FATF) 或其他具公信力之機構認定為在反洗錢鬥爭中不合作之國家及/或地區採取制裁措施的性質（其他機構系指世界銀行、國際貨幣基金組織、透明國際等，其中透明國際負責調查為恐怖主義活動提供資金或支持的情事 — 包括嚴重的恐怖主義活動、嚴重的貪腐行為或其他犯罪活動）。

The assessment that a particular country/jurisdiction is a high risk is based upon the consideration that the country or jurisdiction is subject to sanctions, embargoes, or similar punishment imposed by international organizations such as the United Nations. Under certain circumstance, even though the organizations imposing sanctions or similar measures on the relevant country/jurisdiction may not be internationally recognized, the commercial offshore services and auxiliary offshore services institutions should also attach importance to the issue. This is based on the consideration of the reputation of the sanctioning organization, as well as the nature of the sanctioning measures imposed on countries and/or regions considered by the Financial Action Task Force (FATF) on Money Laundering or other authorities with creditability as non-co-operative in the anti-money laundering measures (other organizations refer to those such as the World Bank, International Monetary Fund and Transparency

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		International. Transparency International aims to investigate activities in relation to funding and supporting terrorism – such as severe terrorism activities, serious corruption acts and other criminal activities).
	3.2.3.1.	沒有實體存在的業務活動舉例如下： Examples of business activities without physical presence:
	a)	透過互聯網或郵政等渠道達成的業務關係； Business relations established by means of channels such as the Internet and by post;
	b)	透過互聯網進行的業務活動，例如電腦化互動服務； Business activities conducted through the Internet, such as computerized interactive services;
	c)	使用自動櫃員機； Use of ATM;
	d)	電話理財服務； Telephone banking;
	e)	以傳真或類似的方式傳達指示或透過提款執行收付，採用預付方式進行網上交易活動。 Transmission of instructions or money withdrawal via facsimile or similar means, online trade activities using a pre-paid format.
	3.2.3.2.	管理客戶或受益所有人沒有實體存在的業務相關風險的措施如下： Risk management measures for business activities in the absence of the physical presence of the client or the beneficial owner:
	a)	所提交之文件的認證； The verification of the documents submitted;



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			<p>b) 要求補充性文件，以補齊客戶或受益所有人具實體存在之情況下所需資料；</p> <p>The request for supplementary documentation to complete the list of required information as it would be submitted by the client or the beneficial owner in presence;</p>
			<p>c) 建立非會面性質的客戶或受益所有人商業聯繫；</p> <p>Establish business relationship without meeting the client or the beneficial owner;</p>
			<p>d) 要求第一次付款透過客戶或受益所有人名下的帳戶進行，以便另一間銀行亦承擔識別客戶、受益所有人及相關活動的責任。</p> <p>Request the first payment to be made from the client's or beneficial owner's personal account, so the other bank will also take the responsibility for verifying the client, beneficial owner and related activities.</p>
3.3	不當利用新產品、新商業模式及新技術 / Misuse of new products, new business practices and technological developments		
	<p>應採取措施- 譬如制定政策或程序 - 預防不適當地利用新產品、新商業模式及新技術實施清洗黑錢或資助恐怖主義犯罪，以避免涉及客戶沒有實體存在的業務活動或關係的特定風險。</p> <p>有關政策或程序應適用於與客戶或受益所有人建立業務關係以及持續的盡職監察措施。</p> <p>Measures to prevent the misuse of new products, new business practices and new technologies in money laundering or terrorism financing should be taken, in order to avoid specific risks associated with operations without physical presence.</p> <p>These measures should apply, namely, by establishing business relations with the clients or beneficial owners and by conducting progressive customer due diligence.</p>		

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3.4	內部控制 / Internal Controls
	<p>1. 離岸商業及輔助服務機構應制定防止/防範清洗黑錢及資助恐怖主義的計劃，包括：</p> <p>1. Commercial and auxiliary offshore services institutions should develop programs against money laundering and terrorist financing, including:</p> <p>a) 適用於合規管理及員工招聘程序的內部政策、程序及控制，以確保遵守嚴格的標準；</p> <p>a) The development of internal policies, procedures and controls for compliance management arrangement and staff recruitment to ensure that the high standards will be strictly observed;</p> <p>b) 員工持續培訓計劃；</p> <p>b) An ongoing employee training programme;</p> <p>c) 一項獨立的內部控制機制，以審核該系統的有效性。</p> <p>c) An independent internal control mechanism should be introduced to assess the effectiveness of the system.</p> <p>2. 所採取措施的類型和範圍應適用於清洗黑錢或資助恐怖主義的風險和活動量層面。</p> <p>2. The type and extent of measures to be taken should apply to the risk of money laundering or terrorist financing and the size of the operations.</p> <p>3. 相關的控制機制應包括指定一名屬領導級別的負責人；</p> <p>3. The related control mechanism should include the appointment of an officer at the management level.</p> <p>4. 上述計劃應適用於海外分支機構/子公司/母公司，不僅包括上述措施提</p>



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及的 a)項至 c)項，還應包括履行客戶服務和清洗黑錢或資助恐怖主義風險管理義務所需的信息共享政策和程序。所有關於客戶、帳戶及海外分支機構/子公司/母公司業務的資訊應在必要時綜合提供，以便於審計和/或防範清洗黑錢或資助恐怖主義。海外分支機構/子公司/母公司的國家/司法管轄區採取的打擊清洗黑錢及資助恐怖主義犯罪措施如低於適用於澳門特區的標準，應採取適當的措施確定風險並採取進一步的風險緩減措施。

4. The above-mentioned programmes should be applicable to foreign branches and majority-owned subsidiaries / parent companies and should include not only measures under Items (a) to (c) mentioned above, but also the policies and procedures for information sharing regarding customer service as well as the duties in relations to risk management for money laundering and terrorist financing. To facilitate the auditing and/or anti-Money laundering and combating the financing of terrorism, information concerning customers, accounts and transactions information from foreign branches and majority-owned subsidiaries / parent companies should be provided when necessary for anti-money laundering and combating the financing of terrorism. In case the countries/jurisdictions in which these foreign branches and majority-owned subsidiaries / parent companies are operating apply AML/CFT measures that are less strict than the standards applicable in MSAR, appropriate measures should be taken to identify the risks and additional mitigation measures should be applied

5. 應適當地保證共享資料的保密性及使用。

5. Adequate safeguards on the confidentiality and the use of shared data should be in place.

3.5 要求第三方協助，以遵守對客戶盡職審查義務之相關措施

Request assistance from a third party to undertake relevant measures to comply with the obligation of customer due diligence :

如第三方屬於一組公司，離岸商業和輔助服務機構應確保該組公司在打擊洗錢和恐怖融資方面採取適當的盡職審查義務，並確保適當地緩減任何國家/司法管轄區的風險。第三方/組公司所在的國家/地區的風險水平可以作為上述 3.2.3 的註腳。因此，離岸商業和輔助服務機構應該：

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	<p>In case the third party is part of a group of companies, the commercial and auxiliary offshore services institution should ensure that the group of companies apply adequate AML/CFT customer due diligence measures, and any higher country/jurisdiction risk is adequately mitigated. The level of country/jurisdiction risk in which the third party/group of companies is based can be cross-reference to point 3.2.3 above. Therefore, the commercial and auxiliary offshore services institution should:</p>
3.5.1	<p>即時獲取 3.1.1 至 3.1.9 所指的對客戶盡職審查義務之相關措施所需資料;</p> <p>Immediately obtain the required information needed for the relevant measures to comply with the obligation of customer due diligence as stated in 3.1.1 to 3.1.9;</p>
3.5.2	<p>採取必要措施以確保第三方能根據要求及時提供與履行對客戶盡職審查義務有關的身份證明文件和其他有關文件的副本;</p> <p>Take necessary measures to ensure that the third party can meet the request to timely provide copies of the identification document and other relevant documents in order to undertake the obligation of customer due diligence;</p>
3.5.3	<p>確保第三方不僅受到規範和/或監督，而且已採取措施遵守對客戶履行盡職審查之義務及保存相關文件。</p> <p>To ensure that the third party is not only under supervision and/or monitoring, but has also taken measures to undertake the obligation of customer due diligence and keep relevant documents.</p>
3.6	<p>如不獲提供為履行監察措施和採取偵測清洗黑錢或資助恐怖主義犯罪之可疑活動的適當措施之義務屬必需的資料，應拒絕進行有關活動/ Refusing to carry out operations when the necessary information is not provided for the fulfillment of the duties to carry out monitoring measures or any appropriate measure for the detection of suspected money laundering or terrorist financing operations</p>

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3.6.1	<p>有關機構如未能獲得或取得按上述條件識別客戶，受益所有人及相關活動之義務所必需的資料，應拒絕進行任何活動，或終止交易，但屬履行第 3/2017 號法律修改的第 2/2006 號法律第七條第五款最後部分之規定的情況除外。</p> <p>The carrying out of any operation should be refused, or terminated, whenever the above-mentioned information for the fulfilment of the duties in identifying clients, beneficial owners and related operations are not obtained or provided, with the exception of the conditions specified in the final part of Paragraph 5 of Article 7 of Law No. 2/2006, amended by Law No. 3/2017.</p>
3.6.2	<p>客戶或受益所有人匿名或使用假名均構成拒絕進行有關活動（或提供服務）的理由。</p> <p>Anonymous or the use of a false identity by the client or beneficial owner constitute a reason for refusal of the commencement of relevant activities (or rendering of services).</p>
3.6.3	<p>凡出現前款所指之拒絕時，受監管實體應分析引致拒絕的具體情況，如懷疑與實施清洗黑錢或資助恐怖主義犯罪有關，應依照本指引第 3.9.1 及 3.9.2 款之規定向有關當局舉報，並終止或拒絕相關客戶的業務。</p> <p>In cases when the rejection occurs as mentioned previously, the institution being monitored should analyse the specific situation leading to the rejection. If it is suspected to be in connection to the crimes of money laundering or financing terrorism, this should be reported to the responsible authorities in accordance with points 3.9.1 and 3.9.2 of these Guidelines and consideration should be given to terminate business relations with such client or refused the business relation.</p>
3.7	<p>須在合理期限內保存履行採取監察措施和偵測清洗黑錢或資助恐怖主義之可疑活動適當措施之義務的證明文件 / Keeping documents for the fulfillment of carrying out monitoring measures or any appropriate measure to detect suspected money laundering or terrorist financing operations, for a reasonable period of time</p>



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3.7.1	<p>有關機構應保存識別客戶，受益所有人及相關活動的所有證明文件的紀錄，自完成識別程序之日或自交易關係結束後為期五年，但不妨礙這些文件由微縮底片替代或轉載至數碼載體內；《商法典》第四十七條、第四十八條及第四十九條第二款的規定經作出適當配合後，適用於此情況。</p> <p>The verifiable identification documents of clients, beneficial owners and operations carried out must be kept for five years from the date the contract is concluded or transaction closed. The documents referred to here may be substituted by microfilms or transferred to a digital platform, in which case Articles 47, 48 and Paragraph 2 of Article 49 of the Commercial Code shall be applicable with the appropriate adaptations.</p>
3.7.2	<p>業務活動的證明文件及紀錄之正本、副本、佐證資料或是任何有同等證據效力的持久載體應在其進行之後保存五年，以便於活動的重組，即使在活動所屬的業務關係結束後亦然。</p> <p>The originals, copies, references, or any other long-lasting supports with identical evidential value to the supporting documents and register of operations, or any form of proof for the accusation of criminal activity, should be kept for at least five years from its conclusion, in such a way to allow for reconstitution of the operation, even if it is engaged in an operation already terminated.</p>
3.8	更嚴格的監察措施 / Enhanced Monitoring Measure
3.8.1	<p>除通常的監察措施外，還須採取更嚴格的措施：</p> <p>In addition to normal monitoring procedures, commercial and auxiliary offshore services institutions should carry out more stringent measures:</p>
a)	<p>對於《政治公眾人物》之相關業務採取更嚴格的監察措施，尤其是：</p> <p>Regarding “politically exposed persons” (PEPs), adopt other enhanced monitoring measures, namely:</p>

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		(i)	<p>採取適當的措施確定客戶或受益所有人是否《政治公眾人物》；</p> <p>To take reasonable measures to determine whether the client, or beneficial owner, is a politically exposed person;</p>
		(ii)	<p>與這一類客戶建立交易關係，須經離岸商業及輔助服務機構管理層批准；</p> <p>Approval should be obtained from the board of Directors for establishing (or continuing) business relationships with this category of client;</p>
		(iii)	<p>以適當的措施確定活動中涉及之財產及資金的來源；</p> <p>To take reasonable measures to establish the source of wealth and source of funds for the respective business activities;</p>
		(iv)	<p>採取適當的措施保證對有關活動進行嚴格而持續的監察。</p> <p>To conduct enhanced ongoing monitoring of the business relationship.</p>
		b)	<p>採取措施確定客戶或受益所有人是否目前或曾經在國際性組織擔任重要職位，如屬從事高風險業務，應採取前項(ii)至(iv)分項所指之措施。</p> <p>Determine, through reasonable measures, whether the client, or effective beneficiary, is a person who is, or has been, linked to a prominent function in an international organisation and, in case that person has been linked to a high risk operation, apply the measures stated in sub-items (ii) to (iv) of the previous item;</p> <p>適用於《政治公眾人物》之措施同樣適用於其家庭成員及/或與之保持密切的公司或商業關係之人士。</p> <p>The measures for the politically exposed person (PEPs) are also applied to their family members and / or persons with close corporate or business relationship.</p>

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3.8.2	<p>為執行本指引之規定，下列人士均視為《政治公眾人物》：</p> <p>For the purposes of these guidelines the following shall be considered as “politically exposed persons” (PEPs):</p>
	<p>a) 外地《政治公眾人物》 - 凡目前或曾經在外地擔任重要公共職務的人士，例如外地元首或政府首腦、政界高層人士、高級政務官員、司法官員或軍官、公營企業高管及政黨要員。</p> <p><i>Foreign</i> the individuals who are or have been entrusted with prominent public functions by a foreign country/jurisdiction, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.</p>
	<p>b) 本地《政治公眾人物》 - 凡目前或曾經在本地擔任重要公共職務的人士，例如國家元首或政府首腦、政界高層人士、高級政務官員、司法官員或軍官、公營企業高管及政黨要員。</p> <p><i>Domestic</i> the individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.</p>
	<p>目前或曾經在國際性組織擔任重要公共職務的人士 - 係指高層管理人員，譬如理事長，副理事長、理事會成員或同等職位之人士。</p> <p><i>Persons who are or have been entrusted with a prominent function by an international organization</i> refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions.</p>
	<p>來自中國其他地區的《政治公眾人物》均視為外地《政治公眾人物》，本地《政治公眾人物》類別則專指澳門特別行政區之《政治公眾人物》。</p> <p>All PEPs originated from other regions of China must be treated as Foreign PEPs, reserving the classification Domestic PEPs exclusively for the PEPs of the Macau SAR.</p>

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3.9	舉報有跡象有人實施清洗黑錢或資助恐怖主義犯罪的活動或實施未遂的活動 / Reporting operations or attempts to carry out operations that indicate the practice of money laundering or terrorist financing
3.9.1	<p>如在有關活動中有跡象顯示有人實施清洗黑錢或資助恐怖主義犯罪，尤其經分析客戶的做法後考慮到該等活動的性質、複雜性、所涉金額、次數、沒有明顯的經濟或法律目的或當中所出現的不尋常情況，不論所涉金額為何，有關機構應在偵測該活動後兩個工作日內將情況向金融情報辦公室（以下簡稱為 GIF）舉報。</p> <p>The operations that, regardless of exemption or threshold or the amounts involved, might provide indications of the commission of the crimes of money laundering or financing of terrorism, due to, <i>inter alia</i>, their nature, complexity, amounts involved, volume or non-habitual occurrence, no apparent or visible economic or lawful purpose, relative to the activity of the client or beneficial owner, must be reported to the Office of Financial Intelligence (hereinafter called “GIF”) within 2 working days following the detection of such business operations.</p>
3.9.2	<p>在前述期限內亦應將以下情況向有關部門舉報：</p> <p>In similar manner a report, within the deadline referred in the previous paragraph, should be done:</p>
a)	<p>實施未遂的活動，特別是性質可疑的業務活動；</p> <p>Attempted transactions, namely of a doubtful nature</p>
b)	<p>不可能透過獨立而可信的文件、資料或資訊來源達到下述目標：</p> <p>Unable to fulfill the following objectives by independent and reliable documentation, information or source of information:</p>
(i)	<p>識別客戶；</p> <p>To identify the client;</p>
(ii)	<p>識別受益所有人；</p> <p>To identify the beneficial owner;</p>

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	(iii) 瞭解有關活動的目的和性質。 Understand the objectives and nature of relevant activities.
3.9.3	報告書（格式附後）應包括識別客戶的所有相關資料，以及超出客戶正常業務模式的活動情況。 The report (as attached) must include all the relevant information collected for the identification of the clients, as well as the business activities detected as falling outside the normal pattern of activity of the clients.
3.10	信息披露和保密 / Disclosure and confidentiality
	離岸商業及輔助服務機構之董事、主管、僱員或代理人嚴禁透露懷疑與清洗黑錢或資助恐怖主義犯罪有關的某項活動將通報金融情報辦公室（GIF），亦不得透露該項活動或舉報的內容。 The commercial and auxiliary offshore services institutions, their directors, officers and employees, or representatives are forbidden to disclose that a suspicious transaction communication related to money laundering or financing terrorism will be submitted to GIF, nor are the institutions allowed to disclose any elements of that operation or reporting. 客戶或受益所有人如知悉被懷疑之業務活動處於調查或舉報狀況，則有可能防礙隨後的調查工作，因此離岸商業及輔助服務機構應向僱員作出適當說明，提醒他們規避風險，尤其是在採取監察措施的情況下。 The client's, or beneficial owner's, awareness of a possible investigation or reporting of suspect operation may hamper the future investigation efforts, hence those institutions should conveniently make that clear to their employees, raising their awareness, in order to prevent risks, especially when applying monitoring measures.
3.11	與所有具預防和遏止清洗黑錢或資助恐怖主義犯罪職權的當局合作 / Co-operating with all competent authorities in the prevention and combating the crime of money laundering or terrorist financing
3.11.1	應負責預防和遏止清洗黑錢及資助恐怖主義犯罪的有關當局 – 特別是法院、檢察院、司法警察局、金融情報辦公室及澳門貿易投資促進局 – 之要求，上述機構須提供全力的協助，尤其是提供相關的資料及文件。

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	<p>The above institutions are required so that full assistance can be provided, particularly in the provision of relevant data and documents to the relevant authorities for the prevention and suppression of crimes related to money laundering and financing terrorism, specially the Court, the Public Prosecution Department, the Judiciary Police, the GIF and IPIM.</p>
3.11.2	<p>離岸商業及輔助服務機構在提交予澳門貿易投資促進局的年報中，應依照經第 17/2017 號行政法規修改的第 7/2006 號行政法規第七條舉報有跡象顯示清洗黑錢或資助恐怖主義犯罪。</p> <p>Commercial offshore services and auxiliary offshore services institutions must report the number of operations with evidences of practice on anti-money laundering and combating the financing of terrorism, in accordance with Article 7 of the Administrative Regulation no. 7/2006 , amended by Administrative Regulation no. 17/2017.</p>
4.	<p>由離岸商業及輔助服務機構負責協調預防措施 / Preventive Measures Coordinated by the Commercial Offshore Services and Auxiliary Offshore Services Institutions</p> <p>為協調及監察針對清洗黑錢及資助恐怖主義犯罪活動的預防措施，離岸商業及輔助服務機構應在具下述資格的工作人員中指派專人負責：</p> <p>The commercial and auxiliary offshore services institutions should – in the course of their duty to co-operate and to co-ordinate on monitoring and prevention measures against crimes of money laundering and financing of terrorism – appoint one worker, among those who have:</p> <p>a) 在企業組織架構中擔任高級職位（例如董事、經理）；</p> <p>Holding senior positions in the organization structure (for example, director, manager).</p> <p>b) 具備協調預防措施的專業資格，熟悉針對清洗黑錢及資助恐怖主義犯罪活動的法律、法規及指引；</p> <p>Possessing professional qualifications in coordinating preventive measures, fully acquainted with the law, legislations and guidelines in relations to anti-money laundering and combating the financing of terrorism.</p>

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c)	<p>能夠充分而及時地查閱客戶、活動紀錄及其他相關資訊的資料庫。</p> <p>Capable of completely and timely retrieval of the database regarding information on the client, activities record and other related data.</p>
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5. 不履行義務 / Non-Compliance of Guidelines

不履行上文所指之義務則構成行政違法行為，依照經 2017 年 5 月 22 日第 21 期《澳門特別行政區公報》第一組重新公佈，經由第 3/2017 號法律增補的第 2/2006 號法律第七-B 條至七-E 條的規定予以處罰。

Non-compliance with obligations stated above constitutes an administrative infraction liable to punishment under Articles 7(B) to 7(E) of Law No. 2/2006, amended by Law No. 3/2017, which was republished on Series 1 of the Official Gazette (Boletim Oficial) No. 21 on 22 May 2017.

6. 最後規定 / Final Provisions

6.1 本指引於二零一八年四月一日生效，並同時廢止通知信第 01/DSO/IPIM/2015 號所定之指引。

These guidelines comes into force on 1 April 2018 and revokes the guideline set forth by Circular Letter No. 01/DSO/IPIM/2015.

6.2 倘要求就執行上述指引作出相關的解釋，應向澳門貿易投資促進局（離岸業務廳）提出。

Any enquiries concerning further interpretation of these guidelines should be directed to IPIM (Offshore Services Department).

****If there are any discrepancies between the English and the official languages of these guidelines, the final interpretation will be subject to the version of official languages**